FIRST HORIZON NATIONAL CORPORATION

Clyde A. Billings, Jr.
Senior Vice President
Assistant General Counsel and
Corporate Secretary

January 31, 2020

Via E-Mail to shareholderproposals@sec.gov and via FedEx
Securities and Exchange Commission
Division of Corporation Finance
Office of Chief Counsel
100 F Street, N.E.
Washington, D.C. 20549

Re: First Horizon National Corporation –
Notice of Withdrawal of Shareholder Proposal of
Figure 8 Investment Strategies

Ladies and Gentlemen:

On December 20, 2019 we submitted to you, pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended, a letter requesting confirmation that the Staff of the SEC's Division of Corporation Finance would not recommend enforcement action to the Commission if our company, First Horizon National Corporation, excluded from its 2020 proxy materials a shareholder proposal from Figure 8 Investment Strategies (the "Proponent").

Attached hereto as **Exhibit A** is a letter from the Proponent dated January 30, 2020, stating that the Proponent voluntarily withdraws the proposal. In reliance on the Proponent's letter, the Company hereby withdraws the December 20, 2019 no-action request.

Please do not hesitate to contact me at (901) 523-5679 or cabillings@firsthorizon.com if you have any questions or require any additional information.

Very truly yours,

Clyde A. Billings, Jr.

First Horizon National Corporation
165 Madison Ave
Memphis, TN 38103
901-523-5679
cabillings@firsthorizon.com

smh/sp64520

Exhibit A

FIGURE 8 INVESTMENT STRATEGIES

205 N. 10TH STREET, SUITE 300, BOISE, ID 83702 | 208.385.0076 | WWW.FIGURE8INVESTING.COM

January 30, 2020

Clyde Billings
Secretary, Senior VP & Assistant General Counsel
Office of the Corporate Secretary
First Horizon National Corporation
165 Madison Avenue
Memphis, TN 38103

RE: Withdrawal of the 2020 "Adopt A Human Rights Policy" Proposal

Dear Mr. Billings,

The proponents of the Adopt a Human Rights Policy shareholder proposal, submitted for inclusion in the 2020 proxy statement, appreciate the conversations we have had with you and Candace Steele Flippin to discuss the concerns raised in the proposal. We have found these conversations to be respectful, constructive, and fruitful.

We recognize and appreciate that First Horizon is committed to building its corporate social responsibility work overall, and around the development of policies and practices related to human rights in particular. We especially appreciate the respectful and productive dialogue we've been able to have to date. We also acknowledge that First Horizon has recently developed and made public its initial Human Rights Policy and Supplier Code of Conduct.

Further, we acknowledge the commitment from First Horizon to continue engagement with concerned shareholders, and to participate in follow-up dialogue by July 31, 2020. This dialogue will focus on extending First Horizon's human rights principles and policies across First Horizon's lines of business, including lending, and across its business relationships. The proponents commit to continue to engage with the company throughout this process.

In recognition of these commitments, I hereby withdraw the shareholder proposal, "Adopt a Human Rights Policy" from the 2020 proxy statement.

We look forward to continued engagement with you and your colleagues on these important issues.

Respectfully yours,

Lisa Cooper
President, Figure 8 Investment Strategies

CC: Bryan Jordan, Chairman, CEO and President, First Horizon National Corporation
Candace Steele Flippin, Chief Communications Officer, First Horizon National Corporation
Nadira Narine, Interfaith Center on Corporate Responsibility

Clyde A. Billings, Jr.
Senior Vice President
Assistant General Counsel
and Corporate Secretary
Legal Division

December 20, 2019

Via E-Mail to shareholderproposals@sec.gov and via FedEx

Securities and Exchange Commission
Division of Corporation Finance
Office of Chief Counsel
100 F Street, N.E.
Washington, D.C. 20549

Re: First Horizon National Corporation –
Request to Omit Shareholder Proposal of
Figure 8 Investment Strategies

Ladies and Gentlemen:

Pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), First Horizon National Corporation, a Tennessee corporation (the "Company"), hereby gives notice of its intention to omit from the proxy statement and form of proxy for the Company's 2020 Annual Meeting of Shareholders (together, the "2020 Proxy Materials") a shareholder proposal (including its supporting statement, the "Proposal") received from Figure 8 Investment Strategies, on behalf of Jack Van Valkenburgh, as proponent (the "Proponent"). The full text of the Proposal and other relevant correspondence with the Proponent are attached as Exhibit A.

The Company believes it may properly omit the Proposal from the 2020 Proxy Materials for the reasons discussed below. The Company respectfully requests confirmation that the Staff of the Division of Corporation Finance (the "Staff") of the Securities and Exchange Commission (the "Commission") will not recommend enforcement action to the Commission if the Company excludes the Proposal from the 2020 Proxy Materials.

This letter, including the exhibits hereto, is being submitted electronically to the Staff at shareholderproposals@sec.gov. Pursuant to Rule 14a-8(j), the Company has filed this letter with the Commission no later than 80 calendar days before the Company intends to file its definitive

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SC1: 5090848.4
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*** FISMA & OMB Memorandum M-07-16

2020 Proxy Materials with the Commission. A copy of this letter is being sent simultaneously to the Proponent as notification of the Company's intention to omit the Proposal from the 2020 Proxy Materials.

The Proposal

The resolution included in the Proposal reads as follows:

> *"Resolved: Shareholders request that the Board of Directors of First Horizon National Corporation (First Horizon National) adopt a comprehensive Human Rights Policy articulating our company's commitment to respect human rights throughout its operations and value chain and describing proposed steps and management systems to identify, assess, prevent, mitigate, and, where appropriate, address actual and potential adverse human rights impacts connected to the business."*

The supporting statement included in the Proposal (the "Supporting Statement") is set forth in Exhibit A.

Reasons for Omission

The Company believes that the Proposal properly may be excluded from the 2020 Proxy Materials pursuant to:

- Rule 14a-8(i)(10), because the Company has substantially implemented the Proposal;
- Rule 14a-8(i)(7), because the Proposal relates to the Company's ordinary business operations; and
- Rule 14a-8(i)(5), because the Proposal relates to the Company's operations that do not exceed the 5% threshold and is not otherwise significantly related to the Company's business.

1. **The Proposal may be excluded under Rule 14a-8(i)(10) because the Company has substantially implemented the Proposal.**

The Proposal is excludable under Rule 14a-8(i)(10) because the Company has already substantially implemented the Proposal. The Commission has previously indicated that substantial implementation does not require full or identical implementation. *See* SEC Release

No. 34-40018, Amendments to Rules on Shareholder Proposals, [1998 Transfer Binder] Fed. Sec. Law Rep. ("CCH") ¶86,018 at 80,538 n.27 (May 21, 1998) (the "1998 Release"). Instead, Rule 14a-8(i)(10) permits exclusion when the company can show that it has substantially implemented the "essential objectives" of the proposal, or where the existing implementation "compares favorably" with the proposal, even if by means other than those suggested by the shareholder proponent. *See, e.g., General Electric Company* (Mar. 3, 2015) (proxy access by-law addressed the proposal's "essential objective"); *Pfizer Inc.* (Jan. 11, 2013) (company's public disclosures "compare favorably" with the guidelines in the proposal); *The Procter & Gamble Company* (Aug. 4, 2010) (company's policy "compares favorably" to the guidelines in the proposal); *Johnson & Johnson* (Feb. 17, 2006) (company's policies, practices and procedures "compare favorably" with the proposal).

A. The Company's comprehensive human rights policies satisfy the Proposal's essential objective.

The proposal asks that the "Board of Directors of First Horizon National adopt a comprehensive Human Rights Policy articulating [the] company's commitment to respect human rights throughout its operations and value chain and describing proposed steps and management systems to identify, assess, prevent, mitigate, and, where appropriate, address actual and potential adverse human rights impacts connected to the business." The stated objective of the Proposal is for the Company to adopt a comprehensive human rights policy in order to allay business and reputational risks relating to human rights.

In light of the Company's long-standing policies and practices and recently adopted human rights statement, the Company has substantially implemented the essential objective of the Proposal. The Company respects and shares the Proponent's respect for human and labor rights, including freedom of association, the right to be treated with dignity and the right to fundamental freedoms. These beliefs are embedded throughout the firm's existing policies and procedures, including the First Horizon Human Rights Statement ("Human Rights Statement"),[1] attached hereto as Exhibit B, which states that "First Horizon honors our commitment to human rights by ... [c]onducting our business in a manner that is consistent with fundamental human rights principles described in the United Nations Universal Declaration of Human Rights."

The Company's commitment to human rights is evidenced in its Human Rights Statement, which states unequivocally that the Company "respects individual human rights and is committed to operating our company in an environment where everyone is treated with dignity." The Human Rights Statement emphasizes that the Company is "firmly committed to

[1] *Available at*: https://www.firsthorizon.com/First-Horizon-National-Corporation/Corporate-Social-Responsibility/Corporate-Statements

non-discrimination and equal opportunity for our employees, customers and suppliers." It states the Company's belief that "all people should be treated fairly and with respect," and the Company's commitment that "[e]veryone will be treated without discrimination or harassment based on race, color, religion, sex, sexual orientation, gender identity, national origin, age, veteran status or disability." The Human Rights Statement discusses the Company's values and business practices to ensure the commitment to respecting human rights, including employee training on the Company's Code of Business Conduct and Ethics (originally adopted in 2004), the employee guidebook called A Matter of Principles (originally adopted more than a quarter century ago), and the institution in 2018 of a Corporate Social Responsibility Committee to help the Company "build stronger communities" and guide the Company's "responsible business practices."

The Company also recently adopted several corporate statements (the "Corporate Statements") outlining the Company's commitment to human rights and diversity and inclusion in the work place. The Corporate Statements also discuss the Company's consideration of immigration policies and "the implications of providing financing to organizations that provide government-funded services in support of immigration policy along with honoring the current contractual commitment to our customers." The Company notes that as the Company considers new commitments, "our decisions will continue to be guided by our evaluation process that takes into account current lending regulations as well as our business goals, values and obligations to our stakeholders."

As evidenced by the foregoing, the Company management has already put in place comprehensive human rights policies and practices; thus, the Company has already substantially implemented policies, practices and procedures that compare favorably to the essential objective of the Proposal.

The Staff has previously concluded that a shareholder proposal requesting the adoption of a "policy" – including human rights related policies – is substantially implemented where the company can demonstrate that it has already adopted its own policy. *See, e.g., The Boeing Co.* (Feb. 17, 2011) (concurring with exclusion of a proposal requesting that the company "review its policies related to human rights" and report its findings because the company already adopted its own policies); and *Mondelez International, Inc.* (Mar. 7, 2014) (request for report on review of human rights policies substantially implemented when the company had made relevant information available on its website). Here, as with prior precedents, the Company has adopted a Human Rights Statement which addresses the Proposal's essential objective and has made this policy publicly available on its website. Furthermore, in the Supporting Statement, the Proposal specifically references the United Nations, and the Company's Human Rights Statement confirms that the Company is committed to "[c]onducting our business in a manner that is

consistent with fundamental human rights principles described in the United Nations Universal Declaration of Human Rights."

With regard to proposals requesting board-level oversight of human rights issues in particular, the Staff has previously concurred in the exclusion of proposals on the basis of substantial implementation when the proposal has been implemented via different means than explicitly requested. *See, e.g., The Goldman Sachs Group, Inc.* (Mar. 12, 2018) (concurring in the exclusion of a proposal to establish a board committee to oversee issues of human and indigenous people's rights based on existing policies and board committee oversight); *Apple Inc. (Dec. 11, 2014)* (concurring in the exclusion of a proposal to establish a public policy committee to oversee human rights issues based on existing policies); *Mondalez International, Inc.* (March 7, 2014) (concurring that a proposal urging the board of directors to prepare a report on the company's process for identifying and analyzing potential and actual human rights risks in its operations and supply chain was substantially implemented through relevant information on the company's website). As a result, a company may exercise discretion when taking actions designed to implement the essential objective of a shareholder proposal without losing the right to exclude the proposal.

The Company has published extensive information on its public website regarding its human rights policies, practices and procedures, including a Human Rights Statement. Due to the Company's extensive policies and procedures already in place addressing the essential object of the Proposal (to adopt a human rights policy), the Proposal should be excluded under Rule 14a-8(i)(10).

2. The Proposal may be excluded under Rule 14a-8(i)(7) because it relates to the Company's ordinary business operations.

The Proposal is properly excludable from the 2020 Proxy Materials pursuant to Rule 14a-8(i)(7) because the underlying subject matter is within the ordinary business operations of the Company.

Rule 14a-8(i)(7) permits the exclusion of a shareholder proposal that deals with a "matter relating to the company's ordinary business operations." According to the Commission, the underlying policy of the ordinary business exclusion is "to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting." 1998 Release at 80,539. In the 1998 Release, the Commission outlines two central considerations for determining whether the ordinary business exclusion applies: (1) was the task "so fundamental to management's ability to run a company on a day-to-day basis that [it] could not, as a practical matter, be subject to direct shareholder oversight"; and (2) "the degree to which the proposal

seeks to 'micro-manage' the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment." *Id.* at 80,539-40 (footnote omitted).

The stated objective of the Proposal is to adopt a human rights policy in order to allay business and reputational risks relating to human rights. However, the Company is a regional bank holding company that provides its services primarily through its principal subsidiary, First Horizon Bank (the "Bank"). The Bank has branches in Tennessee, North Carolina, Florida, South Carolina, Mississippi, Georgia and Texas. As neither the Company nor the Bank has offices in any foreign countries, it is not clear why a broad human rights policy is relevant to the Company. It is clear from the Supporting Statement and the Proponent's prior correspondence with the Company (discussed below) that the true objective and subject matter of the Proposal is the Company's financing of private prisons/detention centers, and as such, the Proposal directly concerns a matter of the Company's ordinary business operations, its lending business. In Staff Legal Bulletin No. 14K (Oct. 16, 2019) ("SLB 14K"), the Staff noted that "[w]hen analyzing a proposal to determine the underlying concern or central purpose of any proposal, we look not only to the resolved clause but to the proposal in its entirety." Furthermore, the Staff said that "if a supporting statement modifies or re-focuses the intent of the resolved clause ... we take [it] into account in determining whether the proposal seeks to micromanage the company." In this instance, the Supporting Statement re-focuses the intent of the resolved clause to center on the Company's financing of private prisons/detention centers, in particular the Company's financing relationship with one particular company identified by the Proponent (the "Proponent Identified Company"). The Supporting Statement notes that "[b]anks can contribute or be directly linked to human rights violations through lending or other financial support to the companies responsible for such human rights violations." It continues highlighting its underlying concern to state that "First Horizon National currently provides financing, via loans and credit lines, to [the Proponent Identified Company]," and proceeds to discuss the Proponent Identified Company and the current allegations of human rights abuses against it. The Supporting Statement then adds that "[i]n order to allay businesses and reputational risks, First Horizon National should adopt policies and practices to effectively address its exposure to corporate entities that interfere with human rights, especially on issues of detention." The Supporting Statement clearly re-focuses the intent of the resolved clause, turning it from a general concern about human rights to a specific focus on financing of private prisons/detention centers such as the Proponent Identified Company.

Furthermore, the initial correspondence the Company received from the Interfaith Center on Corporate Responsibility, which was signed by the Proponent (the "Initial Correspondence"), and is attached hereto as Exhibit C, was solely concerned with the Company's relationship with the Proponent Identified Company. The Initial Correspondence notes that "[a]s current and potential shareholders, [the Proponent is] concerned that First [Horizon Bank's] financial

relationship with [the Proponent Identified Company] … may expose the bank to serious business risks." It discusses other banks that have decided not to do business with private prisons/detention centers and certain funds that have divested of the stock of the Proponent Identified Company. The Initial Correspondence discusses alleged human rights abuses by the Proponent Identified Company and highlights "concerns among investors about the implementation of First [Horizon Bank's] human rights due diligence process when assessing financial relationships." It is clear from this correspondence that the focus of the Proponent is on the Company's lending to private prisons/detention centers, not human rights in general.

As the Proposal and its Supporting Statement deal with a matter relating to the Company's ordinary business operations, the Company's lending business, they seek to micromanage the Company's operations in regards to matters concerning the Company's policies in connection with providing goods and services. Therefore, the Proposal is properly excludable pursuant to Rule 14a-8(i)(7).

A. The Proposal relates to matters that concern the Company's policies in connection with providing goods and services.

The Proposal relates to the Company's ordinary business operations in that it relates to details of the Company's implementation of policies in connection with providing goods and services. The Staff has consistently determined that proposals that concern the content and sale of a company's products and services are excludable as a matter of ordinary business pursuant to Rule 14a-8(i)(7). *See, e.g., Cabela's Inc.* (Apr. 7, 2016) (permitting exclusion of a proposal requesting the board to adopt and oversee the implementation of a policy regarding what firearms to sell); *Wells Fargo & Co.* (Jan. 28, 2013) (permitting exclusion of a proposal requesting the company to prepare a report discussing whether the company's policies in addressing the social and financial impacts of its direct deposit advance lending service were adequate); and *Pepco Holdings, Inc.* (Feb. 18, 2011) (permitting exclusion of a proposal requesting the company to aggressively study, implement and pursue the solar market).

In *Wells Fargo & Co.* the proposal requested that the Wells Fargo's board of directors prepare a report on "the adequacy of the company's policies in addressing the social and financial impacts of [the company's] direct deposit advance lending [service]." The company's direct deposit advance lending service was a line of credit only available to the company's established customers whose accounts were in good standing and who wished to use the service. The Staff agreed that the proposal related to the products and services offered for sale by the company and noted that such proposals are generally excludable under Rule 14a-8(i)(7).

Similar to the proposal in *Wells Fargo & Co.*, the Proposal requests that the Company limit its provision of a financial product to certain customers. The Proposal asks that the

Company revise its lending policy to prohibit loans to private prisons/detention centers. Therefore, because the Proposal relates to the Company's decision to offer a financial product to its customers, it is excludable under Rule 14a-8(i)(7).

B. The Proposal seeks to micromanage the Company by requiring that it stop providing a product to a specific customer

The Staff has concluded that a proponent's request that a company adopt a specific policy seeks to micromanage when the proposal goes too far in the detailed application of such a policy. *See, e.g., Marriott Int'l, Inc.* (Mar. 17, 2010) (permitting exclusion of a proposal to install low-flow showerheads because "although the proposal raises concerns with global warming, the proposal seeks to micromanage the company to such a degree that exclusion of the proposal is appropriate"). In SLB 14K, the Staff discussed recent no-action letters in which the Staff found that proposals requesting annual reports on greenhouse gas targets in accordance with the Paris Climate Agreement were excludable on the basis of micromanagement. *See e.g., Devon Energy Corp.* (Mar. 4, 2019) (permitting exclusion of a proposal requiring the Company to adopt targets aligned with the goals established by the Paris Climate Agreement). The Staff noted in SLB 14K that "the proposal micromanaged the company by prescribing the method for addressing reduction of greenhouse gas emissions." *Id.*

As discussed above, the Supporting Statement specifically targets the Company's "financing, via loans and credit lines, to [the Proponent Identified Company]." Targeting the Proponent Identified Company and the Company's financing activities to a single client micromanages the Company's lending business. The Staff recently concurred that a similar shareholder proposal regarding a company's lending, financing and investment decisions was excludable under Rule 14a-8(i)(7) because it sought to micro-manage the company. In *JPMorgan Chase & Co. (The Christensen Fund)* (Mar. 30, 2018), the proposal requested the company to "prepare a report . . . on the reputational, financial and climate risks associated with project and corporate lending, underwriting, advising and investing for tar sands production and transportation." The proposal requested that the report include assessments of: (1) the risk of portfolio devaluation due to stranding of high-cost tar sand assets; (2) whether the financing was consistent with the Paris Agreement's goal of limiting global temperature; (3) how the tar sands financing aligned with the company's support for Indigenous People's rights; and (4) the impact on risk from establishing a specific policy restricting financing for tar sands projects and companies. The Staff granted no-action relief, noting that "the [p]roposal micromanages the [c]ompany by seeking to impose specific methods for implementing complex policies."

Like the proposal in *JPMorgan Chase*, the Proposal impermissibly seeks to restrict the Company's decision-making regarding its lending business. Specifically, the Proposal seeks to

prohibit the Company from lending to private prisons/detention centers and to the Proponent Identified Company in particular.

C. The Proposal does not raise policy issues that transcend ordinary business.

The Proposal concerns the provision of the Company's products or services, an ordinary business matter that constitutes the Company's day-to-day business operations. While the RESOLVED clause of the Proposal is focused on human rights, the Supporting Statement, together with the Initial Correspondence, make clear the Proposal is about the Company lending to private prisons/detention centers (and the Proponent Identified Company in particular).

In its Staff Legal Bulletin No. 14E (Oct. 27, 2009) ("SLB 14E"), the Staff indicates that, where a proposal relating to the company's ordinary business operations also raises a significant policy issue, the proposal will be excludable under Rule 14a-8(i)(7) unless "a sufficient nexus exists between the nature of the proposal and the company." SLB 14E (footnote omitted). Notably, in *Bank of America Corp.* (Feb. 24, 2010), the proposal requested that Bank of America's board of directors publish a report on (i) the implementation of its policy barring the financing of companies engaged in mountain top removal coal mining and the efficacy of this policy in reducing greenhouse gas emissions and environmental harm to Appalachia and (ii) assessing the probable impact on greenhouse gas emissions and environmental harm to Appalachia of expanding the policy to bar project financing for all mountain top removal coal mining projects. The Staff determined that the proposal was excludable because:

> [W]e note that the first part of the proposal addresses implementation of Bank of America's existing policy on funding companies that use mountain top removal as their predominant method of coal extraction. In our view, this part of the proposal addresses matters beyond the environmental impact of Bank of America's project finance decisions, such as Bank of America's decisions to extend credit or provide other financial services to particular types of customers. Proposals concerning customer relations or the sale of particular services are generally excludable under rule 14a-8(i)(7).

Similar to the proposal in *Bank of America*, the Proposal addresses matters beyond the human rights impact of the Company's lending decisions. As stated in SLB 14E, "in those cases in which a proposal's underlying subject matter involves an ordinary business matter to the company, the proposal generally will be excludable under Rule 14a-8(i)(7)." Here, as discussed above, the Proposal's underlying subject matter involves the Company's lending policy, and specifically, lending policy to private prisons/detention centers. This is an ordinary course business matter.

3. The Proposal may be excluded pursuant to Rule 14a-8(i)(5) for lack of relevance because the Proposal is not significantly related to the Company's business.

Rule 14a-8(i)(5) permits the exclusion of proposals that are not significantly related to the registrant's business. More precisely, Rule 14a-8(i)(5) permits the exclusion of a proposal that "relates to operations which account for less than 5 percent of the company's total assets at the end of its most recent fiscal year, and for less than 5 percent of its net earnings and gross sales for its most recent fiscal year, and is not otherwise significantly related to the company's business." The Company's Annual Report on Form 10-K for the year ended December 31, 2018 disclosed total assets of approximately $40.6 billion, gross revenue (net interest income plus non-interest income) of $2.3 billion, and total pre-tax income of 336.8 million. Of the $40.6 billion assets held by the Company, less than 1% is from loans to private prisons/detention centers, of the Company's gross revenue, less than 1% is from private prisons/detention centers, and of the Company's total pre-tax income, less than 1% is from private prisons/detention centers. The amount of assets, revenues and income related to private prisons/detention centers is far below the quantitative tests of Rule 14a-8(i)(5). As such, under Rule 14a-8(i)(5), the only question pertinent in this instance is whether those operations are "otherwise significantly related to the company's business."

As discussed in Staff Legal Bulletin No. 141 (November 1, 2017) ("SLB 141"), while historically, issues of broad social or ethical significance were often determined to be "otherwise significantly related to the company's business" regardless of the economic relevance of such matter to a company, the Staff noted that going forward the Staff will focus on a proposal's significance to the Company's business when it otherwise relates to operations that account for less than 5% of total assets, net earnings and gross sales. Under this framework, proposals that raise issues of social or ethical significance may be excluded, notwithstanding their importance in the abstract, if such proposal does not significantly relate to the Company's business.

As discussed above, the Company is a regional bank holding company that operates principally in seven states; it has no international locations and generally does not engage in a material amount of lending to entities outside the United States. In light of the scope of the Company's business operations it is unclear how a human rights policy is relevant to the Company. Other than lending to the Proponent Identified Company, the Proposal fails to provide any link between the Company's core operations and the need for a human rights policy.

The Staff noted in SLB 14I that "[t]he mere possibility of reputational or economic harm will not preclude no-action relief." The Proposal's reference to "reputational harm" is simply not enough to make the Proposal relevant to a regional bank holding company.

Thus, because the Proposal relates to the Company's operations that do not exceed the 5% threshold and it is not otherwise substantially related to the Company's business, the Proposal should be excluded under Rule 14a-8(i)(5).

* * *

For the reasons discussed above, the Company respectfully requests that the Staff concur that the Proposal may be excluded from the 2020 Proxy Materials.

Should you have any questions or if you would like any additional information regarding the foregoing, please do not hesitate to contact me (901-523-5679; cabillings@firsthorizon.com). Thank you for your attention to this matter.

Very truly yours,

Clyde A. Billings, Jr.

Attachments

cc: Lisa Cooper
(Figure 8 Investment Strategies)

FIGURE 8 INVESTMENT STRATEGIES

205 N. 10TH STREET, SUITE 300, BOISE, ID 83702 | 208.385.0078 | WWW.FIGURE8INVESTING.COM

November 8, 2019

Clyde Billings
Secretary, Senior VP & Assistant General Counsel
Office of the Corporate Secretary
First Horizon National Corporation
165 Madison Avenue
Memphis, TN 38103

Dear Mr. Billings,

Figure 8 Investment Strategies is a Registered Investment Advisor specializing in integrating environmental, social, governance (ESG) analysis into investment decision-making. On behalf of our clients, we also strive to strengthen corporate ESG policies, performance, transparency, and accountability through shareholder engagement.

We are filing the attached shareholder resolution on behalf of Jack Van Valkenburgh, the beneficial owner of over $2,000 worth of First Horizon National (FHN) shares. He has held the requisite number of shares for over one year, and will continue to hold sufficient shares in the Company through the date of the Annual Shareholders meeting. Proof of ownership from the custodian, Charles Schwab & Co., is enclosed.

We are submitting the enclosed shareholder resolution for inclusion in the 2020 proxy statement, in accordance with Rule 14a-8 of the General Rules and Regulations of the Securities Exchange Act of 1934.

A representative of the filer will attend the stockholders' meeting to move the resolution as required. We hope a dialogue with the company can result in resolution of our concerns.

Sincerely,

Lisa Cooper
President, Figure 8 Investment Strategies

CC: Bryan Jordan, Chairman, CEO and President, First Horizon National Corporation
Candace Steele Flippin, Chief Communications Officer, First Horizon National Corporation

Adopt A Human Rights Policy

RESOLVED: Shareholders request that the Board of Directors of First Horizon National Corporation (First Horizon National) adopt a comprehensive Human Rights Policy articulating our company's commitment to respect human rights throughout its operations and value chain and describing proposed steps and management systems to identify, assess, prevent, mitigate, and, where appropriate, address actual and potential adverse human rights impacts connected to the business.

Supporting Statement: The UN Guiding Principles on Business and Human Rights state that companies have a responsibility to respect human rights within their operations and throughout their value chains. This responsibility entails that companies should know their human rights risks and impacts; take concrete steps to prevent, mitigate, and remediate adverse impacts when they occur; and publicly communicate how they are addressing their most salient human rights issues, meaning the most severe impacts on people connected with the business. Principle 13b of the Principles asserts that the corporate responsibility to respect human rights extends to situations where corporations may be directly linked to adverse human rights impacts through business relationships, "even if they have not contributed to those impacts".

In addition, the 2019 OECD guidance on Due Diligence for Responsible Corporate Lending and Securities Underwriting[1] cites that banks should seek to prevent and address impacts related to human and labor rights associated with their customers' activities.

Banks can contribute or be directly linked to human rights violations through lending or providing other financial support to the companies responsible for such human rights violations.[2] First Horizon National currently provides financing, via loans and credit lines, to CoreCivic, a corporation which operates private prisons.[3] CoreCivic is the subject of claims of alleged human rights abuses, as noted in recent reports and multiple lawsuits, including inmate deaths, poor medical care, allegations of physical and sexual abuse of detainees and violence.[4] CoreCivic faces at least four current federal cases alleging the use of forced labor at CoreCivic immigration detention facilities[5]. The California State Teachers' Retirement System and New York City Pension Funds cited human rights concerns in connection with their decisions to divest from CoreCivic's stock.[6]

In order to allay business and reputational risks, First Horizon National should adopt policies and practices to effectively address its exposure to corporate entities that interfere with human rights, especially on issues of detention. Banking peers including JP Morgan Chase, ABN AMRO and Wells Fargo have adopted human rights policy statements.

Establishing a Human Rights Policy would elevate board level oversight and governance regarding human rights risks implicated by the company's operations and lending activities and internal processes and provide a vehicle to fulfill the Board's fiduciary responsibilities for oversight of these risks.

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[1] https://mneguidelines.oecd.org/Due-Diligence-for-Responsible-Corporate-Lending-and-Securities-Underwriting.pdf

[2] https://www.banktrack.org/download/letter_from_ohchr_to_banktrack_on_application_of_the_un_guiding_principles_in_the_banking_sector/banktrack_response_final.pdf

[3] https://populardemocracy.org/sites/default/files/(Updated)%202019%20Data%20Brief%20The%20Wall%20Street%20Banks%20Still%20Financing%20Private%20Prisons%20FINAL%20EMBARGOED%20UNTIL%204-8-19%201030am.pdf

[4] https://www.hrw.org/news/2016/07/07/us-deaths-immigration-detention

[5] http://www.htlegalcenter.org/sdm_downloads/fact-sheet-human-trafficking-forced-labor-in-for-profit-detention-facilities/

[6] https://www.pionline.com/article/20181108/ONLINE/181109890/calstrs-to-divest-from-private-prison-companies-corecivic-geo-group ; https://www.ai-cio.com/news/new-york-city-pension-funds-divest-private-prison

November 8, 2019

First Horizon National Corporation
165 Madison Avenue
Memphis, TN 38103

Account number ending in:
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Questions: Contact your advisor or call Schwab Alliance at 1-800-515-2157.

Important information regarding shares in your account.

Dear First Horizon National Corporation,

We're writing to confirm information about the account listed above, which Charles Schwab & Co., Inc. holds as custodian. This account holds in trust 148 shares of First Horizon National Corporation FHN common stock. These shares have been held in the account continuously for at least one year prior to and including November 8, 2019.

These shares are held at Depository Trust Company under the nominee name of Charles Schwab & Co., Inc., which serves as custodian for the registration listed above.

Thank you for choosing Schwab. If you have questions, please contact your advisor or Schwab Alliance at 1-800-515-2157. We appreciate your business and look forward to serving you in the future.

Sincerely,

Josh Parker
Associate, Institutional
CORE SERVICE WEST DENVER
9800 Schwab Way
Englewood, CO 80112-3441

Independent investment advisors are not owned by, affiliated with, or supervised by Charles Schwab & Co., Inc. ("Schwab").

FIRST HORIZON
NATIONAL CORPORATION.

Clyde A. Billings, Jr.
Senior Vice President
Assistant General Counsel
and Corporate Secretary
Legal Division

November 20, 2019

Via E-Mail at lisa@figure8investing.com and Via Certified Mail

Lisa Cooper
President and Founder
Figure 8 Investment Strategies
205 N. 10th Street, Suite 300
Boise, ID 83702

Re: First Horizon National Corporation (the "Company")

Dear Ms. Cooper:

This letter is being sent to you in accordance with Rule 14a-8 under the Securities Exchange Act of 1934, in connection with the shareholder proposal that you submitted to us purportedly on behalf of Jack Van Valkenburgh on November 8, 2019 (the "Proposal"). Rule 14a-8(f) provides that we must notify you of any procedural or eligibility deficiencies with respect to the Proposal, as well as of the timeframe for your response to this letter.

1. Proposals by Proxy

We do not believe that your correspondence included sufficient documentation demonstrating that you had the legal authority to submit the Proposal on behalf of Mr. Van Valkenburgh as of the date the Proposal was submitted (November 8, 2019). In Staff Legal Bulletin No. 14I, dated Nov. 1, 2017 ("SLB 14I"), the SEC's Division of Corporation Finance ("Division") noted that proposals submitted by proxy, such as the Proposal, may present challenges and concerns, including "concerns raised that shareholders may not know that proposals are being submitted on their behalf." Accordingly, in evaluating whether there is a basis to exclude a proposal under the eligibility requirements of Rule 14a-8(b), SLB 14I states that the Division will look to whether a shareholder who submits a proposal by proxy provides documentation describing the shareholder's delegation of authority to the proxy, and that in general the Division would expect this documentation to:

- identify the shareholder-proponent and the person or entity selected as proxy;
- identify the company to which the proposal is directed;
- identify the annual or special meeting for which the proposal is submitted;
- identify the specific proposal to be submitted; and
- be signed and dated by the shareholder.

First Horizon National Corporation
165 Madison Ave
Memphis, TN 38103
901-523-5679
Email: cabillings@firsthorizon.com

You did not provide any authorization documentation with your submission. To remedy this defect, you should provide documentation consistent with SLB 14I.

2. Proof of Continuous Ownership

Rule 14a-8(b)(2) provides that shareholder proponents must submit sufficient proof of their continuous ownership of at least $2,000 in market value, or 1%, of the company's shares entitled to vote on the shareholder proposal, for at least one year prior to the date the shareholder proposal was submitted. The Company's stock records do not indicate that Mr. Van Valkenburgh is the record owner of any shares of common stock except for a fraction of 1 share. You did not submit to the Company sufficient proof of ownership contemplated by Rule 14a-8(b)(2). See Section C of the Staff Legal Bulletin No. 14G ("SLB 14G"), dated October 16, 2012, published by the Division.

As noted in SLB 14G, Rule 14a-8(b) provides that, to be eligible to submit a proposal under Rule 14a-8, a shareholder must provide sufficient proof of the shareholder proponent's ownership of the requisite number of securities for the entire one-year period preceding and including the date the shareholder proposal was submitted. The proof of ownership that you sent does not name Jack Van Van Valkenburgh as the shareholder or the holder of the account at Charles Schwab & Co. Inc. ("Schwab") in which the shares of the Company's common stock are held.

To remedy this deficiency, you must provide sufficient proof of Mr. Van Valkenburgh's continuous ownership of the requisite number of shares of the Company's common stock for the one-year period preceding and including November 8, 2019, the date the Proposal was submitted to us. As explained in Rule 14a-8(b), sufficient proof may be in the form of:

- a written statement from the "record" holder of Mr. Van Valkenburgh's shares (usually a broker or a bank) verifying that, as of the date the Proposal was submitted, Mr. Van Valkenburgh continuously held the requisite number of shares for at least one year; or

- if Mr. Van Valkenburgh has filed with the Securities and Exchange Commission (the "SEC") a Schedule 13D, Schedule 13G, Form 3, Form 4 and/or Form 5, or amendments to those documents or updated forms, reflecting Mr. Van Valkenburgh's ownership of the requisite number of shares as of or before the date on which the one-year eligibility period begins, a copy of the schedule and/or form, and any subsequent amendments reporting a change in Mr. Van Valkenburgh's ownership level and a written statement that Mr. Van Valkenburgh has continuously held the requisite number of shares for the one-year period.

In SEC Staff Legal Bulletin No. 14F ("SLB 14F"), dated October 18, 2011, the Division provided guidance on the definition of "record" holder for purposes of Rule 14a-8(b). SLB 14F provides that for securities held through The Depository Trust Company ("DTC"), only DTC participants should be viewed as "record" holders. If Mr. Van Valkenburgh holds shares through a bank, broker or other securities intermediary that is not a DTC participant, he will need to obtain proof of ownership from the DTC participant through which the bank, broker or other securities intermediary holds the shares. As indicated in SLB 14F, this may require Mr. Van Valkenburgh to provide two proof of

ownership statements – one from his bank, broker or other securities intermediary confirming his ownership, and the other from the DTC participant confirming the bank's, broker's or other securities intermediary's ownership. In SLB 14G, the Division clarified that a proof of ownership letter from an affiliate of a DTC participant satisfies the requirement to provide a proof of ownership letter from a DTC participant.

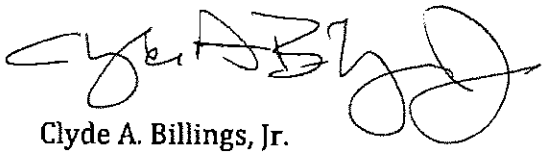
We also note that the proof of ownership that you sent states that the account at Schwab holds the relevant shares of the Company's common stock "in trust." If Mr. Van Valkenburgh beneficially owns the shares through a trust, then you will also need to provide us with proof that he was the beneficial owner of the shares held by the trust for the one-year period preceding and including November 8, 2019, the date the Proposal was submitted, and as of such date, he had authority to submit the Proposal on behalf of the trust and to delegate that authority to you.

For the reasons described above, we believe that the Proposal may be excluded from our proxy statement for our upcoming 2020 annual meeting of shareholders.

Under Rule 14a-8(f), we are required to inform you that if you would like to respond to this letter or remedy the deficiencies described above, your response must be postmarked, or transmitted electronically, no later than 14 days from the date that you first received this letter. We have attached for your reference copies of Rule 14a-8, SLB 14I, SLB 14F and SLB 14G. We urge you to review the SEC rule and Division guidance carefully before submitting the authorization documentation and the proof of ownership to ensure it is compliant.

If you have any questions with respect to the foregoing, please contact me at 901-523-5679. You may address any response to me at the address on the letterhead of this letter, by facsimile at 901-523-4248 or by e-mail at cabillings@firsthorizon.com.

Very truly yours,



Clyde A. Billings, Jr.

information after the termination of the solicitation.

(e) The security holder shall reimburse the reasonable expenses incurred by the registrant in performing the acts requested pursuant to paragraph (a) of this section.

NOTE 1 TO § 240.14A–7. Reasonably prompt methods of distribution to security holders may be used instead of mailing. If an alternative distribution method is chosen, the costs of that method should be considered where necessary rather than the costs of mailing.

NOTE 2 TO § 240.14A–7 When providing the information required by § 240.14a–7(a)(1)(ii), if the registrant has received affirmative written or implied consent to delivery of a single copy of proxy materials to a shared address in accordance with § 240.14a–3(e)(1), it shall exclude from the number of record holders those to whom it does not have to deliver a separate proxy statement.

[57 FR 48292, Oct. 22, 1992, as amended at 59 FR 63684, Dec. 8, 1994; 61 FR 24657, May 15, 1996; 65 FR 65750, Nov. 2, 2000; 72 FR 4167, Jan. 29, 2007; 72 FR 42238, Aug. 1, 2007]

§ 240.14a–8 Shareholder proposals.

This section addresses when a company must include a shareholder's proposal in its proxy statement and identify the proposal in its form of proxy when the company holds an annual or special meeting of shareholders. In summary, in order to have your shareholder proposal included on a company's proxy card, and included along with any supporting statement in its proxy statement, you must be eligible and follow certain procedures. Under a few specific circumstances, the company is permitted to exclude your proposal, but only after submitting its reasons to the Commission. We structured this section in a question-and-answer format so that it is easier to understand. The references to "you" are to a shareholder seeking to submit the proposal.

(a) *Question 1:* What is a proposal? A shareholder proposal is your recommendation or requirement that the company and/or its board of directors take action, which you intend to present at a meeting of the company's shareholders. Your proposal should state as clearly as possible the course of action that you believe the company should follow. If your proposal is placed on the company's proxy card, the company must also provide in the form of proxy means for shareholders to specify by boxes a choice between approval or disapproval, or abstention. Unless otherwise indicated, the word "proposal" as used in this section refers both to your proposal, and to your corresponding statement in support of your proposal (if any).

(b) *Question 2:* Who is eligible to submit a proposal, and how do I demonstrate to the company that I am eligible? (1) In order to be eligible to submit a proposal, you must have continuously held at least $2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the meeting for at least one year by the date you submit the proposal. You must continue to hold those securities through the date of the meeting.

(2) If you are the registered holder of your securities, which means that your name appears in the company's records as a shareholder, the company can verify your eligibility on its own, although you will still have to provide the company with a written statement that you intend to continue to hold the securities through the date of the meeting of shareholders. However, if like many shareholders you are not a registered holder, the company likely does not know that you are a shareholder, or how many shares you own. In this case, at the time you submit your proposal, you must prove your eligibility to the company in one of two ways:

(i) The first way is to submit to the company a written statement from the "record" holder of your securities (usually a broker or bank) verifying that, at the time you submitted your proposal, you continuously held the securities for at least one year. You must also include your own written statement that you intend to continue to hold the securities through the date of the meeting of shareholders; or

(ii) The second way to prove ownership applies only if you have filed a Schedule 13D (§ 240.13d–101), Schedule 13G (§ 240.13d–102), Form 3 (§ 249.103 of this chapter), Form 4 (§ 249.104 of this chapter) and/or Form 5 (§ 249.105 of this

chapter), or amendments to those documents or updated forms, reflecting your ownership of the shares as of or before the date on which the one-year eligibility period begins. If you have filed one of these documents with the SEC, you may demonstrate your eligibility by submitting to the company:

(A) A copy of the schedule and/or form, and any subsequent amendments reporting a change in your ownership level;

(B) Your written statement that you continuously held the required number of shares for the one-year period as of the date of the statement; and

(C) Your written statement that you intend to continue ownership of the shares through the date of the company's annual or special meeting.

(c) *Question 3:* How many proposals may I submit? Each shareholder may submit no more than one proposal to a company for a particular shareholders' meeting.

(d) *Question 4:* How long can my proposal be? The proposal, including any accompanying supporting statement, may not exceed 500 words.

(e) *Question 5:* What is the deadline for submitting a proposal? (1) If you are submitting your proposal for the company's annual meeting, you can in most cases find the deadline in last year's proxy statement. However, if the company did not hold an annual meeting last year, or has changed the date of its meeting for this year more than 30 days from last year's meeting, you can usually find the deadline in one of the company's quarterly reports on Form 10–Q (§249.308a of this chapter), or in shareholder reports of investment companies under §270.30d–1 of this chapter of the Investment Company Act of 1940. In order to avoid controversy, shareholders should submit their proposals by means, including electronic means, that permit them to prove the date of delivery.

(2) The deadline is calculated in the following manner if the proposal is submitted for a regularly scheduled annual meeting. The proposal must be received at the company's principal executive offices not less than 120 calendar days before the date of the company's proxy statement released to shareholders in connection with the previous year's annual meeting. However, if the company did not hold an annual meeting the previous year, or if the date of this year's annual meeting has been changed by more than 30 days from the date of the previous year's meeting, then the deadline is a reasonable time before the company begins to print and send its proxy materials.

(3) If you are submitting your proposal for a meeting of shareholders other than a regularly scheduled annual meeting, the deadline is a reasonable time before the company begins to print and send its proxy materials.

(f) *Question 6:* What if I fail to follow one of the eligibility or procedural requirements explained in answers to Questions 1 through 4 of this section? (1) The company may exclude your proposal, but only after it has notified you of the problem, and you have failed adequately to correct it. Within 14 calendar days of receiving your proposal, the company must notify you in writing of any procedural or eligibility deficiencies, as well as of the time frame for your response. Your response must be postmarked, or transmitted electronically, no later than 14 days from the date you received the company's notification. A company need not provide you such notice of a deficiency if the deficiency cannot be remedied, such as if you fail to submit a proposal by the company's properly determined deadline. If the company intends to exclude the proposal, it will later have to make a submission under §240.14a–8 and provide you with a copy under Question 10 below, §240.14a–8(j).

(2) If you fail in your promise to hold the required number of securities through the date of the meeting of shareholders, then the company will be permitted to exclude all of your proposals from its proxy materials for any meeting held in the following two calendar years.

(g) *Question 7:* Who has the burden of persuading the Commission or its staff that my proposal can be excluded? Except as otherwise noted, the burden is on the company to demonstrate that it is entitled to exclude a proposal.

(h) *Question 8:* Must I appear personally at the shareholders' meeting to present the proposal? (1) Either you, or your representative who is qualified

under state law to present the proposal on your behalf, must attend the meeting to present the proposal. Whether you attend the meeting yourself or send a qualified representative to the meeting in your place, you should make sure that you, or your representative, follow the proper state law procedures for attending the meeting and/or presenting your proposal.

(2) If the company holds its shareholder meeting in whole or in part via electronic media, and the company permits you or your representative to present your proposal via such media, then you may appear through electronic media rather than traveling to the meeting to appear in person.

(3) If you or your qualified representative fail to appear and present the proposal, without good cause, the company will be permitted to exclude all of your proposals from its proxy materials for any meetings held in the following two calendar years.

(i) *Question 9:* If I have complied with the procedural requirements, on what other bases may a company rely to exclude my proposal? (1) Improper under state law: If the proposal is not a proper subject for action by shareholders under the laws of the jurisdiction of the company's organization;

NOTE TO PARAGRAPH (i)(1): Depending on the subject matter, some proposals are not considered proper under state law if they would be binding on the company if approved by shareholders. In our experience, most proposals that are cast as recommendations or requests that the board of directors take specified action are proper under state law. Accordingly, we will assume that a proposal drafted as a recommendation or suggestion is proper unless the company demonstrates otherwise.

(2) *Violation of law:* If the proposal would, if implemented, cause the company to violate any state, federal, or foreign law to which it is subject;

NOTE TO PARAGRAPH (i)(2): We will not apply this basis for exclusion to permit exclusion of a proposal on grounds that it would violate foreign law if compliance with the foreign law would result in a violation of any state or federal law.

(3) *Violation of proxy rules:* If the proposal or supporting statement is contrary to any of the Commission's proxy rules, including §240.14a-9, which prohibits materially false or misleading statements in proxy soliciting materials;

(4) *Personal grievance; special interest:* If the proposal relates to the redress of a personal claim or grievance against the company or any other person, or if it is designed to result in a benefit to you, or to further a personal interest, which is not shared by the other shareholders at large;

(5) *Relevance:* If the proposal relates to operations which account for less than 5 percent of the company's total assets at the end of its most recent fiscal year, and for less than 5 percent of its net earnings and gross sales for its most recent fiscal year, and is not otherwise significantly related to the company's business;

(6) *Absence of power/authority:* If the company would lack the power or authority to implement the proposal;

(7) *Management functions:* If the proposal deals with a matter relating to the company's ordinary business operations;

(8) *Director elections:* If the proposal:

(i) Would disqualify a nominee who is standing for election;

(ii) Would remove a director from office before his or her term expired;

(iii) Questions the competence, business judgment, or character of one or more nominees or directors;

(iv) Seeks to include a specific individual in the company's proxy materials for election to the board of directors; or

(v) Otherwise could affect the outcome of the upcoming election of directors.

(9) *Conflicts with company's proposal:* If the proposal directly conflicts with one of the company's own proposals to be submitted to shareholders at the same meeting;

NOTE TO PARAGRAPH (i)(9): A company's submission to the Commission under this section should specify the points of conflict with the company's proposal.

(10) *Substantially implemented:* If the company has already substantially implemented the proposal;

NOTE TO PARAGRAPH (i)(10): A company may exclude a shareholder proposal that would provide an advisory vote or seek future advisory votes to approve the compensation of executives as disclosed pursuant

to Item 402 of Regulation S–K (§229.402 of this chapter) or any successor to Item 402 (a "say-on-pay vote") or that relates to the frequency of say-on-pay votes, provided that in the most recent shareholder vote required by §240.14a–21(b) of this chapter a single year (*i.e.*, one, two, or three years) received approval of a majority of votes cast on the matter and the company has adopted a policy on the frequency of say-on-pay votes that is consistent with the choice of the majority of votes cast in the most recent shareholder vote required by §240.14a–21(b) of this chapter.

(11) *Duplication:* If the proposal substantially duplicates another proposal previously submitted to the company by another proponent that will be included in the company's proxy materials for the same meeting;

(12) *Resubmissions:* If the proposal deals with substantially the same subject matter as another proposal or proposals that has or have been previously included in the company's proxy materials within the preceding 5 calendar years, a company may exclude it from its proxy materials for any meeting held within 3 calendar years of the last time it was included if the proposal received:

(i) Less than 3% of the vote if proposed once within the preceding 5 calendar years;

(ii) Less than 6% of the vote on its last submission to shareholders if proposed twice previously within the preceding 5 calendar years; or

(iii) Less than 10% of the vote on its last submission to shareholders if proposed three times or more previously within the preceding 5 calendar years; and

(13) *Specific amount of dividends:* If the proposal relates to specific amounts of cash or stock dividends.

(j) *Question 10:* What procedures must the company follow if it intends to exclude my proposal? (1) If the company intends to exclude a proposal from its proxy materials, it must file its reasons with the Commission no later than 80 calendar days before it files its definitive proxy statement and form of proxy with the Commission. The company must simultaneously provide you with a copy of its submission. The Commission staff may permit the company to make its submission later than 80 days before the company files its definitive proxy statement and form of proxy, if the company demonstrates good cause for missing the deadline.

(2) The company must file six paper copies of the following:

(i) The proposal;

(ii) An explanation of why the company believes that it may exclude the proposal, which should, if possible, refer to the most recent applicable authority, such as prior Division letters issued under the rule; and

(iii) A supporting opinion of counsel when such reasons are based on matters of state or foreign law.

(k) *Question 11:* May I submit my own statement to the Commission responding to the company's arguments?

Yes, you may submit a response, but it is not required. You should try to submit any response to us, with a copy to the company, as soon as possible after the company makes its submission. This way, the Commission staff will have time to consider fully your submission before it issues its response. You should submit six paper copies of your response.

(l) *Question 12:* If the company includes my shareholder proposal in its proxy materials, what information about me must it include along with the proposal itself?

(1) The company's proxy statement must include your name and address, as well as the number of the company's voting securities that you hold. However, instead of providing that information, the company may instead include a statement that it will provide the information to shareholders promptly upon receiving an oral or written request.

(2) The company is not responsible for the contents of your proposal or supporting statement.

(m) *Question 13:* What can I do if the company includes in its proxy statement reasons why it believes shareholders should not vote in favor of my proposal, and I disagree with some of its statements?

(1) The company may elect to include in its proxy statement reasons why it believes shareholders should vote against your proposal. The company is allowed to make arguments reflecting its own point of view, just as you may

express your own point of view in your proposal's supporting statement.

(2) However, if you believe that the company's opposition to your proposal contains materially false or misleading statements that may violate our antifraud rule, §240.14a–9, you should promptly send to the Commission staff and the company a letter explaining the reasons for your view, along with a copy of the company's statements opposing your proposal. To the extent possible, your letter should include specific factual information demonstrating the inaccuracy of the company's claims. Time permitting, you may wish to try to work out your differences with the company by yourself before contacting the Commission staff.

(3) We require the company to send you a copy of its statements opposing your proposal before it sends its proxy materials, so that you may bring to our attention any materially false or misleading statements, under the following timeframes:

(i) If our no-action response requires that you make revisions to your proposal or supporting statement as a condition to requiring the company to include it in its proxy materials, then the company must provide you with a copy of its opposition statements no later than 5 calendar days after the company receives a copy of your revised proposal; or

(ii) In all other cases, the company must provide you with a copy of its opposition statements no later than 30 calendar days before its files definitive copies of its proxy statement and form of proxy under §240.14a–6.

[63 FR 29119, May 28, 1998; 63 FR 50622, 50623, Sept. 22, 1998, as amended at 72 FR 4168, Jan. 29, 2007; 72 FR 70456, Dec. 11, 2007; 73 FR 977, Jan. 4, 2008; 76 FR 6045, Feb. 2, 2011; 75 FR 56762, Sept. 16, 2010]

§240.14a–9 False or misleading statements.

(a) No solicitation subject to this regulation shall be made by means of any proxy statement, form of proxy, notice of meeting or other communication, written or oral, containing any statement which, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier communication with respect to the solicitation of a proxy for the same meeting or subject matter which has become false or misleading.

(b) The fact that a proxy statement, form of proxy or other soliciting material has been filed with or examined by the Commission shall not be deemed a finding by the Commission that such material is accurate or complete or not false or misleading, or that the Commission has passed upon the merits of or approved any statement contained therein or any matter to be acted upon by security holders. No representation contrary to the foregoing shall be made.

(c) No nominee, nominating shareholder or nominating shareholder group, or any member thereof, shall cause to be included in a registrant's proxy materials, either pursuant to the Federal proxy rules, an applicable state or foreign law provision, or a registrant's governing documents as they relate to including shareholder nominees for director in a registrant's proxy materials, include in a notice on Schedule 14N (§240.14n–101), or include in any other related communication, any statement which, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier communication with respect to a solicitation for the same meeting or subject matter which has become false or misleading.

NOTE: The following are some examples of what, depending upon particular facts and circumstances, may be misleading within the meaning of this section.

a. Predictions as to specific future market values.

b. Material which directly or indirectly impugns character, integrity or personal reputation, or directly or indirectly makes charges concerning improper, illegal or immoral conduct or associations, without factual foundation.

Division of Corporation Finance
Securities and Exchange Commission

Shareholder Proposals

Staff Legal Bulletin No. 14F (CF)

Action: Publication of CF Staff Legal Bulletin

Date: October 18, 2011

Summary: This staff legal bulletin provides information for companies and shareholders regarding Rule 14a-8 under the Securities Exchange Act of 1934.

Supplementary Information: The statements in this bulletin represent the views of the Division of Corporation Finance (the "Division"). This bulletin is not a rule, regulation or statement of the Securities and Exchange Commission (the "Commission"). Further, the Commission has neither approved nor disapproved its content.

Contacts: For further information, please contact the Division's Office of Chief Counsel by calling (202) 551-3500 or by submitting a web-based request form at https://www.sec.gov/forms/corp_fin_interpretive.

A. The purpose of this bulletin

This bulletin is part of a continuing effort by the Division to provide guidance on important issues arising under Exchange Act Rule 14a-8. Specifically, this bulletin contains information regarding:

- Brokers and banks that constitute "record" holders under Rule 14a-8 (b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8;
- Common errors shareholders can avoid when submitting proof of ownership to companies;
- The submission of revised proposals;
- Procedures for withdrawing no-action requests regarding proposals submitted by multiple proponents; and
- The Division's new process for transmitting Rule 14a-8 no-action responses by email.

You can find additional guidance regarding Rule 14a-8 in the following bulletins that are available on the Commission's website: SLB No. 14, SLB No. 14A, SLB No. 14B, SLB No. 14C, SLB No. 14D and SLB No. 14E.

B. The types of brokers and banks that constitute "record" holders under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8

1. Eligibility to submit a proposal under Rule 14a-8

To be eligible to submit a shareholder proposal, a shareholder must have continuously held at least $2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the shareholder meeting for at least one year as of the date the shareholder submits the proposal. The shareholder must also continue to hold the required amount of securities through the date of the meeting and must provide the company with a written statement of intent to do so.[1]

The steps that a shareholder must take to verify his or her eligibility to submit a proposal depend on how the shareholder owns the securities. There are two types of security holders in the U.S.: registered owners and beneficial owners.[2] Registered owners have a direct relationship with the issuer because their ownership of shares is listed on the records maintained by the issuer or its transfer agent. If a shareholder is a registered owner, the company can independently confirm that the shareholder's holdings satisfy Rule 14a-8(b)'s eligibility requirement.

The vast majority of investors in shares issued by U.S. companies, however, are beneficial owners, which means that they hold their securities in book-entry form through a securities intermediary, such as a broker or a bank. Beneficial owners are sometimes referred to as "street name" holders. Rule 14a-8(b)(2)(i) provides that a beneficial owner can provide proof of ownership to support his or her eligibility to submit a proposal by submitting a written statement "from the 'record' holder of [the] securities (usually a broker or bank)," verifying that, at the time the proposal was submitted, the shareholder held the required amount of securities continuously for at least one year.[3]

2. The role of the Depository Trust Company

Most large U.S. brokers and banks deposit their customers' securities with, and hold those securities through, the Depository Trust Company ("DTC"), a registered clearing agency acting as a securities depository. Such brokers and banks are often referred to as "participants" in DTC.[4] The names of these DTC participants, however, do not appear as the registered owners of the securities deposited with DTC on the list of shareholders maintained by the company or, more typically, by its transfer agent. Rather, DTC's nominee, Cede & Co., appears on the shareholder list as the sole registered owner of securities deposited with DTC by the DTC participants. A company can request from DTC a "securities position listing" as of a specified date, which identifies the DTC participants having a position in the company's securities and the number of securities held by each DTC participant on that date.[5]

3. Brokers and banks that constitute "record" holders under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8

In *The Hain Celestial Group, Inc.* (Oct. 1, 2008), we took the position that an introducing broker could be considered a "record" holder for purposes of

Rule 14a-8(b)(2)(i). An introducing broker is a broker that engages in sales and other activities involving customer contact, such as opening customer accounts and accepting customer orders, but is not permitted to maintain custody of customer funds and securities.[6] Instead, an introducing broker engages another broker, known as a "clearing broker," to hold custody of client funds and securities, to clear and execute customer trades, and to handle other functions such as issuing confirmations of customer trades and customer account statements. Clearing brokers generally are DTC participants; introducing brokers generally are not. As introducing brokers generally are not DTC participants, and therefore typically do not appear on DTC's securities position listing, *Hain Celestial* has required companies to accept proof of ownership letters from brokers in cases where, unlike the positions of registered owners and brokers and banks that are DTC participants, the company is unable to verify the positions against its own or its transfer agent's records or against DTC's securities position listing.

In light of questions we have received following two recent court cases relating to proof of ownership under Rule 14a-8[7] and in light of the Commission's discussion of registered and beneficial owners in the Proxy Mechanics Concept Release, we have reconsidered our views as to what types of brokers and banks should be considered "record" holders under Rule 14a-8(b)(2)(i). Because of the transparency of DTC participants' positions in a company's securities, we will take the view going forward that, for Rule 14a-8(b)(2)(i) purposes, only DTC participants should be viewed as "record" holders of securities that are deposited at DTC. As a result, we will no longer follow *Hain Celestial*.

We believe that taking this approach as to who constitutes a "record" holder for purposes of Rule 14a-8(b)(2)(i) will provide greater certainty to beneficial owners and companies. We also note that this approach is consistent with Exchange Act Rule 12g5-1 and a 1988 staff no-action letter addressing that rule,[8] under which brokers and banks that are DTC participants are considered to be the record holders of securities on deposit with DTC when calculating the number of record holders for purposes of Sections 12(g) and 15(d) of the Exchange Act.

Companies have occasionally expressed the view that, because DTC's nominee, Cede & Co., appears on the shareholder list as the sole registered owner of securities deposited with DTC by the DTC participants, only DTC or Cede & Co. should be viewed as the "record" holder of the securities held on deposit at DTC for purposes of Rule 14a-8(b)(2)(i). We have never interpreted the rule to require a shareholder to obtain a proof of ownership letter from DTC or Cede & Co., and nothing in this guidance should be construed as changing that view.

How can a shareholder determine whether his or her broker or bank is a DTC participant?

Shareholders and companies can confirm whether a particular broker or bank is a DTC participant by checking DTC's participant list, which is currently available on the Internet at http://www.dtcc.com/~/media/Files/Downloads/client-center/DTC/alpha.ashx.

What if a shareholder's broker or bank is not on DTC's participant list?

The shareholder will need to obtain proof of ownership from the DTC participant through which the securities are held. The shareholder should be able to find out who this DTC participant is by asking the shareholder's broker or bank.[9]

If the DTC participant knows the shareholder's broker or bank's holdings, but does not know the shareholder's holdings, a shareholder could satisfy Rule 14a-8(b)(2)(i) by obtaining and submitting two proof of ownership statements verifying that, at the time the proposal was submitted, the required amount of securities were continuously held for at least one year – one from the shareholder's broker or bank confirming the shareholder's ownership, and the other from the DTC participant confirming the broker or bank's ownership.

How will the staff process no-action requests that argue for exclusion on the basis that the shareholder's proof of ownership is not from a DTC participant?

The staff will grant no-action relief to a company on the basis that the shareholder's proof of ownership is not from a DTC participant only if the company's notice of defect describes the required proof of ownership in a manner that is consistent with the guidance contained in this bulletin. Under Rule 14a-8(f)(1), the shareholder will have an opportunity to obtain the requisite proof of ownership after receiving the notice of defect.

C. Common errors shareholders can avoid when submitting proof of ownership to companies

In this section, we describe two common errors shareholders make when submitting proof of ownership for purposes of Rule 14a-8(b)(2), and we provide guidance on how to avoid these errors.

First, Rule 14a-8(b) requires a shareholder to provide proof of ownership that he or she has "continuously held at least $2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the meeting for at least one year by the date you submit the proposal" (emphasis added).[10] We note that many proof of ownership letters do not satisfy this requirement because they do not verify the shareholder's beneficial ownership for the entire one-year period preceding and including the date the proposal is submitted. In some cases, the letter speaks as of a date *before* the date the proposal is submitted, thereby leaving a gap between the date of the verification and the date the proposal is submitted. In other cases, the letter speaks as of a date *after* the date the proposal was submitted but covers a period of only one year, thus failing to verify the shareholder's beneficial ownership over the required full one-year period preceding the date of the proposal's submission.

Second, many letters fail to confirm continuous ownership of the securities. This can occur when a broker or bank submits a letter that confirms the shareholder's beneficial ownership only as of a specified date but omits any reference to continuous ownership for a one-year period.

We recognize that the requirements of Rule 14a-8(b) are highly prescriptive and can cause inconvenience for shareholders when submitting proposals. Although our administration of Rule 14a-8(b) is constrained by the terms of

the rule, we believe that shareholders can avoid the two errors highlighted above by arranging to have their broker or bank provide the required verification of ownership as of the date they plan to submit the proposal using the following format:

> "As of [date the proposal is submitted], [name of shareholder] held, and has held continuously for at least one year, [number of securities] shares of [company name] [class of securities]."[11]

As discussed above, a shareholder may also need to provide a separate written statement from the DTC participant through which the shareholder's securities are held if the shareholder's broker or bank is not a DTC participant.

D. The submission of revised proposals

On occasion, a shareholder will revise a proposal after submitting it to a company. This section addresses questions we have received regarding revisions to a proposal or supporting statement.

1. A shareholder submits a timely proposal. The shareholder then submits a revised proposal before the company's deadline for receiving proposals. Must the company accept the revisions?

Yes. In this situation, we believe the revised proposal serves as a replacement of the initial proposal. By submitting a revised proposal, the shareholder has effectively withdrawn the initial proposal. Therefore, the shareholder is not in violation of the one-proposal limitation in Rule 14a-8 (c).[12] If the company intends to submit a no-action request, it must do so with respect to the revised proposal.

We recognize that in Question and Answer E.2 of SLB No. 14, we indicated that if a shareholder makes revisions to a proposal before the company submits its no-action request, the company can choose whether to accept the revisions. However, this guidance has led some companies to believe that, in cases where shareholders attempt to make changes to an initial proposal, the company is free to ignore such revisions even if the revised proposal is submitted before the company's deadline for receiving shareholder proposals. We are revising our guidance on this issue to make clear that a company may not ignore a revised proposal in this situation.[13]

2. A shareholder submits a timely proposal. After the deadline for receiving proposals, the shareholder submits a revised proposal. Must the company accept the revisions?

No. If a shareholder submits revisions to a proposal after the deadline for receiving proposals under Rule 14a-8(e), the company is not required to accept the revisions. However, if the company does not accept the revisions, it must treat the revised proposal as a second proposal and submit a notice stating its intention to exclude the revised proposal, as required by Rule 14a-8(j). The company's notice may cite Rule 14a-8(e) as the reason for excluding the revised proposal. If the company does not accept the revisions and intends to exclude the initial proposal, it would also need to submit its reasons for excluding the initial proposal.

3. If a shareholder submits a revised proposal, as of which date must the shareholder prove his or her share ownership?

A shareholder must prove ownership as of the date the original proposal is submitted. When the Commission has discussed revisions to proposals,[14] it has not suggested that a revision triggers a requirement to provide proof of ownership a second time. As outlined in Rule 14a-8(b), proving ownership includes providing a written statement that the shareholder intends to continue to hold the securities through the date of the shareholder meeting. Rule 14a-8(f)(2) provides that if the shareholder "fails in [his or her] promise to hold the required number of securities through the date of the meeting of shareholders, then the company will be permitted to exclude all of [the same shareholder's] proposals from its proxy materials for any meeting held in the following two calendar years." With these provisions in mind, we do not interpret Rule 14a-8 as requiring additional proof of ownership when a shareholder submits a revised proposal.[15]

E. Procedures for withdrawing no-action requests for proposals submitted by multiple proponents

We have previously addressed the requirements for withdrawing a Rule 14a-8 no-action request in SLB Nos. 14 and 14C. SLB No. 14 notes that a company should include with a withdrawal letter documentation demonstrating that a shareholder has withdrawn the proposal. In cases where a proposal submitted by multiple shareholders is withdrawn, SLB No. 14C states that, if each shareholder has designated a lead individual to act on its behalf and the company is able to demonstrate that the individual is authorized to act on behalf of all of the proponents, the company need only provide a letter from that lead individual indicating that the lead individual is withdrawing the proposal on behalf of all of the proponents.

Because there is no relief granted by the staff in cases where a no-action request is withdrawn following the withdrawal of the related proposal, we recognize that the threshold for withdrawing a no-action request need not be overly burdensome. Going forward, we will process a withdrawal request if the company provides a letter from the lead filer that includes a representation that the lead filer is authorized to withdraw the proposal on behalf of each proponent identified in the company's no-action request.[16]

F. Use of email to transmit our Rule 14a-8 no-action responses to companies and proponents

To date, the Division has transmitted copies of our Rule 14a-8 no-action responses, including copies of the correspondence we have received in connection with such requests, by U.S. mail to companies and proponents. We also post our response and the related correspondence to the Commission's website shortly after issuance of our response.

In order to accelerate delivery of staff responses to companies and proponents, and to reduce our copying and postage costs, going forward, we intend to transmit our Rule 14a-8 no-action responses by email to companies and proponents. We therefore encourage both companies and proponents to include email contact information in any correspondence to each other and to us. We will use U.S. mail to transmit our no-action response to any company or proponent for which we do not have email contact information.

Given the availability of our responses and the related correspondence on the Commission's website and the requirement under Rule 14a-8 for companies and proponents to copy each other on correspondence submitted to the Commission, we believe it is unnecessary to transmit copies of the related correspondence along with our no-action response. Therefore, we intend to transmit only our staff response and not the correspondence we receive from the parties. We will continue to post to the Commission's website copies of this correspondence at the same time that we post our staff no-action response.

[1] *See* Rule 14a-8(b).

[2] For an explanation of the types of share ownership in the U.S., see Concept Release on U.S. Proxy System, Release No. 34-62495 (July 14, 2010) [75 FR 42982] ("Proxy Mechanics Concept Release"), at Section II.A. The term "beneficial owner" does not have a uniform meaning under the federal securities laws. It has a different meaning in this bulletin as compared to "beneficial owner" and "beneficial ownership" in Sections 13 and 16 of the Exchange Act. Our use of the term in this bulletin is not intended to suggest that registered owners are not beneficial owners for purposes of those Exchange Act provisions. *See* Proposed Amendments to Rule 14a-8 under the Securities Exchange Act of 1934 Relating to Proposals by Security Holders, Release No. 34-12598 (July 7, 1976) [41 FR 29982], at n.2 ("The term 'beneficial owner' when used in the context of the proxy rules, and in light of the purposes of those rules, may be interpreted to have a broader meaning than it would for certain other purpose[s] under the federal securities laws, such as reporting pursuant to the Williams Act.").

[3] If a shareholder has filed a Schedule 13D, Schedule 13G, Form 3, Form 4 or Form 5 reflecting ownership of the required amount of shares, the shareholder may instead prove ownership by submitting a copy of such filings and providing the additional information that is described in Rule 14a-8(b)(2)(ii).

[4] DTC holds the deposited securities in "fungible bulk," meaning that there are no specifically identifiable shares directly owned by the DTC participants. Rather, each DTC participant holds a pro rata interest or position in the aggregate number of shares of a particular issuer held at DTC. Correspondingly, each customer of a DTC participant – such as an individual investor – owns a pro rata interest in the shares in which the DTC participant has a pro rata interest. *See* Proxy Mechanics Concept Release, at Section II.B.2.a.

[5] *See* Exchange Act Rule 17Ad-8.

[6] *See* Net Capital Rule, Release No. 34-31511 (Nov. 24, 1992) [57 FR 56973] ("Net Capital Rule Release"), at Section II.C.

[7] *See KBR Inc. v. Chevedden*, Civil Action No. H-11-0196, 2011 U.S. Dist. LEXIS 36431, 2011 WL 1463611 (S.D. Tex. Apr. 4, 2011); *Apache Corp. v. Chevedden,* 696 F. Supp. 2d 723 (S.D. Tex. 2010). In both cases, the court concluded that a securities intermediary was not a record holder for purposes of Rule 14a-8(b) because it did not appear on a list of the

company's non-objecting beneficial owners or on any DTC securities position listing, nor was the intermediary a DTC participant.

[8] *Techne Corp.* (Sept. 20, 1988).

[9] In addition, if the shareholder's broker is an introducing broker, the shareholder's account statements should include the clearing broker's identity and telephone number. *See* Net Capital Rule Release, at Section II.C.(iii). The clearing broker will generally be a DTC participant.

[10] For purposes of Rule 14a-8(b), the submission date of a proposal will generally precede the company's receipt date of the proposal, absent the use of electronic or other means of same-day delivery.

[11] This format is acceptable for purposes of Rule 14a-8(b), but it is not mandatory or exclusive.

[12] As such, it is not appropriate for a company to send a notice of defect for multiple proposals under Rule 14a-8(c) upon receiving a revised proposal.

[13] This position will apply to all proposals submitted after an initial proposal but before the company's deadline for receiving proposals, regardless of whether they are explicitly labeled as "revisions" to an initial proposal, unless the shareholder affirmatively indicates an intent to submit a second, *additional* proposal for inclusion in the company's proxy materials. In that case, the company must send the shareholder a notice of defect pursuant to Rule 14a-8(f)(1) if it intends to exclude either proposal from its proxy materials in reliance on Rule 14a-8(c). In light of this guidance, with respect to proposals or revisions received before a company's deadline for submission, we will no longer follow *Layne Christensen Co.* (Mar. 21, 2011) and other prior staff no-action letters in which we took the view that a proposal would violate the Rule 14a-8(c) one-proposal limitation if such proposal is submitted to a company after the company has either submitted a Rule 14a-8 no-action request to exclude an earlier proposal submitted by the same proponent or notified the proponent that the earlier proposal was excludable under the rule.

[14] *See, e.g.*, Adoption of Amendments Relating to Proposals by Security Holders, Release No. 34-12999 (Nov. 22, 1976) [41 FR 52994].

[15] Because the relevant date for proving ownership under Rule 14a-8(b) is the date the proposal is submitted, a proponent who does not adequately prove ownership in connection with a proposal is not permitted to submit another proposal for the same meeting on a later date.

[16] Nothing in this staff position has any effect on the status of any shareholder proposal that is not withdrawn by the proponent or its authorized representative.

http://www.sec.gov/interps/legal/cfslb14f.htm

U.S. Securities and Exchange Commission

Division of Corporation Finance
Securities and Exchange Commission

Shareholder Proposals

Staff Legal Bulletin No. 14G (CF)

Action: Publication of CF Staff Legal Bulletin

Date: October 16, 2012

Summary: This staff legal bulletin provides information for companies and shareholders regarding Rule 14a-8 under the Securities Exchange Act of 1934.

Supplementary Information: The statements in this bulletin represent the views of the Division of Corporation Finance (the "Division"). This bulletin is not a rule, regulation or statement of the Securities and Exchange Commission (the "Commission"). Further, the Commission has neither approved nor disapproved its content.

Contacts: For further information, please contact the Division's Office of Chief Counsel by calling (202) 551-3500 or by submitting a web-based request form at https://www.sec.gov/forms/corp_fin_interpretive.

A. The purpose of this bulletin

This bulletin is part of a continuing effort by the Division to provide guidance on important issues arising under Exchange Act Rule 14a-8. Specifically, this bulletin contains information regarding:

- the parties that can provide proof of ownership under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8;
- the manner in which companies should notify proponents of a failure to provide proof of ownership for the one-year period required under Rule 14a-8(b)(1); and
- the use of website references in proposals and supporting statements.

You can find additional guidance regarding Rule 14a-8 in the following bulletins that are available on the Commission's website: SLB No. 14, SLB No. 14A, SLB No. 14B, SLB No. 14C, SLB No. 14D, SLB No. 14E and SLB No. 14F.

B. Parties that can provide proof of ownership under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8

1. Sufficiency of proof of ownership letters provided by affiliates of DTC participants for purposes of Rule 14a-8(b)(2)(i)

To be eligible to submit a proposal under Rule 14a-8, a shareholder must, among other things, provide documentation evidencing that the shareholder has continuously held at least $2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the shareholder meeting for at least one year as of the date the shareholder submits the proposal. If the shareholder is a beneficial owner of the securities, which means that the securities are held in book-entry form through a securities intermediary, Rule 14a-8(b)(2)(i) provides that this documentation can be in the form of a "written statement from the 'record' holder of your securities (usually a broker or bank)...."

In SLB No. 14F, the Division described its view that only securities intermediaries that are participants in the Depository Trust Company ("DTC") should be viewed as "record" holders of securities that are deposited at DTC for purposes of Rule 14a-8(b)(2)(i). Therefore, a beneficial owner must obtain a proof of ownership letter from the DTC participant through which its securities are held at DTC in order to satisfy the proof of ownership requirements in Rule 14a-8.

During the most recent proxy season, some companies questioned the sufficiency of proof of ownership letters from entities that were not themselves DTC participants, but were affiliates of DTC participants.[1] By virtue of the affiliate relationship, we believe that a securities intermediary holding shares through its affiliated DTC participant should be in a position to verify its customers' ownership of securities. Accordingly, we are of the view that, for purposes of Rule 14a-8(b)(2)(i), a proof of ownership letter from an affiliate of a DTC participant satisfies the requirement to provide a proof of ownership letter from a DTC participant.

2. Adequacy of proof of ownership letters from securities intermediaries that are not brokers or banks

We understand that there are circumstances in which securities intermediaries that are not brokers or banks maintain securities accounts in the ordinary course of their business. A shareholder who holds securities through a securities intermediary that is not a broker or bank can satisfy Rule 14a-8's documentation requirement by submitting a proof of ownership letter from that securities intermediary.[2] If the securities intermediary is not a DTC participant or an affiliate of a DTC participant, then the shareholder will also need to obtain a proof of ownership letter from the DTC participant or an affiliate of a DTC participant that can verify the holdings of the securities intermediary.

C. Manner in which companies should notify proponents of a failure to provide proof of ownership for the one-year period required under Rule 14a-8(b)(1)

As discussed in Section C of SLB No. 14F, a common error in proof of ownership letters is that they do not verify a proponent's beneficial ownership for the entire one-year period preceding and including the date the proposal was submitted, as required by Rule 14a-8(b)(1). In some cases, the letter speaks as of a date *before* the date the proposal was submitted, thereby leaving a gap between the date of verification and the

date the proposal was submitted. In other cases, the letter speaks as of a date *after* the date the proposal was submitted but covers a period of only one year, thus failing to verify the proponent's beneficial ownership over the required full one-year period preceding the date of the proposal's submission.

Under Rule 14a-8(f), if a proponent fails to follow one of the eligibility or procedural requirements of the rule, a company may exclude the proposal only if it notifies the proponent of the defect and the proponent fails to correct it. In SLB No. 14 and SLB No. 14B, we explained that companies should provide adequate detail about what a proponent must do to remedy all eligibility or procedural defects.

We are concerned that companies' notices of defect are not adequately describing the defects or explaining what a proponent must do to remedy defects in proof of ownership letters. For example, some companies' notices of defect make no mention of the gap in the period of ownership covered by the proponent's proof of ownership letter or other specific deficiencies that the company has identified. We do not believe that such notices of defect serve the purpose of Rule 14a-8(f).

Accordingly, going forward, we will not concur in the exclusion of a proposal under Rules 14a-8(b) and 14a-8(f) on the basis that a proponent's proof of ownership does not cover the one-year period preceding and including the date the proposal is submitted unless the company provides a notice of defect that identifies the specific date on which the proposal was submitted and explains that the proponent must obtain a new proof of ownership letter verifying continuous ownership of the requisite amount of securities for the one-year period preceding and including such date to cure the defect. We view the proposal's date of submission as the date the proposal is postmarked or transmitted electronically. Identifying in the notice of defect the specific date on which the proposal was submitted will help a proponent better understand how to remedy the defects described above and will be particularly helpful in those instances in which it may be difficult for a proponent to determine the date of submission, such as when the proposal is not postmarked on the same day it is placed in the mail. In addition, companies should include copies of the postmark or evidence of electronic transmission with their no-action requests.

D. Use of website addresses in proposals and supporting statements

Recently, a number of proponents have included in their proposals or in their supporting statements the addresses to websites that provide more information about their proposals. In some cases, companies have sought to exclude either the website address or the entire proposal due to the reference to the website address.

In SLB No. 14, we explained that a reference to a website address in a proposal does not raise the concerns addressed by the 500-word limitation in Rule 14a-8(d). We continue to be of this view and, accordingly, we will continue to count a website address as one word for purposes of Rule 14a-8 (d). To the extent that the company seeks the exclusion of a website reference in a proposal, but not the proposal itself, we will continue to follow the guidance stated in SLB No. 14, which provides that references to website addresses in proposals or supporting statements could be subject to exclusion under Rule 14a-8(i)(3) if the information contained on the

website is materially false or misleading, irrelevant to the subject matter of the proposal or otherwise in contravention of the proxy rules, including Rule 14a-9.[3]

In light of the growing interest in including references to website addresses in proposals and supporting statements, we are providing additional guidance on the appropriate use of website addresses in proposals and supporting statements.[4]

1. References to website addresses in a proposal or supporting statement and Rule 14a-8(i)(3)

References to websites in a proposal or supporting statement may raise concerns under Rule 14a-8(i)(3). In SLB No. 14B, we stated that the exclusion of a proposal under Rule 14a-8(i)(3) as vague and indefinite may be appropriate if neither the shareholders voting on the proposal, nor the company in implementing the proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires. In evaluating whether a proposal may be excluded on this basis, we consider only the information contained in the proposal and supporting statement and determine whether, based on that information, shareholders and the company can determine what actions the proposal seeks.

If a proposal or supporting statement refers to a website that provides information necessary for shareholders and the company to understand with reasonable certainty exactly what actions or measures the proposal requires, and such information is not also contained in the proposal or in the supporting statement, then we believe the proposal would raise concerns under Rule 14a-9 and would be subject to exclusion under Rule 14a-8(i)(3) as vague and indefinite. By contrast, if shareholders and the company can understand with reasonable certainty exactly what actions or measures the proposal requires without reviewing the information provided on the website, then we believe that the proposal would not be subject to exclusion under Rule 14a-8(i)(3) on the basis of the reference to the website address. In this case, the information on the website only supplements the information contained in the proposal and in the supporting statement.

2. Providing the company with the materials that will be published on the referenced website

We recognize that if a proposal references a website that is not operational at the time the proposal is submitted, it will be impossible for a company or the staff to evaluate whether the website reference may be excluded. In our view, a reference to a non-operational website in a proposal or supporting statement could be excluded under Rule 14a-8(i)(3) as irrelevant to the subject matter of a proposal. We understand, however, that a proponent may wish to include a reference to a website containing information related to the proposal but wait to activate the website until it becomes clear that the proposal will be included in the company's proxy materials. Therefore, we will not concur that a reference to a website may be excluded as irrelevant under Rule 14a-8(i)(3) on the basis that it is not yet operational if the proponent, at the time the proposal is submitted, provides the company with the materials that are intended for publication on the website and a representation that the website will become

operational at, or prior to, the time the company files its definitive proxy materials.

3. Potential issues that may arise if the content of a referenced website changes after the proposal is submitted

To the extent the information on a website changes after submission of a proposal and the company believes the revised information renders the website reference excludable under Rule 14a-8, a company seeking our concurrence that the website reference may be excluded must submit a letter presenting its reasons for doing so. While Rule 14a-8(j) requires a company to submit its reasons for exclusion with the Commission no later than 80 calendar days before it files its definitive proxy materials, we may concur that the changes to the referenced website constitute "good cause" for the company to file its reasons for excluding the website reference after the 80-day deadline and grant the company's request that the 80-day requirement be waived.

[1] An entity is an "affiliate" of a DTC participant if such entity directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the DTC participant.

[2] Rule 14a-8(b)(2)(i) itself acknowledges that the record holder is "usually," but not always, a broker or bank.

[3] Rule 14a-9 prohibits statements in proxy materials which, at the time and in the light of the circumstances under which they are made, are false or misleading with respect to any material fact, or which omit to state any material fact necessary in order to make the statements not false or misleading.

[4] A website that provides more information about a shareholder proposal may constitute a proxy solicitation under the proxy rules. Accordingly, we remind shareholders who elect to include website addresses in their proposals to comply with all applicable rules regarding proxy solicitations.

http://www.sec.gov/interps/legal/cfslb14g.htm

Division of Corporation Finance
Securities and Exchange Commission

Shareholder Proposals

Staff Legal Bulletin No. 14I (CF)

Action: Publication of CF Staff Legal Bulletin

Date: November 1, 2017

Summary: This staff legal bulletin provides information for companies and shareholders regarding Rule 14a-8 under the Securities Exchange Act of 1934.

Supplementary Information: The statements in this bulletin represent the views of the Division of Corporation Finance (the "Division"). This bulletin is not a rule, regulation or statement of the Securities and Exchange Commission (the "Commission"). Further, the Commission has neither approved nor disapproved its content.

Contacts: For further information, please contact the Division's Office of Chief Counsel by submitting a web-based request form at https://www.sec.gov/forms/corp_fin_interpretive.

A. The purpose of this bulletin

This bulletin is part of a continuing effort by the Division to provide guidance on important issues arising under Exchange Act Rule 14a-8. Specifically, this bulletin contains information about the Division's views on:

- the scope and application of Rule 14a-8(i)(7);
- the scope and application of Rule 14a-8(i)(5);
- proposals submitted on behalf of shareholders; and
- the use of graphs and images consistent with Rule 14a-8(d).

You can find additional guidance about Rule 14a-8 in the following bulletins that are available on the Commission's website: SLB No. 14, SLB No. 14A, SLB No. 14B, SLB No. 14C, SLB No. 14D, SLB No. 14E, SLB No. 14F, SLB No. 14G and SLB No. 14H.

B. Rule 14a-8(i)(7)

1. Background

Rule 14a-8(i)(7), the "ordinary business" exception, is one of the substantive bases for exclusion of a shareholder proposal in Rule 14a-8. It permits a company to exclude a proposal that "deals with a matter relating to the company's ordinary business operations." The purpose of the

exception is "to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting."[1]

2. The Division's application of Rule 14a-8(i)(7)

The Commission has stated that the policy underlying the "ordinary business" exception rests on two central considerations.[2] The first relates to the proposal's subject matter; the second, the degree to which the proposal "micromanages" the company. Under the first consideration, proposals that raise matters that are "so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight" may be excluded, unless such a proposal focuses on policy issues that are sufficiently significant because they transcend ordinary business and would be appropriate for a shareholder vote.[3] Whether the significant policy exception applies depends, in part, on the connection between the significant policy issue and the company's business operations.[4]

At issue in many Rule 14a-8(i)(7) no-action requests is whether a proposal that addresses ordinary business matters nonetheless focuses on a policy issue that is sufficiently significant. These determinations often raise difficult judgment calls that the Division believes are in the first instance matters that the board of directors is generally in a better position to determine. A board of directors, acting as steward with fiduciary duties to a company's shareholders, generally has significant duties of loyalty and care in overseeing management and the strategic direction of the company. A board acting in this capacity and with the knowledge of the company's business and the implications for a particular proposal on that company's business is well situated to analyze, determine and explain whether a particular issue is sufficiently significant because the matter transcends ordinary business and would be appropriate for a shareholder vote.

Accordingly, going forward, we would expect a company's no-action request to include a discussion that reflects the board's analysis of the particular policy issue raised and its significance. That explanation would be most helpful if it detailed the specific processes employed by the board to ensure that its conclusions are well-informed and well-reasoned. We believe that a well-developed discussion of the board's analysis of these matters will greatly assist the staff with its review of no-action requests under Rule 14a-8(i)(7).

C. Rule 14a-8(i)(5)

1. Background

Rule 14a-8(i)(5), the "economic relevance" exception, is one of the substantive bases for exclusion of a shareholder proposal in Rule 14a-8. It permits a company to exclude a proposal that "relates to operations which account for less than 5 percent of the company's total assets at the end of its most recent fiscal year, and for less than 5 percent of its net earnings and gross sales for its most recent fiscal year, and is not otherwise significantly related to the company's business."

2. History of Rule 14a-8(i)(5)

Prior to adoption of the current version of the exclusion in Rule 14a-8(i)(5), the rule permitted companies to omit any proposal that "deals with a matter that is not significantly related to the issuer's business." In proposing changes to that version of the rule in 1982, the Commission noted that the staff's practice had been to agree with exclusion of proposals that bore no economic relationship to a company's business, but that "where the proposal has reflected social or ethical issues, rather than economic concerns, raised by the issuer's business, and the issuer conducts any such business, no matter how small, the staff has not issued a no-action letter with respect to the omission of the proposal."[5] The Commission stated that this interpretation of the rule may have "unduly limit[ed] the exclusion," and proposed adopting the economic tests that appear in the rule today.[6] In adopting the rule, the Commission characterized it as relating "to proposals concerning the functioning of the economic business of an issuer and not to such matters as shareholders' rights, e.g., cumulative voting."[7]

Shortly after the 1983 amendments, however, the District Court for the District of Columbia in *Lovenheim v. Iroquois Brands, Ltd.*, 618 F. Supp. 554 (D.D.C. 1985) preliminarily enjoined a company from excluding a proposal regarding sales of a product line that represented only 0.05% of assets, $79,000 in sales and a net loss of ($3,121), compared to the company's total assets of $78 million, annual revenues of $141 million and net earnings of $6 million. The court based its decision to grant the injunction "in light of the ethical and social significance" of the proposal and on "the fact that it implicates significant levels of sales." Since that time, the Division has interpreted *Lovenheim* in a manner that has significantly narrowed the scope of Rule 14a-8(i)(5).

3. The Division's application of Rule 14a-8(i)(5)

Over the years, the Division has only infrequently agreed with exclusion under the "economic relevance" exception. Under its historical application, the Division has not agreed with exclusion under Rule 14a-8(i)(5), even where a proposal has related to operations that accounted for less than 5% of total assets, net earnings and gross sales, where the company conducted business, no matter how small, related to the issue raised in the proposal. The Division's analysis has not focused on a proposal's significance to the company's business. As a result, the Division's analysis has been similar to its analysis prior to 1983, with which the Commission expressed concern.

That analysis simply considered whether a company conducted any amount of business related to the issue in the proposal and whether that issue was of broad social or ethical concern. We believe the Division's application of Rule 14a-8(i)(5) has unduly limited the exclusion's availability because it has not fully considered the second prong of the rule as amended in 1982 – the question of whether the proposal "deals with a matter that is not significantly related to the issuer's business" and is therefore excludable. Accordingly, going forward, the Division's analysis will focus, as the rule directs, on a proposal's significance to the company's business when it otherwise relates to operations that account for less than 5% of total assets, net earnings and gross sales. Under this framework, proposals that raise issues of social or ethical significance may be included or excluded, notwithstanding their importance in the abstract, based on the application and analysis of each of the factors of Rule 14a-8(i)(5) in determining the proposal's relevance to the company's business.

Because the test only allows exclusion when the matter is not "otherwise significantly related to the company," we view the analysis as dependent upon the particular circumstances of the company to which the proposal is submitted. That is, a matter significant to one company may not be significant to another. On the other hand, we would generally view substantive governance matters to be significantly related to almost all companies.

Where a proposal's significance to a company's business is not apparent on its face, a proposal may be excludable unless the proponent demonstrates that it is "otherwise significantly related to the company's business."[8] For example, the proponent can provide information demonstrating that the proposal "may have a significant impact on other segments of the issuer's business or subject the issuer to significant contingent liabilities."[9] The proponent could continue to raise social or ethical issues in its arguments, but it would need to tie those to a significant effect on the company's business. The mere possibility of reputational or economic harm will not preclude no-action relief. In evaluating significance, the staff will consider the proposal in light of the "total mix" of information about the issuer.

As with the "ordinary business" exception in Rule 14a-8(i)(7), determining whether a proposal is "otherwise significantly related to the company's business" can raise difficult judgment calls. Similarly, we believe that the board of directors is generally in a better position to determine these matters in the first instance. A board acting with the knowledge of the company's business and the implications for a particular proposal on that company's business is better situated than the staff to determine whether a particular proposal is "otherwise significantly related to the company's business." Accordingly, we would expect a company's Rule 14a-8(i)(5) no-action request to include a discussion that reflects the board's analysis of the proposal's significance to the company. That explanation would be most helpful if it detailed the specific processes employed by the board to ensure that its conclusions are well-informed and well-reasoned.

In addition, the Division's analysis of whether a proposal is "otherwise significantly related" under Rule 14a-8(i)(5) has historically been informed by its analysis under the "ordinary business" exception, Rule 14a-8(i)(7). As a result, the availability or unavailability of Rule 14a-8(i)(7) has been largely determinative of the availability or unavailability of Rule 14a-8(i)(5). Going forward, the Division will no longer look to its analysis under Rule 14a-8(i)(7) when evaluating arguments under Rule 14a-8(i)(5). In our view, applying separate analytical frameworks will ensure that each basis for exclusion serves its intended purpose.

We believe the approach going forward is more appropriately rooted in the intended purpose and language of Rule 14a-8(i)(5), and better helps companies, proponents and the staff determine whether a proposal is "otherwise significantly related to the company's business."

D. Proposals submitted on behalf of shareholders

While Rule 14a-8 does not address shareholders' ability to submit proposals through a representative, shareholders frequently elect to do so, a practice commonly referred to as "proposal by proxy." The Division has been, and continues to be, of the view that a shareholder's submission by proxy is consistent with Rule 14a-8.[10]

The Division is nevertheless mindful of challenges and concerns that proposals by proxy may present. For example, there may be questions about whether the eligibility requirements of Rule 14a-8(b) have been satisfied. There have also been concerns raised that shareholders may not know that proposals are being submitted on their behalf. In light of these challenges and concerns, and to help the staff and companies better evaluate whether the eligibility requirements of Rule 14a-8(b) have been satisfied, going forward, the staff will look to whether the shareholders who submit a proposal by proxy provide documentation describing the shareholder's delegation of authority to the proxy.[11] In general, we would expect this documentation to:

- identify the shareholder-proponent and the person or entity selected as proxy;
- identify the company to which the proposal is directed;
- identify the annual or special meeting for which the proposal is submitted;
- identify the specific proposal to be submitted (e.g., proposal to lower the threshold for calling a special meeting from 25% to 10%); and
- be signed and dated by the shareholder.

We believe this documentation will help alleviate concerns about proposals by proxy, and will also help companies and the staff better evaluate whether the eligibility requirements of Rule 14a-8(b) have been satisfied in connection with a proposal's submission by proxy. Where this information is not provided, there may be a basis to exclude the proposal under Rule 14a-8(b).[12]

E. Rule 14a-8(d)

1. Background

Rule 14a-8(d) is one of the procedural bases for exclusion of a shareholder proposal in Rule 14a-8. It provides that a "proposal, including any accompanying supporting statement, may not exceed 500 words."

2. The use of images in shareholder proposals

Questions have recently arisen concerning the application of Rule 14a-8(d) to proposals that include graphs and/or images.[13] In two recent no-action decisions,[14] the Division expressed the view that the use of "500 words" and absence of express reference to graphics or images in Rule 14a-8(d) do not prohibit the inclusion of graphs and/or images in proposals.[15] Just as companies include graphics that are not expressly permitted under the disclosure rules, the Division is of the view that Rule 14a-8(d) does not preclude shareholders from using graphics to convey information about their proposals.[16]

The Division recognizes the potential for abuse in this area. The Division believes, however, that these potential abuses can be addressed through other provisions of Rule 14a-8. For example, exclusion of graphs and/or images would be appropriate under Rule 14a-8(i)(3) where they:

- make the proposal materially false or misleading;

- render the proposal so inherently vague or indefinite that neither the stockholders voting on the proposal, nor the company in implementing it, would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires;
- directly or indirectly impugn character, integrity or personal reputation, or directly or indirectly make charges concerning improper, illegal, or immoral conduct or association, without factual foundation; or
- are irrelevant to a consideration of the subject matter of the proposal, such that there is a strong likelihood that a reasonable shareholder would be uncertain as to the matter on which he or she is being asked to vote.[17]

Exclusion would also be appropriate under Rule 14a-8(d) if the total number of words in a proposal, including words in the graphics, exceeds 500.

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[1] Release No. 34-40018 (May 21, 1998).

[2] *Id.*

[3] *Id.*

[4] *See* Staff Legal Bulletin No. 14H (Oct. 22, 2015), *citing* Staff Legal Bulletin No. 14E (Oct. 27, 2009) (stating that a proposal generally will not be excludable "as long as a sufficient nexus exists between the nature of the proposal and the company").

[5] Release No. 34-19135 (Oct. 14, 1982).

[6] *Id.*

[7] Release No. 34-20091 (Aug. 16, 1983).

[8] Proponents bear the burden of demonstrating that a proposal is "otherwise significantly related to the company's business." *See* Release No. 34-39093 (Sep. 18, 1997), *citing* Release No. 34-19135.

[9] Release No. 34-19135.

[10] We view a shareholder's ability to submit a proposal by proxy as largely a function of state agency law provided it is consistent with Rule 14a-8.

[11] This guidance applies only to proposals submitted by proxy after the date on which this staff legal bulletin is published.

[12] Companies that intend to seek exclusion under Rule 14a-8(b) based on a shareholder's failure to provide some or all of this information must notify the proponent of the specific defect(s) within 14 calendar days of receiving the proposal so that the proponent has an opportunity to cure the defect. *See* Rule 14a-8(f)(1).

[13] Rule 14a-8(d) is intended to limit the amount of space a shareholder proposal may occupy in a company's proxy statement. *See* Release No. 34-12999 (Nov. 22, 1976).

[14] *General Electric Co.* (Feb. 3, 2017, *recon. granted* Feb. 23, 2017); *General Electric Co.* (Feb. 23, 2016).

[15] These decisions were consistent with a longstanding Division position. *See Ferrofluidics Corp.* (Sep. 18, 1992).

[16] Companies should not minimize or otherwise diminish the appearance of a shareholder's graphic. For example, if the company includes its own graphics in its proxy statement, it should give similar prominence to a shareholder's graphics. If a company's proxy statement appears in black and white, however, the shareholder proposal and accompanying graphics may also appear in black and white.

[17] See *General Electric Co.* (Feb. 23, 2017).

http://www.sec.gov/interps/legal/cfslb14i.htm

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FIGURE 8 INVESTMENT STRATEGIES

205 N. 10TH STREET SUITE 300 BOISE, ID 83702 | 208.385.0078 | WWW.FIGURE8INVESTING.COM

December 2, 2019

Clyde A. Billings, Jr.
Senior Vice President, Assistant General Counsel, and Corporate Secretary
Legal Division
First Horizon National Corporation
165 Madison Avenue
Memphis, TN 38103

Dear Mr. Billings,

Enclosed in this packet are the documents First Horizon National Corporation requested that relate to the shareholder proposal Figure 8 Investment Strategies submitted on behalf of our client, Jack Van Valkenburgh.

The first document, signed by Jack Van Valkenburgh, explicitly authorizes Figure 8 Investment Strategies to submit this proposal on his behalf; additionally, it lays out his intentions to hold the shares through the time of the 2020 shareholder meeting. The second document, signed by an associate at Charles Schwab & Co., clearly demonstrates that the client has continuously held sufficient shares of First Horizon National Corporation for the requisite amount of time at this custodian.

We look forward to your response.

Sincerely,

Lisa Cooper
President, Figure 8 Investment Strategies

CC: Bryan Jordan, Chairman, CEO and President, First Horizon National Corporation
Candace Steele Flippin, Chief Communications Officer, First Horizon National Corporation

FIGURE 8 INVESTMENT STRATEGIES

205 N. 10TH STREET, SUITE 300 BOISE, ID 83702 | 208.385.0076 | WWW.FIGURE8INVESTING.COM

November 27, 2019

Clyde Billings
Secretary, Senior VP & Assistant General Counsel
Office of the Corporate Secretary
First Horizon National Corporation
165 Madison Avenue
Memphis, TN 38103

Dear Mr. Billings,

The undersigned, Jack Van Valkenburgh (the "Stockholder"), authorizes Figure 8 Investment Strategies to file a shareholder resolution on the Stockholder's behalf with First Horizon National relating to the Human Rights Policy and that it be included in the First Horizon National's 2020 proxy statement, in accordance with Rule 14-a8 of the General Rules and Regulations of the Securities and Exchange Act of 1934.

The Stockholder has continuously owned over $2,000 worth of First Horizon National for over a year. The Stockholder intends to hold the required amount of stock through the date of the company's annual meeting in 2020. The Stockholder gives Figure 8 Investment Strategies the authority to deal on the Stockholder's behalf with any and all aspects of the shareholder resolution, including designating another entity as lead filer and representative of the shareholder.

Sincerely,

Jack Van Valkenburgh
Jack Van Valkenburgh (Nov 27, 2019)

Jack Van Valkenburgh

CC: Bryan Jordan, Chairman, CEO and President, First Horizon National Corporation
Candace Steele Flippin, Chief Communications Officer, First Horizon National Corporation

November 28, 2019

Account #: ***
Questions: +1 (877) 774-3892
x48050

Clyde Billings
Secretary, Senior VP & Assistant General Counsel
Office of the Corporate Secretary
First Horizon National Corporation
165 Madison Avenue
Memphis, TN 38103

Letter of Verification of Ownership

Dear Mr. Billings,

We're writing to confirm information about the Jack Van Valkenburgh account, which Charles Schwab & Co., Inc. holds as custodian. This letter alone shall serve as proof of ownership of 148 shares of First Horizon National Corporation common stock for the Jack Van Valkenburgh account.

Please be advised that as of November 8, 2019, the Jack Van Valkenburgh account has continuously held the requisite number of shares of common stock for at least one year.These shares are held at Depository Trust Company under the nominee name of Charles Schwab & Co., Inc., which serves as custodian for the registration listed above.

Sincerely,

Josh Parker

Josh Parker
CORE SERVICE WEST DENVER
9800 Schwab Way
Englewood, CO 80112-3441

Human Rights Statement

First Horizon respects individual human rights and is committed to operating our company in an environment where everyone is treated with dignity. While we believe our government and policymakers are primarily responsible for the laws and regulations that enable the preservation and protection of human rights, our company values and business practices support our belief that all people should be treated fairly and with respect.

We are firmly committed to non-discrimination and equal opportunity for our employees, customers and suppliers. First Horizon's Code of Business Conduct and Ethics outlines the principles that guide the conduct of every aspect of our business. Our Code of Business Conduct and Ethics applies to all employees, officers and directors of the First Horizon family of companies and, in certain cases, to our agents and representatives.

Our Commitment

Everyone will be treated without discrimination or harassment based on race, color, religion, sex, sexual orientation, gender identity, national origin, age, veteran status or disability.

First Horizon and our subsidiaries are also committed to a position of lending fairness and to making available meaningful services to all of our customers and communities on a fair and equitable basis.

Any employee who engages in unlawful activities or violates First Horizon's Code of Business Conduct and Ethics or any of the Company's policies is subject to disciplinary action, including dismissal.

First Horizon honors our commitment to human rights by:

- Conducting our business in a manner that is consistent with the fundamental human rights principles described in the United Nations Universal Declaration of Human Rights.
- Requiring all employees to complete Code of Business Conduct and Ethics training upon hire, and annually thereafter, and to certify upon completing each training session that they have read, and that they understand, the Code.
- Providing all employees with an annually updated guidebook, called A Matter of Principles, to ensure that they understand and practice the principles outlined in our Code of Business Conduct and Ethics.
- Instituting a Corporate Social Responsibility (CSR) Committee to help us build stronger communities and guide our responsible business practices. The CSR Committee meets quarterly to review, recommend and report to the Executive Management Committee and the Board of Directors on CSR and environmental, social and governance (ESG) business and reputation topics.

- Protecting the privacy of customer information. All employees, even after leaving the company, must comply with the policies described in our Privacy Policy.
- Establishing multiple ways for employees and customers to raise concerns, ask questions, and report potential policy violations or unethical or suspicious behaviors with confidence and without fear of retaliation.
- Operating our business in accordance with all applicable lending, labor, safety, health, anti-discrimination, and other diversity and inclusion workplace regulations and laws.

INTERFAITH CENTER ON CORPORATE RESPONSIBILITY
Inspired by faith, Committed to action

August 16, 2019

Mr. D. Bryan Jordan, President and CEO
First Horizon National Corporation
165 Madison Avenue
Memphis, TN 38103
United States

Dear Mr. Jordan:

The undersigned investors, clients and asset managers, many of whom are members of the Interfaith Center on Corporate Responsibility (ICCR), a coalition of more than 300 faith and values-driven institutional investors collectively representing over $400 billion in invested capital write to express our concern over the company's financial relationships with private correctional REITs (often referred to as private prison companies) which are receiving growing numbers of contracts to detain immigrants amid the current administration's immigration policy.

As current and potential shareholders, we are concerned that First Tennessee Bank's financial relationship with CoreCivic, a relationship that is gaining increasing public attention, may expose the bank to serious business risks. These risks include opposition from employees or loss of clients who are opposed to the current immigrant policy and/or have concerns with the business model of private prisons and the human rights risks at these facilities more generally.

For example, as we have seen in recent months, a prominent national campaign has targeted the banking sector on precisely this issue, with direct actions generating national media attention and tens of thousands of letters from people across the country. Nine major banks have already made the decision to no longer bank the sector – JP Morgan Chase, Wells Fargo, Bank of America, SunTrust, BNP Paribas, US Bancorp, Barclays, Fifth Third Bank and PNC Bank. Bank of America stated "The private sector is attempting to respond to public policy and government needs and demands in the absence of long standing and widely recognized reforms needed in criminal justice and immigration...Lacking further legal and policy clarity, and in recognition of the concerns of our employees and stakeholders in the communities we serve, it is our intention to exit these relationships."

New York City's pension funds divested $48 million in stocks and bonds invested in private prison companies on June 8, 2017 because of human rights abuses and associated lawsuits. More recently, the Fund is working to avoid investing in other companies that profit from mass incarceration, including some health care and telecommunications providers that primarily serve prisons.[1] In making the decision to divest, New York City's comptroller, Scott Stringer said, "these failings can lead to reputational, legal, and regulatory risks, which could seriously harm investors."[2]

[1] https://www.bloomberg.com/news/articles/2019-06-18/nyc-pensions-to-expand-prison-investment-ban-with-platinum
[2] https://comptroller.nyc.gov/newsroom/comptroller-stringer-and-trustees-new-york-city-pension-funds-complete-first-in-the-nation-divestment-from-private-prison-companies/

475 Riverside Drive, Suite 1842
New York, NY 10115-0050
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www.iccr.org

On July 23, Fitch Ratings downgraded CoreCivic. The rating agency said its negative outlook for CoreCivic "is related to uncertainty over the possibility that additional banks could sever ties with the sector." Fitch noted that "environmental, social and governance concerns regarding private prison operators have recently grown beyond the largest U.S. money centers to include regional and European banks." [3]

The immigrant detention centers run by CoreCivic and GEO Group have faced public scrutiny for numerous human rights abuses, including medical neglect, sexual and physical assault against detainees, understaffing, and overcrowding. [4] According to research done by Investigate[5], a project of the American Friend's Service Committee, in February 2017, detainees at an ICE facility managed by CoreCivic went on a hunger strike[6] to protest their detention and CoreCivic retaliated by locking them in solitary confinement. In that year, a federal audit revealed[7] that a CoreCivic immigrant detention center in Kansas lacked adequate oversight and was severely understaffed. The audit concluded that this was also a problem at other CoreCivic detention facilities. In September 2018, over one hundred detainees went on hunger strike[8] in the company's La Palma Correctional Facility in Eloy, AZ, demanding access to bathrooms, three meals a day, and an end to brutality and violence by CoreCivic employees. In March 2019, ICE was granted[9] a court order to physically restrain and force-feed a detainee on hunger strike in the same CoreCivic facility. Forced feeding is considered[10] a form of torture under the UN Convention Against Torture. In March 2019, Physicians for Human Rights reported that infants as young as 27 days old have been detained at CoreCivic facilities.

These examples highlight that the private prison First Tennessee Bank finances are rife with alleged human rights abuses prompting concerns among investors about the implementation of First Tennessee Bank's human rights due diligence process when assessing financial relationships. Some of these risks are heightened due to the nature of the business model and practices of the private prison companies including crowded conditions, less programming for inmates and detainees than public facilities, low staff salaries, poor staff retention, lack of training on human rights and inadequate staffing; many of these issues, according to the OIG report[11] from the Department of Justice, are more serious in private prisons than in public facilities.

Given the human rights abuses highlighted in recent reports and lawsuits, we would like to understand how the company is assessing its current relationship with CoreCivic[12]. As the demand for immigrant detention increases, we are concerned that CoreCivic, given its record, will struggle to meet robust standards related to respect for human rights and the health and safety of detainees. Further, by providing financing to CoreCivic, First Tennessee Bank may be exposed to the reputational risk that

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[3] https://www.spglobal.com/marketintelligence/en/news-insights/trending/Gip-kVwrCnZWebSuOtxJUw2

[4] A number of reports have highlighted the human rights abuses at these facilities, including:
HRW: https://www.hrw.org/news/2016/07/07/us-deaths-immigration-detention
Huffington Post: http://www.huffingtonpost.com/christina-fialho/geo-group-whistleblower-e_b_7309916.html
ACLU: https://www.aclu.org/blog/speak-freely/aclu-un-tomorrow-testify-horrific-human-rights-record-us-private-prison-companies

[5] http://investigate.afsc.org/

[6] https://www.theverge.com/2017/2/27/14728978/immigrant-deportation-hunger-strike-solitary-confinement-ice-trump

[7] https://www.motherjones.com/politics/2017/04/justice-department-audit-corecivic-marshal-service-leavenworth/

[8] https://kjzz.org/content/700858/immigrant-rights-organization-puente-says-migrants-hunger-strike-correctional

[9] https://www.phoenixnewtimes.com/news/court-allows-ice-force-feed-detainee-on-hunger-strike-in-eloy-11255866

[10] https://www.apnews.com/e0941d7d1b0d413b9d9a0b792c34dd26

[11] https://oig.justice.gov/reports/2016/e1606.pdf

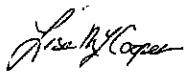
[12] https://populardemocracy.org/sites/default/files/2019%20Impact%20Brief%20-%20Wall%20Street%20Banks%20Sever%20Ties%20with%20Private%20Prisons%20ITPI%20PAI%20CPD%20July%202019%20FINAL.pdf

accompanies the private prison industry given public concerns about mass incarceration, the criminalization of immigrants, and poor treatment of individuals in these facilities.

Given the conditions and known abuses and neglect present in private prisons, as compared with similar public facilities, we believe financial institutions like First Tennessee Bank should exercise caution regarding involvement in the industry and should terminate any existing relationships and refuse any future financing. We request that you provide us a written description of your existing financial relationships with any companies in the private prison and immigrant detention industry and your assessment of the human rights risks within these facilities. We would appreciate the opportunity to have a call with relevant members of your team to discuss this issue and the company's approach to assessing and addressing human rights risks associated with your financing relationships.

We look forward to receiving your response by **August 30, 2019**. Lisa Cooper (lisa@figure8investing.com) will be the point of contact on behalf of the undersigned investors.

Respectfully,



Lisa Cooper, President and Founder

Figure 8 Investment Strategies
205 N. 10th Street, Suite 300
Boise, ID 83702
Phone: (208) 385-0078 | Email: lisa@figure8investing.com

FIGURE 8 INVESTMENT STRATEGIES

Representing:

Andrew Friedman	AJF Financial Services, Inc.
Andrew Behar	As You Sow
Lauren Compere	Boston Common Asset Management
Rob Fohr	Committee on Mission Responsibility Through Investment of the Presbyterian Church U.S.A.
Carole Nugent	Conference for Corporate Responsibility Indiana and Michigan
Ruth Battaglia	Congregation of Sisters of St. Agnes
Joellen Sbrissa, CSJ	Congregation of St. Joseph
Corey Klemmer	Domini Impact Investments LLC
Sister Mary Brigid Clingman, OP	Dominican Sisters of Grand Rapids
Barbara Kane	Dominican Sisters of Peace
Sister Eileen Gannon	Dominican Sisters of Sparkill
Steve Zielinski	Dominican Sisters of Springfield, IL
Fran Teplitz	Green America
David Schreiber	Greenvest
Susan S. Hansen	Hansen's Advisory Services, Inc.
Sam Jones	Heartland Initiative
Renee Morgan	Impact Investors
Jeffrey Scales	JSA Financial Group

Phuong Luong	Just Wealth, LLC
Very Rev Paul Frechette SM	Marist Fathers and Brothers
Cathy Rowan	Maryknoll Sisters
Pat Zerega	Mercy Investment Services, Inc.
Dorothy Schwendinger	
Michael Kramer	Natural Investments
Bruce Herbert	Newground Social Investment
Rev. Fr Seamus Finn OMI	Oblate International Pastoral Investment Trust
Charlo Maurer	Peace of Money
John Koelle, OFM Cap	Province of St. Mary of the Capuchin Order
Jo Marie Chrosniak	Region VI Coalition for Responsible Investment
Abby McCoy	Reynders, McVeigh Capital Management, LLC
Rachel J. Robasciotti	Robasciotti & Philipson / RISE
Linda Jansen	School Sisters of Notre Dame
Tim Dewane	School Sisters of Notre Dame - Central Pacific Province
Tony Stayner	
Christopher W Cox	Seventh Generation Interfaith Coalition for Responsible Investment
Richard W. Torgerson	SharePower Responsible Investing
Brigid Hart	Sister of Charity, BVM
Mary Beth Hamm, SSJ	Sisters of Bon Secours USA
Barbara Lammers	Sisters of Charity of Nazareth
Carol De Angelo	Sisters of Charity of St. Vincent de Paul
Marge Clark, BVM	Sisters of Charity, BVM
Ann Kasparek	Sisters of Mary Reparatrix
Jo Ann Showalter, SP	Sisters of Providence - Mother Joseph Providence
Sister Colleen Dauerbach SSJ	Sisters of Saint Joseph of Chestnut Hill, Philadelphia, PA
Joan Agro	Sisters of St. Dominic of Blauvelt, New York
Mary Ellen Holohan	Sisters of the Holy Names of Jesus and Mary SNJM
Toby Lardie, HM	Sisters of the Humility of Mary
Sister Linda Pleiman	Sisters of the Precious Blood
Ruth Geraets PBVM	Sisters of the Presentation of the BVM of Aberdeen SD
Anna Falkenberg	SRIC
Carmen Schnyder	St. Mary's Institute
Bill Davis	Stance Capital, LLC
Molly Gochman	Stardust
Marilin Llanes	The Adrian Dominican Sisters, Portfolio Advisory Board
Richard Walters	The Pension Boards-UCC, Inc.
Cathy Rowan	Trinity Health
Mary Beth Gallagher	Tri-State Coalition for Responsible Investment
Rachel Kahn-Troster	T'ruah: The Rabbinic Call for Human Rights
Rev Fr Seamus Finn OMI	U.S Missionary Oblates of Mary Immaculate
Kathy Devos	Unitarian Universalist
Andrew McGeorge	Unitarian Universalist Association
Patricia Farrar-Rivas	Veris Wealth Partners
Pat Tomaino	Zevin Asset Management