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December 14, 2020

International Business Machines Corporation
Shareholder Proposal of Christopher Hipp
Securities Exchange Act of 1934—Rule 14a-8

Ladies and Gentlemen:

I am writing on behalf of our client, International Business Machines Corporation, a New York corporation (“IBM” or the “Company”), in accordance with Rule 14a-8(j) of the Securities Exchange Act of 1934, as amended, to respectfully request that the Staff of the Division of Corporation Finance (the “Staff”) of the Securities and Exchange Commission (the “Commission”) concur with our view that IBM may exclude a shareholder proposal and supporting statement (the “Proposal”) submitted by Mr. Christopher Hipp (“Mr. Hipp” or the “Proponent”) from the proxy materials to be distributed by IBM in connection with its 2021 annual meeting of shareholders (the “2021 proxy materials”). A copy of the Proposal is attached to this letter as Exhibit A. IBM has advised us as to the factual matters set forth below.

Pursuant to Rule 14a-8(j), we have:

- filed this letter with the Commission no later than eighty (80) calendar days before the Company intends to file its definitive 2021 proxy materials with the Commission; and
- concurrently sent copies of this correspondence to the Proponent.

Rule 14a-8(k) and Staff Legal Bulletin No. 14D (Nov. 7, 2008) provide that shareholder proponents are required to send companies a copy of any correspondence that the proponents elect to submit to the Commission or the Staff. Accordingly, the Company is taking this opportunity to inform the Proponent that if the Proponent elects to submit additional correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should be furnished concurrently to the undersigned on behalf of the Company and to Natalie Wilmore, Counsel of the Company.

THE PROPOSAL

The text of the Proponent's Proposal is set forth in [Exhibit A](#).

BASES FOR EXCLUSION

On behalf of the Company, we hereby respectfully request that the Staff concur in the Company's view that it may exclude the Proposal from the 2021 proxy materials pursuant to:

- Rules 14a-8(b) and (f), because the Proponent failed to provide the requisite proof of continuous share ownership after receiving notice of such deficiency;
- Rule 14(a)-8(i)(7), because the Proposal relates to the Company's ordinary business operations.

Background

The Proponent submitted the Proposal to the Company in a letter via certified mail on August 17, 2020 that was received by the Company on August 24, 2020. The Proponent's submission did not provide verification of the Proponent's continuous ownership of the requisite number of IBM shares for one year. The Company reviewed its stock records, which did not indicate that the Proponent was the record owner of any of the Company's stock. Accordingly, the Company sent the Proponent a letter dated September 1, 2020, which was mailed on that day via UPS Next Day Air, notifying the Proponent of this procedural deficiency (the "Deficiency Notice"). In the Deficiency Notice, attached as [Exhibit B](#), the Company informed the Proponent of the requirements of Rule 14a-8 and how he could cure the procedural deficiency. In accordance with Staff Legal Bulletin 14G (Oct. 16, 2012) the Deficiency Notice specifically called out that "the SEC considers August 17, 2020 as the date you submitted your proposal, since this is the date your letter was postmarked by the United States Postal Service in Norwalk, Ohio" and requested that the Proponent submit "a written statement from the 'record holder' of your securities (usually a broker or bank) verifying, at the time you submitted the Proposal, that you continuously held the requisite amount of IBM securities for at least one year." The Deficiency Notice also called out to the Proponent that his response containing the proper proof of ownership must be sent within fourteen (14) calendar days from the date the Proponent received the Deficiency Notice. The Deficiency Notice included hyperlinks to Rule 14a-8, Staff Legal Bulletin No. 14F (Oct. 18, 2011) and Staff Legal Bulletin No. 14G (Oct. 16, 2012). The Company's records confirm delivery of the Deficiency Notice by UPS on September 2, 2020; a copy of such confirmation is attached as [Exhibit C](#).

In an e-mail dated September 3, 2020, the Proponent sent his response (the "Response") to the Deficiency Notice, a copy of which is attached as [Exhibit D](#). The Response consisted of a cover letter written by the Proponent stating that he had held sufficient IBM stock for the requisite period of time. His email also included copies of two monthly investment reports from Commonwealth Financial Network, covering the months of December 2017 and August 2020 respectively, relating to the Proponent's investment account (the "Account Statements").

Analysis

I. THE PROPOSAL MAY BE EXCLUDED PURSUANT TO RULE 14a-8(f)(1) BECAUSE THE PROPONENT FAILED TO PROVIDE SUFFICIENT DOCUMENTARY SUPPORT TO SATISFY THE OWNERSHIP REQUIREMENT UNDER RULE 14a-8(b)(1).

Rule 14a-8(b)(1) provides that, in order to be eligible to submit a 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, for at least one year by the date the proposal is submitted and must continue to

hold those securities through the date of the meeting. If the proponent is not a registered holder, he or she must provide proof of beneficial ownership of the securities. Under Rule 14a-8(f)(1), a company may exclude a shareholder proposal if the proponent fails to provide evidence that he or she meets the eligibility requirements of Rule 14a-8(b), provided that the company timely notifies the proponent of the deficiency and the proponent fails to correct the deficiency within the required time.

According to the Company's transfer agent, on August 24, 2020, the Proponent was not a registered holder of the Company stock. The Company timely sought verification from the Proponent of his beneficial ownership of shares by sending the Deficiency Notice. The Deficiency Notice informed the Proponent that he did not establish the required ownership and therefore he would need to establish continuous beneficial ownership of IBM shares, sufficient to reach the \$2,000 threshold, for at least one year by the date the proposal was submitted (August 17, 2020). The Deficiency Notice further explained that to the extent he owned IBM shares, he was not the registered holder. Accordingly, to substantiate the required share ownership, the Proponent was required under Rule 14a-8(b) to submit to IBM a written statement from the record holder of the Company's shares of common stock verifying that, at the time the Proponent submitted the Proposal, the Proponent had continuously beneficially held the requisite number of shares of IBM's common stock for at least the required one-year period.

The two periodic Account Statements sent by the Proponent do not satisfy the requirements of Rule 14a-8(b)(1) because they fail to establish one-year continuous ownership of the Company's securities. In Section C.1.c(2) and (3) of SLB 14, the Staff addressed whether periodic investment statements, like the Account Statements, could satisfy the continuous ownership requirements of Rule 14a-8(b):

(2) Do a shareholder's monthly, quarterly or other periodic investment statements demonstrate sufficiently continuous ownership of the securities?

No. A shareholder must submit an affirmative written statement from the record holder of his or her securities that specifically verifies that the shareholder owned the securities *continuously* for a period of one year as of the time of submitting the proposal.

(Emphasis in original.)

(3) If a shareholder submits his or her proposal to the company on June 1, does a statement from the record holder verifying that the shareholder owned the securities continuously for one year as of May 30 of the same year demonstrate sufficiently continuous ownership of the securities as of the time he or she submitted the proposal?

No. A shareholder must submit proof from the record holder that the shareholder continuously owned the securities for a period of one year as of the time the shareholder submits the proposal.

Consistent with the foregoing, the Staff has on numerous occasions permitted exclusion of proposals on the grounds that nonconforming brokerage statements, account statements or letters submitted in support of a proponent's ownership were insufficient to prove continuous beneficial ownership under Rule 14a-8(b).¹

¹ See, e.g., International Business Machines Corporation (Dec. 13, 2019) (monthly retirement account statements failed to demonstrate one-year continuous ownership); Rite Aid Corporation (Feb. 14, 2013) (account statement failed to demonstrate one-year continuous ownership); E.I. du Pont de Nemours and Co. (Jan. 17, 2012) (one-page excerpt from proponent's monthly brokerage statement was insufficient proof of ownership); Verizon Communications Inc. (Jan. 25, 2008) (broker's letter which provided current ownership of shares and original date of purchase was insufficient proof of ownership); General Motors Corp. (Apr. 5, 2007) (account summary was insufficient verification of continuous ownership); Yahoo! Inc. (Mar. 29, 2007) (account statements, trade confirmations, email correspondence, webpage printouts and other selected account information was insufficient to specifically verify continuous ownership); General Electric Co. (Jan. 16, 2007) (brokerage statement was insufficient to prove continuous ownership);

In this case, the Account Statements only verify beneficial ownership of IBM common stock in the Proponent's individual retirement account for the one month period of December 1, 2017 through December 31, 2017, and for the one month period of August 1, 2020 through August 31, 2020, respectively. The Account Statements do not establish any ownership of IBM common stock on any other dates.

If the Proponent fails to follow Rule 14a-8(b), Rule 14a-8(f)(1) provides that the Company may exclude the Proposal, but only after it has notified the Proponent in writing of the procedural or eligibility deficiencies, as well as of the time frame for the Proponent's response thereto within fourteen (14) calendar days of receiving the Proposal, and the Proponent fails adequately to correct it. The Company sought verification of share ownership from the Proponent by sending the Deficiency Notice on September 1, 2020, which was within fourteen (14) calendar days of the Company's August 24, 2020 receipt of the Proposal. The Company did not receive the requisite proof of ownership from the Proponent. Any further verification the Proponent might now submit would be untimely under the Commission's rules. Accordingly, we ask that the Staff concur that the Company may exclude the Proposal under Rule 14a-8(b) and Rule 14a-8(f)(1).

II. THE PROPOSAL MAY BE EXCLUDED PURSUANT TO RULE 14a-8(i)(7) BECAUSE THE PROPOSAL DEALS WITH MATTERS RELATING TO THE COMPANY'S ORDINARY BUSINESS OPERATIONS.

In the Exchange Act Release No. 34-40018 (May 21, 1998) ("1998 Release"), the Commission stated that under Rule 14a-8(i)(7), a company may exclude a stockholder proposal from its proxy materials if "the proposal deals with a matter relating to the company's ordinary business operations." The Commission stated further that the "general underlying policy of this exclusion is consistent with the policy of most state corporate laws: 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."

According to the 1998 Release, a stockholder proposal is considered "ordinary business" when (i) it relates to 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"; or (ii) it "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." The Staff recognized in Staff Legal Bulletin No. 14A (July 12, 2002) that to constitute ordinary business, a proposal must not raise a significant social policy issue that would override its ordinary business subject matter.

The Commission held in the 1998 Release that stockholder proposals can be excluded under Rule 14a-8(i)(7) as related to the ordinary business of a company when such proposals involve "the management of the workforce, such as the hiring, promotion, and termination of employees." Although the Staff has historically viewed proposals addressing senior executive compensation as raising significant social policy issues, the Staff clarified in Staff Legal Bulletin No. 14J (Oct. 23, 2018) ("SLB 14J") that a proposal addressing senior executive or director compensation may be excludable under Rule 14a-8(i)(7)

Sky Financial Group (Dec. 20, 2004, reconsideration denied Jan. 13, 2005) (monthly brokerage account statement was insufficient proof of ownership); International Business Machines Corp. (Jan. 11, 2005) (pages from quarterly 401(k) plan account statements was insufficient proof of ownership); Bank of America Corp. (Feb. 25, 2004) (monthly brokerage account statement was insufficient proof of ownership); RTI International Metals, Inc. (Jan. 13, 2004) (monthly account statement was insufficient proof of ownership); International Business Machines Corporation (Jan. 7, 2004) (defective broker letter); International Business Machines Corporation (Jan. 22, 2003, reconsideration denied February 26, 2003) (broker letter insufficient); International Business Machines Corporation (Jan. 7, 2002) (broker letter insufficient); Bank of America (Feb. 12, 2001) (broker letter insufficient); Eastman Kodak Company (Feb. 7, 2001) (statements deemed insufficient); Bell Atlantic Corporation (Jul. 21, 1999) (proponent's brokerage documentation found by Staff insufficient to prove continuous beneficial ownership); Skaneateles Bancorp, Inc. (Mar. 8, 1999) (letter by proponent as to stock ownership coupled with broker letter also properly determined to be insufficient proof of beneficial ownership under Rule 14a-8(b)); see generally XM Satellite Radio Holdings Inc. (Mar. 28, 2006) (submission of 1099's, an E-trade statement and computer printouts insufficient proof); and General Motors Corporation (Mar. 24, 2006) (Ameritrade portfolio report insufficient).

“if a primary aspect of the targeted compensation is broadly available or applicable to a company’s general workforce and the company demonstrates that the executives’ or directors’ eligibility to receive the compensation does not implicate significant compensation matters.” Additionally, the Staff stated in SLB 14J that “the availability of certain forms of compensation to senior executives and/or directors that are also broadly available or applicable to the general workforce does not generally raise significant compensation issues that transcend ordinary business matters.” In explaining its view, the Staff described an example of a stockholder proposal relating to a company’s golden parachute provision that was available to a significant portion of a company’s general workforce and stated that “it is difficult to conclude that a proposal does not relate to a company’s ordinary business when it addresses aspects of compensation that are broadly available or applicable to a company’s general workforce, even when the proposal is framed in terms of the senior executives and/or directors.” The Staff has consistently permitted exclusion of stockholder proposals under Rule 14a-8(i)(7) when those proposals focus on ordinary business matters, even when the proposal also addressed executive compensation.²

The Proposal asks the Company’s compensation committee to abolish the tax, financial and estate planning benefits provided to the Company’s Named Executive Officers (“NEOs”). Although the Proposal is phrased as only relating to benefits of the NEOs, these benefits do not apply solely to the NEOs, as the Company provides some level of financial counseling benefits to all of its U.S. employees through The Ayco Company, L.P., at no charge. Consistent with the Commission’s rules governing proxy disclosures, the Company’s definitive proxy statement filed on Schedule 14A with the Commission on March 9, 2020 only discusses the compensation of the Company’s NEOs, which the Proponent references in his Proposal. Nonetheless, in 2020, the Company’s entire U.S. workforce was eligible to receive financial counseling benefits, albeit at varying levels of value, regardless of the employee’s role at the Company. The financial counseling benefits offered to all U.S. senior executives (inclusive of NEOs), include customized, in-person financial planning services and implementation assistance on topics covering areas such as investment planning, retirement planning, tax planning strategies and tax return preparation, whereas the benefits offered to the broader workforce include similar topics (excluding tax preparation) on a more general basis. While the level of benefits provided by the Company varies between the U.S. senior executives (inclusive of NEOs) and the broader U.S. workforce, these third-party financial counseling benefits are generally applicable to the Company’s broader U.S. workforce and involve the ordinary business matter of the compensation and benefits of the general workforce. These benefits are only one of many that the Company offers to its employees and does not raise significant policy issues that transcend the ordinary business matter of the compensation and benefits applicable to the Company’s broader U.S. workforce.

Similar to the golden parachute example cited by the Staff in SLB 14J, although the Proposal is framed as addressing senior executive compensation, the benefits at issue in the Proposal are offered at varying levels of value to a much broader set of employees than the Company’s senior executive officers. The thrust and focus of the Proposal is on the ordinary business matter of financial counseling benefits that equally impact compensation for the Company’s entire general workforce as it does the compensation of senior executives. Consistent with Staff guidance, it would be “difficult to conclude that [the P]roposal does not relate to [the C]ompany’s ordinary business.”

² See, e.g., AT&T Inc. (Jan. 29, 2019) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting the inclusion of the company’s long-term issuer debt rating as a component determining Chief Executive Officer and Chief Financial Officer compensation, noting that “although the [p]roposal relates to executive compensation, the focus of the [p]roposal is on the ordinary business matter of management of existing debt”); Delta Air Lines, Inc. (Mar. 27, 2012) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting that the board prohibit payment of incentive compensation to executive officers unless the company first adopts a process to fund the retirement accounts of its pilots, noting that “although the proposal mentions executive compensation, the thrust and focus of the proposal is on the ordinary business matter of employee benefits”); Exelon Corp. (Feb. 21, 2007) (permitting exclusion under Rule 14a-8(i)(7) of a proposal seeking to prohibit bonus payments to executives to the extent performance goals were achieved through a reduction in retiree benefits, noting that “although the proposal mentions executive compensation, the thrust and focus of the proposal is on the ordinary business matter of general employee benefits”).

CONCLUSION

Based on the foregoing analysis, the Company respectfully requests that the Staff confirm that it will take no enforcement action if IBM excludes the Proponent's entire submission from its 2021 proxy materials for the reasons set forth above. We would be pleased to provide the Staff with any additional information, and answer any questions that you may have regarding this letter. I can be reached at (212) 474-1146 or sburns@cravath.com. Please copy Natalie Wilmore, Counsel of the Company, on any related correspondence at natalie.wilmore@ibm.com.

We are sending the Proponent a copy of this submission. Rule 14a-8(k) provides that a shareholder proponent is required to send a company a copy of any correspondence that the proponent elects to submit to the Commission or the Staff. As such, the Proponent is respectfully reminded that if he elects to submit additional correspondence to the Staff with respect to this matter, a copy of that correspondence should concurrently be furnished directly to my attention and to the attention of Natalie Wilmore, Counsel of the Company, at the addresses set forth below in accordance with Rule 14a-8(k).

Thank you for your attention to this matter.

Sincerely yours,

Stephen L. Burns

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

VIA EMAIL: shareholderproposals@sec.gov

Encls.

Copies w/encls. to:

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Counsel
International Business Machines Corporation
Corporate Law Department
One New Orchard Road, Mail Drop 301
Armonk, New York 10504

VIA EMAIL: natalie.wilmore@ibm.com

Mr. Christopher Hipp

VIA EMAIL: ***

Shareholder Proposal of **Mr. Christopher Hipp**

International Business Machines Corporation

2021 Proxy Statement

As a shareholder of IBM owning 302 shares, I am submitting the following proposal:

According to the 2019 annual report which lists the compensation of the Named Executive Officers (NEO), our CEO received compensation of over \$20 million, which was 354 times that of the average employee. The pay the CEO receives could possibly be justified had she, or the new CEO, started the company. However, she/he is strictly a caretaker of a company that has been around for many years and was started by a predecessor. The CEO and other executives are handsomely rewarded with compensation and benefits that individual shareholders can only dream about. Our CEO is paid more in one year than most people will make in a lifetime. In addition to current compensation, the retirement pension she/he will receive, which again most of us do not have, will ensure that they will walk away with a lifetime income well above the average employee or shareholder.

Be that as it may, one of the most upsetting benefits each of our NEOs receive is a \$15,000 allowance for tax, financial, and estate planning. For NEOs making between \$5.5 and \$20 million/year, it is an insult to shareholders to have the company, and us, pay for a service they can well afford. The rest of the world pays for these services out of our own pocket and do not have the luxury of having our employer absorb this expense. There is no valid reason for this other than the willingness of the board to lavish as many benefits on our NEOs as possible, since it only "company money". Granted the \$75,000 for these benefits in 2019 is a small amount in the grand scheme of things, but still there is no justification for continuing this fringe benefit.

It is requested that the compensation committee abolish this benefit and require our NEOs pay for their own tax, financial, and estate planning. They are more than able to do so with the pay they receive.

Christopher J Hipp

Deficiency Notice relating to
Shareholder Proposal of **Mr. Christopher Hipp**
International Business Machines Corporation
2021 Proxy Statement



International Business Machines Corporation
Corporate Law Department
One New Orchard Road, Mail Stop 301
Armonk, NY 10504

VIA UPS Next Day Air

Tracking #: ***

Christopher J. Hipp

September 1, 2020

Dear Mr. Hipp,

I have been asked by Mr. Frank P. Sedlarcik, Vice President, Assistant General Counsel and Secretary of International Business Machines Corporation ("IBM" or the "Company"), to write to you: (i) to acknowledge IBM's timely receipt on August 24, 2020 of your letter postmarked August 17, 2020, in which you seek for IBM to include a proposal that IBM's compensation committee abolish the \$15,000 allowance received by named executive officers for tax, financial and estate planning in IBM's 2021 proxy materials (hereinafter the "Proposal") and (ii) to request that you timely provide all additional information outlined in this letter which is required under 17 CFR §240.14a-8 ("Rule 14a-8") for IBM to properly consider your proposal. A full copy of Rule 14a-8 can be found in the Code of Federal Regulations, which is available in many public reference libraries. For convenience, you may also access this rule directly on the Internet at the following link: <https://www.law.cornell.edu/cfr/text/17/240.14a-8>.

Since this submission involves a matter relating to IBM's 2021 Proxy Statement, we are formally sending you this letter under the federal proxy rules to ensure that you both understand and timely satisfy all requirements in connection with this submission as outlined in this letter. Please understand that in order to be eligible to submit the Proposal for consideration at our 2021 Annual Meeting, Rule 14a-8 of Regulation 14A of the United States Securities and Exchange Commission ("SEC") requires 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 submitted the Proposal. The stockholder must continue to hold those securities through the date of the meeting. To avoid any confusion, please be advised that in accordance with SEC Division of Corporation Finance Staff Legal Bulletin 14G dated October 16, 2012, the SEC considers your submission of this Proposal to have been made on August 17, 2020 because this is the date your letter was postmarked by the United States Postal Service in Norwalk, Ohio. See Staff Legal Bulletin 14G at: <https://www.sec.gov/interps/legal/cfslb14g.htm>

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. 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.

You state in your August 17, 2020 letter that you are a shareholder of IBM owning 302 shares, but did not provide sufficient evidence of your IBM stockholdings to meet Rule 14a-8(b)'s eligibility requirements. As a result, I could not confirm your eligibility to file the Proposal under such rule. I therefore had our stockholder relations department check with Computershare, our transfer agent, on any potential IBM stockholdings held of record by you. However, Computershare was unable to locate any shares held of record by you. Therefore, to facilitate compliance with Rule 14a-8 and confirm eligibility, I am now formally requesting that you provide the Company with proper proof of your IBM stockholdings, as required under the SEC's rules and regulations.

If you are an IBM stockholder of record under an account at Computershare which we have somehow missed, we apologize for not locating that in our own records. If this is the case, I will need for you to advise me precisely how the IBM shares are listed on our records, and for you to provide the Company with a written statement that you intend to continue to hold the requisite IBM securities through the date of IBM's 2021 Annual Meeting.

However, if you are not a registered stockholder, please understand that the Company does not know that you are a stockholder, or how many shares you own. In this case, you must prove eligibility to the Company in one of two ways: 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, at the time you submitted the Proposal, that you continuously held the requisite amount of IBM securities for at least one year. To be clear, in accordance with the SEC's Staff Legal Bulletin 14G, dated October 16, 2012, the proof of ownership must cover the one-year period preceding and including August 17, 2020, the date the letter containing your Proposal was postmarked. You must also include a written statement that you intend to continue to hold the requisite amount of IBM securities through the date of the 2021 annual meeting of shareholders.

The second way to prove ownership applies only if you have filed a Schedule 13D (17 CFR §240.13d-101), Schedule 13G (17 CFR §240.13d-102), Form 3 (17 CFR §249.103), Form 4 (17 CFR §249.104) and/or Form 5 (17 CFR §249.105), or amendments to those documents or updated forms, reflecting your ownership of the requisite amount of IBM securities 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 requisite amount of IBM securities for the one-year period preceding and including August 17, 2020; and (C) your written statement that you intend to continue to hold the requisite amount of IBM securities through the date of the 2021 annual meeting of shareholders.

On October 18, 2011, the staff of the SEC Division of Corporation Finance released Staff Legal Bulletin 14F, containing a detailed discussion of the meaning 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. You may access a copy of this Bulletin at: <https://www.sec.gov/interps/legal/cfslb14f.htm>.

In this bulletin, the staff explained that 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. The staff went on to note that 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.

The staff then went on to explain that 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. Pointing to Exchange Act Rule 17 Ad-8, the SEC staff noted that 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.

The staff also explained the difference between an introducing broker and a clearing broker. 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. 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.

In clarifying what types of brokers and banks should be considered “record” holders under Rule 14a-8(b)(2)(i), the staff noted that because of the transparency of DTC participants’ positions in a company’s securities, for Rule 14a-8(b)(2)(i) purposes, only DTC participants are viewed as “record” holders of securities that are deposited at DTC. As introducing brokers generally are not DTC participants, and therefore typically do not appear on DTC’s securities position listing, merely sending in a letter from an introducing broker who is not a DTC participant, standing alone, cannot satisfy the proof of beneficial ownership requirements under Rule 14a-8, as unlike the positions of

registered owners and brokers and banks that are DTC participants, the Company is unable to verify the positions of such introducing broker against its own or its transfer agent's records or against DTC's securities position listing.

Given the foregoing, and with this information in hand, for any shares of IBM that are held by you in street name, the staff has provided specific guidance which you will need to follow in order to satisfy the 14a-8 proof of ownership requirements in connection with your submission. That guidance is as follows:

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/client-center/dtc-directories>.

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. The staff has also clarified that in accordance with the Net Capital Rule, Release No. 34-31511 (Nov. 24, 1992) (57 FR 56973] ("Net Capital Rule Release"), at Section II.C.(iii), if the shareholder's broker is an introducing broker, the shareholder's account statements should include the clearing broker's identity and telephone number. The clearing broker will generally be a DTC participant.

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.

I have provided you with this letter detailing the specific SEC rules, staff guidance and other information related to Rule 14a-8 in order to afford you with an opportunity to obtain and furnish me with the proper proof of ownership on a timely basis. Please note that all of the information I've requested in this letter must be sent directly to my attention at the mailing address set forth above or to my e-mail address: natalie.wilmore@ibm.com, within 14 calendar days of the date you receive this request, and that the Company reserves the right to omit the Proposal under the applicable provisions of Regulation 14A. Thank you for your interest in IBM and this matter.

Sincerely,



Natalie F. Wilmore
Counsel

United Parcel Service Certificate of Mailing and
Confirmation of Delivery
of Deficiency Notice relating to
Shareholder Proposal of **Mr. Christopher Hipp**
International Business Machines Corporation
2021 Proxy Statement

View/Print Label

1. Ensure there are no other shipping or tracking labels attached to your package. Select the Print button on the print dialog box that appears. Note: If your browser does not support this function, select Print from the File menu to print the label.

2. Fold the printed label at the solid line below. Place the label in a UPS Shipping Pouch. If you do not have a pouch, affix the folded label using clear plastic shipping tape over the entire label.

3. GETTING YOUR SHIPMENT TO UPS Customers with a scheduled Pickup

- o Your driver will pickup your shipment(s) as usual.

Customers without a scheduled Pickup

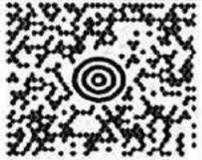
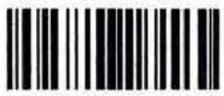
- o Schedule a Pickup on ups.com to have a UPS driver pickup all of your packages.
- o Take your package to any location of The UPS Store®, UPS Access Point(TM) location, UPS Drop Box, UPS Customer Center, Staples® or Authorized Shipping Outlet near you. To find the location nearest you, please visit the Locations' Quick link at ups.com.

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490 MAIN ST
ARMONK NY

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CVS STORE # 807
1024 BROADWAY
THORNWOOD NY

UPS Access Point™
CVS STORE # 2047
660 COLUMBUS AVE
THORNWOOD NY

FOLD HERE

FRANK SEDLARCIC 914-499-4825 IBM CORPORATION NEW ORCHARD ROAD ARMONK NY 10504		LTR	1 OF 1
SHIP TO: *** CHRISTOPHER I. HIPP ***			
	OH 448 7-01 		
UPS NEXT DAY AIR TRACKING #:		1	
			
BILLING: P/P UPS CARBON NEUTRAL SHIPMENT			
Reference #1: F6 Reference #2: 628			
XOL 20.08.05		NV45 31.0A 07/2020*	

Proof of Delivery

Dear Customer,

This notice serves as proof of delivery for the shipment listed below.

Tracking Number

Service

UPS Next Day Air®
with UPS Carbon Neutral 

Shipped / Billed On

08/31/2020

Delivered On

09/02/2020 10:09 A.M.

Delivered To

NORWALK, OH, US

Received By

DRIVER RELEASE

Left At

Met Customer Man

Thank you for giving us this opportunity to serve you. Details are only available for shipments delivered within the last 120 days. Please print for your records if you require this information after 120 days.

Sincerely,

UPS

Tracking results provided by UPS: 11/10/2020 2:59 P.M. EST

Proponent Response to
Deficiency Notice relating to
Shareholder Proposal of **Mr. Christopher Hipp**
International Business Machines Corporation
2021 Proxy Statement

----- Original message -----

From: "Chris Hipp" <*** >

To: <natalie.wilmore@ibm.com>

Cc:

Subject: [EXTERNAL] Proxy holding verification

Date: Thu, Sep 3, 2020 5:16 PM

Natalie;

Attached are statements confirming my holdings in IBM. I have held this stock since 1980. I fully intend to continue holding IBM past the annual meeting as I have always considered this a long-term investment. Please advise if additional information is needed.

Chris Hipp

Your message is ready to be sent with the following file or link attachments:

2017-12-29CE0030143000775177

2020-08-31CE0030145000689606

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

