

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
1440 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005-2111

TEL: (202) 371-7000
FAX: (202) 393-5760
www.skadden.com

DIRECT DIAL
202-371-7180
DIRECT FAX
202-661-9010
EMAIL ADDRESS
BRIAN.BREHENY@SKADDEN.COM

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February 16, 2021

BY EMAIL (shareholderproposals@sec.gov)

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

Re: JPMorgan Chase & Co. – 2021 Annual Meeting
Supplement to Letter dated January 11, 2021
Relating to Shareholder Proposal Submitted by CtW Investment Group

Ladies and Gentlemen:

We refer to our letter dated January 11, 2021 (the “No-Action Request”), submitted on behalf of JPMorgan Chase & Co., a Delaware corporation (the “Company”), pursuant to which we requested that the Staff of the Division of Corporation Finance (the “Staff”) of the U.S. Securities and Exchange Commission (the “Commission”) concur with the Company’s view that the shareholder proposal and supporting statement (the “Proposal”) submitted by CtW Investment Group (the “Proponent”) may be excluded from its proxy materials for the Company’s 2021 Annual Meeting of Shareholders (the “2021 Annual Meeting”).

This letter is in response to the letter to the Staff, dated January 29, 2021, submitted on behalf of the Proponent (the “Proponent’s Letter”), and supplements the No-Action Request. In accordance with Rule 14a-8(j), a copy of this letter also is being sent to the Proponent.

A. The Company Has Substantially Implemented the Proposal.

The Proponent’s Letter argues that a single aspect of the Proposal — its request for an “independent audit” — is so crucial to the Proposal that failure to utilize that precise format would defeat any argument for substantial implementation. In this regard, the Proponent’s Letter asserts that the Proposal’s request cannot be implemented by “press releases and reports” but only through an independent audit of the Company’s existing operations and plans. This view

has no basis under Rule 14a-8(i)(10) and would be tantamount to a requirement that a proposal be “fully effected,” which was the very standard the Commission rejected in adopting the “substantial implementation” standard in Exchange Act Release No. 34-20091 (Aug. 16, 1983). In addition, as has been demonstrated in countless no-action determinations, the Staff consistently has permitted exclusion under Rule 14a-8(i)(10) where a company already addressed the underlying concerns and satisfied the essential objectives of the proposal, even if the proposal had not been implemented exactly as proposed by the proponent. Accordingly, the relevant focus in analyzing whether the Company has substantially implemented the Proposal is whether the Company’s disclosures compare favorably with the requested disclosure rather than the format utilized to produce the disclosure.

In this instance, the essential objective of the Proposal is to obtain a report on ways the Company can advance racial equity. As described in the No-Action Request, the Company already publishes extensive information relating to its current efforts and future commitments to address systemic racism and advance racial equity, including its commitment to regularly track progress on racial equity and share results with senior leadership, as well as externally with the Chase Advisory Panel (which engages with national consumer policy groups), to assess performance and enforce accountability. Although the Company has not conducted an independent audit, its extensive efforts to address racial justice matters and many public disclosures describing its initiatives to advance racial equity nevertheless address the underlying concern of the Proposal. Accordingly, the Company has satisfied the Proposal’s essential objective and its public disclosures compare favorably with the Proposal.

Therefore, as described in the No-Action Request, the Proposal has been substantially implemented and may be excluded pursuant to Rule 14a-8(i)(10).

B. The Proposal Deals with Matters Relating to the Company’s Ordinary Business Operations.

The Proponent’s Letter mischaracterizes the Company’s argument by focusing on the significance of racial equity and justice to society at large and ignoring the fact that the Company has not disputed the significance of these issues. In fact, the No-Action Request contained a strong statement reflecting the Company’s view that the arguments in the No-Action Request “should not be misconstrued to suggest that racial equity is anything but a matter of the utmost importance to the Company.” Indeed, the Company recognizes the importance of this issue and has implemented and supported numerous initiatives to advance racial equity. In light of these efforts, the Company’s Corporate Governance & Nominating Committee determined that the Proposal does not present a significant issue that transcends the Company’s ordinary business. The Proponent’s Letter overlooks this point and the analytical framework under Rule 14a-8(i)(7) and instead simply asserts that the Proposal may not be excluded because it seeks an independent audit of the Company’s actions relating to a significant policy issue. Such an assertion finds no support under Rule 14a-8(i)(7) or Staff guidance.

We are aware that, in at least one recent instance, the Staff has declined to grant relief under Rule 14a-8(i)(7) of a proposal that requested a “third-party audit” assessing the ways the company could improve the racial impact of its policies, practices, products and services, but we believe that instance to be inapposite because the company’s no-action request was not supported by a board analysis. *See Johnson & Johnson* (Feb. 12, 2021)*. In contrast to that instance, the No-Action Request contains a clear analysis by the Company’s Corporate Governance & Nominating Committee determining that the Proposal’s request does not focus on a significant policy issue that transcends the Company’s ordinary business. Given this analysis and determination, a denial of relief here would seemingly be in contravention of the Staff’s own guidance.

The Proponent’s Letter also seems to assert that proposals involving racial equity necessarily implicate a significant policy issue and categorically cannot be excluded. As explained in the No-Action Request, however, the fact that a proposal touches upon a significant policy issue does not shield it from exclusion. Instead, the question is whether the proposal focuses primarily on a matter of broad public policy versus matters related to the company’s ordinary business operations. Thus, proposals that implicate the issue of racial equity may nevertheless be excluded if they focus primarily on ordinary business matters. Here, as described in the No-Action Request, the Proposal does not focus on a significant policy issue but instead on the Company’s “adverse impacts on nonwhite stakeholders and communities of color” and the Company’s relationships with “the communities it serves,” each of which has been specifically recognized by the Staff as ordinary business matters upon which a proposal may be excluded pursuant to Rule 14a-8(i)(7). Further, the broad scope of the report requested by the Proposal would also relate to the Company’s decisions regarding the products and services it offers, further demonstrating that the Proposal is not strictly focused on racial equity but on issues that relate to the Company’s ordinary business matters. Therefore, even if the Proposal could be viewed as touching upon a significant policy issue, its focus is on ordinary business matters.

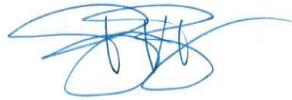
Accordingly, the Proposal may be excluded pursuant to Rule 14a-8(i)(7) as relating to the Company’s ordinary business operations.

* Citations marked with an asterisk indicate Staff decisions issued without a letter.

Office of Chief Counsel
February 16, 2021
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For the reasons stated above and in the No-Action Request, we respectfully request that the Staff concur that it will take no action if the Company excludes the Proposal from its proxy materials for the 2021 Annual Meeting. Should the Staff disagree with the conclusions set forth in this letter, or should any additional information be desired in support of the Company's position, we would appreciate the opportunity to confer with the Staff concerning these matters prior to the issuance of the Staff's response. Please do not hesitate to contact the undersigned at (202) 371-7180.

Very truly yours,



Brian V. Breheny

cc: Cornish F. Hitchcock
Hitchcock Law Firm PLLC

Tejal K. Patel
Corporate Governance Director
CtW Investment Group

Molly Carpenter
Corporate Secretary
JPMorgan Chase & Co.

HITCHCOCK LAW FIRM PLLC
5614 CONNECTICUT AVENUE, N.W. • No. 304
WASHINGTON, D.C. 20015-2604
(202) 489-4813 • FAX: (202) 315-3552

CORNISH F. HITCHCOCK
E-MAIL: CONH@HITCHLAW.COM

29 January 2021

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

By electronic mail: shareholderproposals@sec.gov

Re: Shareholder proposal to JPMorgan Chase & Co.
from CtW Investment Group

Dear Counsel:

I write on behalf of CtW Investment Group (“CtW”) in response to a letter (“JPMorgan Letter”) from counsel for JPMorgan Chase & Co. (“JP Morgan” or the “Company”) dated 11 January 2021. In that letter JPMorgan states its intent to omit CtW’s shareholder proposal (the “Proposal”) from the Company’s 2021 proxy materials. For the reasons set forth below, we respectfully ask the Division to advise JPMorgan that the Division does not concur with the Company’s position that the Proposal may be excluded from the Company’s proxy materials.

The Proposal

The Proposal asks JPMorgan to conduct a “racial equity audit.” The text of the resolution states:

RESOLVED: that shareholders of JPMorgan Chase & Co, Inc. (“JPMorgan”) urge the Board of Directors to oversee a racial equity audit analyzing JPMorgan’s adverse impacts on nonwhite stakeholders and communities of color. Input from civil rights organizations, employees, and customers should be considered in determining the specific matters to be analyzed. A report on the audit, prepared at reasonable cost and omitting confidential or proprietary information, should be publicly disclosed on JPMorgan’s website.

The Supporting Statement notes that the high-profile police killings of black people have galvanized the movement for racial justice, a topic that, along with the COVID-19 virus, have focused public attention on systemic racism, racialized violence and inequities in employment, health care, and the criminal justice system.

The Supporting Statement acknowledges the Company's recent commitment of \$30 billion to further racial equality, but cites JPMorgan's "conflicted history" with respect to racial injustice in the communities it serves, citing—

- lawsuits related to discriminatory lending practices against communities of color, including a federal suit that settled for \$55 million related to mortgage discrimination;

- the closure of numerous branches in majority-Black communities, reducing its number of branches to 22.8% from 2010 to 2018;

- a widely publicized 2019 *New York Times* article on JPMorgan's overt discriminatory practices against both its clients and employees, including the belittling of a Black client as "somebody who is coming from Section 8";

- the fact that by the end of the first round of the Paycheck Protection Program, 70% of the loans issued by JPMorgan, the nation's largest PPP issuer, went to majority white congressional districts;

- litigation filed by Black and Hispanic employees alleging that they were assigned poorer, less profitable locations or lower income branches, including allegations in a 2020 proposed class action that JPMorgan had a "segregated employment policy" that placed Black personal bankers in lower income branches and offered them fewer promotional opportunities;

- pending litigation related to claims by a long-time Black secretary of being subject to repeated bullying and microaggressions by other JPMorgan employees;

- charitable contributions that are not fully aligned with the Company's public statements, notably contributions to police foundations in New York and New Orleans, which bypass normal procurement processes to buy equipment for police departments, including surveillance technology that has been used to target communities of color and nonviolent protestors.

JPMorgan argues that the Proposal may be omitted from its proxy materials under—

- Rule 14a-8(i)(10), which authorizes the omission of a proposal if "the company has already substantially implemented the proposal," and

- Rule 14a-8(i)7), " as relating to the "ordinary business" of the Company.

As we now explain, JPMorgan's efforts fall far short of meeting those standards.

Discussion.

1. The Proposal has not been “substantially implemented.”

The JPMorgan Letter argues (at p. 3) that the Company has accomplished the “essential objective” of the Proposal, citing “significant commitments” made in the wake of the killings of Breonna Taylor, George Floyd and others. These commitments include:

1. Committing \$30 billion through business, community and policy solutions to close the racial wealth divide, support employees and break down barriers of systemic racism;
2. Increasing diversity, inclusion and equality across leadership, underrepresented groups and at the Company, overall;
3. Continuing investments in Advancing Black Pathways in an effort to strengthen the economic foundation of the Black community; and
4. Increasing diversity in the Company’s supply chain.

Unfortunately, this argument misses the point of the Proposal.

The Proposal is not asking the Company to report on its program for addressing racial equity issues. Instead the Proposal requests an independent audit of existing operations and plans. Such an audit may address issues that JPMorgan is not addressing or addressing inadequately, as well as an assessment of the likely effectiveness of the measures the Company has agreed to undertake.

A good explanation of the value of an audit is provided on the Commission’s web page, *All About Auditors: What Investors Need to Know*, available at <https://www.sec.gov/reportspubs/investor-publications/investorpubsaboutauditorshtm.html>. The publication states:

What's the Purpose of an Audit?

An audit provides the public with additional assurance — beyond managements' own assertions — that a company's financial statements can be relied upon. As the U.S. Supreme Court stated in the landmark case of *U.S. v. Arthur Young*: “The SEC requires the filing of audited financial statements in order to obviate the fear of loss from reliance on inaccurate information, thereby encouraging public investment in the Nation's industries.” That has important implications for investors making investment decisions, for banks and financial institutions that may extend credit or make loans to the company, and for other businesses and members of the public who deal with the company.

The key thought is in the first sentence: An audit is important as a way to provide an “*additional assurance – beyond managements' own assertions*” about what the Company is doing.

Admittedly, the context of the quoted language is a bit different, but the basic point is the same. JPMorgan’s “management” has unrolled a series of programs, statements and commitments that aim to persuade investors and the public that the Company “gets it” and is willing to make significant commitments going forward.

But are those the right measures? Will they work? What else may need to be done? Those are the sorts of questions that a racial equity audit address.

That is where the Proposal’s request comes in, and there is ample precedent for companies conducting such an audit of a company’s business operations. Consider these three examples of the type of audit that the Proposal is requesting and that will allow investors (and the public generally) to understand the adequacy of “management assertions” that a company has responded to a particular situation.

- Consider first the experience at **Facebook**, as summarized in *Facebook’s Civil Rights Audit – Final Report* (8 July 2020), available at <https://about.fb.com/wp-content/uploads/2020/07/Civil-Rights-Audit-Final-Report.pdf> This 89-page report, undertaken by professionals with civil rights expertise, was released after a two-year examination and several interim reports, was “intended to help the company identify, prioritize, and implement sustained and comprehensive improvements to the way it impacts civil rights.” *Id.* at p. 3. To that end, the audit examined not simply Facebook’s employment practices, but all phases of that company’s business, including Facebook’s customer-facing activities.¹ The audit described in detail how Facebook was able to use the audit process “to listen, plan and deliver on various consequential changes that will help advance the civil rights of its users” in at least 12 categories (summarized at pp.6-8), while identifying several areas where the audit believed more work was needed (summarized at p. 8).

- Consider next an audit conducted several years ago at **Airbnb**, which led to a 2016 report entitled *Airbnb’s Work to Fight Discrimination and Build Inclusion: A Report Submitted to Airbnb*, available at https://blog.atairbnb.com/wp-content/uploads/2016/09/REPORT_Airbnbs-Work-to-Fi

¹ The Facebook report notes that the audit began with a focus on specific topics, including “voter suppression and voter information, building a civil rights accountability infrastructure, content moderation and enforcement (including hate speech and harassment), advertising targeting and practices, diversity and inclusion, fairness in algorithms and the civil rights implications of privacy practices,” and expanded to cover a full range of civil rights issues. *Id.* at p. 5.

[ght-Discrimination-and-Build-Inclusion.pdf](#). The report focuses on ways to address the potential for bias and discrimination that may inhere in Airbnb’s basic business model (summarized at p. 2), which is that:

Hosts create profiles for themselves and their property, choose their own price and availability, and set guidelines for guests. Hosts and guests learn about each other through past reviews and personal communication through the Airbnb platform. Guests and hosts use Airbnb to confirm travel dates and expectations, and make and receive payments. After the stay, both hosts and guests leave reviews for one another, which are public for all future hosts and guests to read.

The 32-page report discusses various “lessons learned” and recommends a series of actions that can be taken, which the company agreed to take.

- Consider finally the civil rights audit at **Starbucks**. This audit, led by former U.S. Attorney General Eric Holder, was precipitated by the April 2018 arrest of two African-American men, who were seated in a Philadelphia Starbucks waiting for a business meeting to begin. The Holder investigation produced a 67-page report, *A Report to Starbucks: An Examination of Starbucks’ Commitment to Civil Rights, Equity, Diversity, and Inclusion* (Jan. 2019), available at <https://stories.starbucks.com/uploads/2019/01/Covington-Report-to-Starbucks-Jan-23-2019.pdf>, as well as a follow-up assessment, *A Report to Starbucks on the Progress of its Efforts to Promote Civil Rights, Equity, Diversity, and Inclusion* (Feb. 2020), available at <https://stories.starbucks.com/uploads/2020/02/Starbucks-Civil-Rights-Assessment-2020-Update.pdf>

The audit was commissioned “to review and evaluate Starbucks’ multifaceted approach to creating an inclusive and equitable work environment for partners and a welcoming third place for customers” (2019 Report at p. 11). Mr. Holder noted (*id.* at p. 5) that although the two arrests “may not have been the result of explicit racial animus, the arrests demonstrated powerfully that unaddressed implicit bias can sometimes produce outcomes that are difficult to distinguish from those motivated by conscious racism.”

The Holder report is significant because the Philadelphia incident alerted Starbucks’ management to the need for an immediate response in order to reassure customers, investors and the public generally. That initial response included the closing all 8,000 North American stores for a day in order to train 175,000 employees on implicit bias; in addition Starbucks undertook a review of company policies for addressing situations such as the one in Philadelphia (*id.* at p. 20).

Although that training was “unprecedented in scale” for Starbucks” (*id.* at p. 21), the company realized the importance of looking beyond the specific incident and the company policies implicated by that incident. To that end, Starbucks’ management commissioned the audit led by Mr. Holder, which examined the company’s policies more broadly and led to recommendations for additional change.

So too here, the events during the summer of 2020 prompted JPMorgan to recognize the need for immediate action to address racial justice concerns. But are those steps enough? Is there more that can and should be done? Those questions cannot be answered by self-congratulatory press releases and reports. Instead, the questions can be answered only by the sort of in-depth assessment that CtW Investment Group is requesting in its proposal.

2. The Proposal transcends JPMorgan’s “ordinary business.”

JPMorgan recites the familiar considerations that are used to determine if a proposal may be excluded under the (i)(7) exclusion. The first consideration is whether a proposal deals with a task 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. The second examines the degree to which the proposal seeks to “micro-manage” the company’s operations 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. Exchange Act Release No. 34-40018 (May 21, 1998).

That said, the “significant policy” exception to that rule allows shareholders to vote on a topic that transcends a company’s ordinary business operations even if that topic relates to the “nitty-gritty of its core business” *Id.*, quoted in STAFF LEGAL BULLETIN 14H, § C; see also STAFF LEGAL BULLETIN 14J, § C3.

In the months that have passed since the deaths of George Floyd, Breonna Taylor and others, as well as the broader Black Lives Matter movement and the massive public outpouring in response to those killings, there are many articles and sources that one could cite to indicate that racial equity is a topic that transcends the usual bounds of what constitutes an “ordinary business” issue.

However, rather than submit a lengthy catalogue of such authorities, we offer just one example that we submit will illustrate how the topic of the Proposal transcends “ordinary business” concerns.

In his inaugural address last week President Biden stated:

A cry for racial justice some 400 years in the making moves us. The dream of justice for all will be deferred no longer.

We can deliver racial justice, and we can make America once again the leading force for good in the world.

Inaugural Address of President Joseph R. Biden, Jr. (20 January 2021), available at <https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/01/20/inaugural-address-by-president-joseph-r-biden-jr/>

Six days later, in signing executive orders dealing with racial justice, the President was more specific, stating:

In my campaign for President, I made it very clear that the moment had arrived as a nation where we face deep racial inequities in America and system – systemic racism that has plagued our nation for far, far too long.

I said it over the course of the past year that the blinders had been taken come off the nation of the American people. What ma- — what many Americans didn't see, or had simply refused to see, couldn't be ignored any longer.

Those 8 minutes and 46 seconds that took George Floyd's life opened the eyes of millions of Americans and millions of people around — all over the world. It was the knee on the neck of justice, and it wouldn't be forgotten. It stirred the conscience of tens of millions of Americans, and, in my view, it marked a turning point in this country's attitude toward racial justice.

Just imagine if instead of denying millions of Americans the ability to own a home and build generational wealth — who made it possible for them buy a home, their first home — and begin to build equity to provide for their families and send their children off to school, does anyone doubt that the whole nation will be better off?

Just imagine: Instead of denying millions of young entrepreneurs the ability to access capital, we made it possible to take their dream to market, create jobs, reinvest in their own communities. Does anyone doubt this whole nation wouldn't be better off?

Today, I'll be shortly signing an additional package of executive actions to continue this vital work. Housing, for example: Housing is a right in America, and homeownership is an essential tool to wealth creation and to be passed down to generations.

Remarks by President Biden at Signing of an Executive Order on Racial Equity (26 January 2021), available at <https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/01/26/remarks-by-president-biden-at-signing-of-an-executive-order-on-racial-equity/>

We cite these statements not to make a partisan point, but to state what should be an obvious conclusion. If the President of the United States makes a topic a major focus of his inaugural address, and if he follows up by targeting areas that are at the heart of a company's business – in this case, access to capital, home ownership opportunities, and home ownership as a gateway to wealth generation – it should be difficult to argue that the topic is devoid of policy significance.

Notwithstanding this difficulty, JPMorgan tries to compare this Proposal to proposals that were excluded because they involved day-to-day issues that lacked any policy significance, such as proposals to regulate a company's relationship with its customers or the products and services that a company offers. JPMorgan Letter at pp. 9-11. Those decisions involved topics that pale in significance to the topic raised by the Proposal, as they involve proposals that asked—

- a bank to prepare a report on the impact of overdraft fees on bank customers (*JPMorgan Chase & Co.* (21 February 2019));
- a telephone company to provide free tools to block robocalls (*AT&T Inc.* (28 December 2016));
- an automobile manufacturer to remove dealers who provide poor customer service (*Ford Motor Co.* (13 February 2013));
- a soft drink company to report on how the company can provide information to consumers on the company's products (*The Coca-Cola Co.* (21 January 2009, *recon. denied*, 21 April 2009);
- a drug manufacturer to report on steps taken to prevent its products from being used in lethal injection executions (*Pfizer Inc.* (1 March 2016));
- an entertainment company to release a specific film in Blu-ray format (*The Walt Disney Co.* (23 November 2015));
- a bank seeking a report on the adequacy of the company's policies on direct deposit advance lending service (*Wells Fargo & Co.* (28 January 2013, *recon. denied* 4 March 2013)).

The JPMorgan Letter concludes (at pp. 12-13) with a potpourri of arguments aiming to show that—

- The board of directors has given the Proposal adequate consideration and that nothing further is required in light of the recently announced initiatives;
- Implementing the Proposal would have “no bearing on the Company's core business activities and financial statements,” since the Company has already undertaken the actions described in the JPMorgan Letter;
- Shareholders “have not demonstrated significant interest” in the issue; and

- Shareholders have never voted on the issue.²

We treat these points together because they suffer from a common defect, namely, a mischaracterization of the Proposal. The Proposal is *not* seek a report on what JPMorgan is doing and will do to address racial equity issues. Indeed, the Proposal was submitted with an awareness of the Company's plans, witness the acknowledgment in the Supporting Statement of the new \$30 billion commitment.

What the Proposal does seek is the sort of independent audit described in connection with the (i)(5) discussion above, which could examine JPMorgan's practices and report on the *effectiveness* of those initiatives and what other initiatives, if any, may be appropriate. As demonstrated above, there is ample precedent for the sort of independent racial equity audit that other companies have employed and endorsed.

Conclusion

For these reasons, we respectfully ask the Division to advise JPMorgan Chase & Co. that the Division does not concur that the CtW Investment Group Proposal may be omitted under Rule 14a-8(i)(10) or Rule 14a-8(i)(7).

Thank you for your consideration of these points. Please feel free to contact me if any additional information would be helpful.

Very truly yours,



Cornish F. Hitchcock

cc: Brian V. Breheny

²The last two points seem to be a makeweight. The assertion that JPMorgan "shareholders have not demonstrated significant interest" in a racial equity audit apparently rests on the fact that during the Company's engagements with its top shareholders, none of those shareholders raised that concern of their own accord. Of course, that fact is hardly predictive of what shareholders might say if they were asked directly for their opinion. And surely the fact that shareholders have not previously voted on the issue does not mean that the topic lacks policy significance.

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

1440 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005-2111

TEL: (202) 371-7000
FAX: (202) 393-5760
www.skadden.com

DIRECT DIAL
202-371-7180
DIRECT FAX
202-661-9010
EMAIL ADDRESS
BRIAN.BREHENY@SKADDEN.COM

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January 11, 2021

BY EMAIL (shareholderproposals@sec.gov)

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

Re: Shareholder Proposal Submitted by CtW Investment Group

Ladies and Gentlemen:

This letter is submitted on behalf of JPMorgan Chase & Co., a Delaware corporation (the “Company”), pursuant to Rule 14a-8(j) promulgated under the Securities Exchange Act of 1934, as amended (the “Exchange Act”). The Company requests that the staff of the Division of Corporation Finance (the “Staff”) of the U.S. Securities and Exchange Commission (the “Commission”) not recommend enforcement action if the Company omits from its proxy materials for the Company’s 2021 Annual Meeting of Shareholders (the “2021 Annual Meeting”) the shareholder proposal and supporting statement (the “Proposal”) submitted by CtW Investment Group (the “Proponent”).

This letter provides an explanation of why the Company believes it may exclude the Proposal and includes the attachments required by Rule 14a-8(j). In accordance with Section C of Staff Legal Bulletin 14D (Nov. 7, 2008) (“SLB 14D”), this letter is being submitted by email to shareholderproposals@sec.gov. A copy of this letter also is being sent to the Proponent as notice of the Company’s intent to omit the Proposal from the Company’s proxy materials for the 2021 Annual Meeting.

Rule 14a-8(k) and Section E of SLB 14D provide that shareholder proponents are required to send companies a copy of any correspondence that the shareholder proponents elect to submit to the Commission or the Staff. Accordingly, we are

taking this opportunity to remind the Proponent that if the Proponent submits correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should be furnished concurrently to the Company.

Background

The Company received the Proposal on November 12, 2020, along with a cover letter from the Proponent and a letter from Amalgamated Bank verifying the Proponent's stock ownership in the Company. Copies of the Proposal, cover letter and related correspondence are attached hereto as Exhibit A.

Summary of the Proposal

The text of the resolution contained in the Proposal follows:

RESOLVED that shareholders of JPMorgan Chase & Co. ("JPMorgan") urge the Board of Directors to oversee a racial equity audit analyzing JPMorgan's adverse impacts on nonwhite stakeholders and communities of color. Input from civil rights organizations, employees, and customers should be considered in determining the specific matters to be analyzed. A report on the audit, prepared at reasonable cost and omitting confidential or proprietary information, should be publicly disclosed on JPMorgan's website.

Bases for Exclusion

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:

- Rule 14a-8(i)(10) because the Company has substantially implemented the Proposal; and
- Rule 14a-8(i)(7) because the Proposal deals with matters relating to the Company's ordinary business operations.

Analysis

While we believe the Proposal should be excluded for the reasons set forth below, the arguments contained within this letter should not be misconstrued to suggest that racial equity is anything but a matter of the utmost importance to the Company. Commitments to integrity, fairness and responsibility are foundational principles at JPMorgan Chase & Co. The Company believes there is no place for racism, prejudice or discrimination within it or elsewhere. The Company is committed to fostering inclusive and diverse environments in the Company and the

communities it serves. As part of this, the Company has made and continues to make substantial commitments to advance racial equity and to combat systemic racism, including with respect to how it serves its customers and clients, its investments in communities and its support for employees. As discussed in more detail below, the Company's significant commitments include:

1. Committing \$30 billion through business, community and policy solutions to close the racial wealth divide, support employees and break down barriers of systemic racism;
2. Increasing diversity, inclusion and equality across leadership, underrepresented groups and at the Company, overall;
3. Continuing investments in Advancing Black Pathways in an effort to strengthen the economic foundation of the Black community; and
4. Increasing diversity in the Company's supply chain.

The Company's commitments and its many initiatives and related public disclosures, some of which are described in this letter, reflect the Company's ongoing commitment to advance racial equity and report on its progress, as requested by the Proposal.

A. The Proposal May Be Excluded Pursuant to Rule 14a-8(i)(10) Because the Company Has Substantially Implemented the Proposal.

Rule 14a-8(i)(10) permits a company to exclude a shareholder proposal if the company has already substantially implemented the proposal. The Commission adopted the "substantially implemented" standard in 1983 after determining that the "previous formalistic application" of the rule defeated its purpose, which is to "avoid the possibility of shareholders having to consider matters which already have been favorably acted upon by the management." See Exchange Act Release No. 34-20091 (Aug. 16, 1983) (the "1983 Release"); Exchange Act Release No. 34-12598 (July 7, 1976). In adopting this standard, the Commission made it clear that the actions requested by a proposal need not be "fully effected" provided that they have been "substantially implemented" by the company. See 1983 Release.

Applying this standard, the Staff has consistently permitted the exclusion of a proposal when it has determined that the company's policies, practices and procedures or public disclosures compare favorably with the guidelines of the proposal. See, e.g., *Devon Energy Corp.* (Apr. 1, 2020)*; *Johnson & Johnson* (Jan.

* Citations marked with an asterisk indicate Staff decisions issued without a letter.

31, 2020)*; *Pfizer Inc.* (Jan. 31, 2020)*; *The Allstate Corp.* (Mar. 15, 2019); *Johnson & Johnson* (Feb. 6, 2019); *United Cont'l Holdings, Inc.* (Apr. 13, 2018); *eBay Inc.* (Mar. 29, 2018); *Kewaunee Scientific Corp.* (May 31, 2017); *Wal-Mart Stores, Inc.* (Mar. 16, 2017); *Dominion Resources, Inc.* (Feb. 9, 2016); *Ryder System, Inc.* (Feb. 11, 2015); *Wal-Mart Stores, Inc.* (Mar. 27, 2014).

In addition, the Staff has permitted exclusion under Rule 14a-8(i)(10) where the company already addressed the underlying concerns and satisfied the essential objectives of the proposal, even if the proposal had not been implemented exactly as proposed by the proponent. For example, in *Oshkosh Corp.* (Nov. 4, 2016), the Staff permitted exclusion under Rule 14a-8(i)(10) of a proposal asking the board to amend certain provisions of the company's proxy access bylaw in accordance with the six "essential elements" specified in the proposal. In arguing that the proposal had been substantially implemented, the company explained that it had adopted three of the six proposed changes in the proposal. Although the proposal asked for the adoption of all of the proposed changes, the Staff concluded that the company's bylaw amendments "compare favorably with the guidelines of the proposal" and that the company substantially implemented the proposal. Similarly in *PG&E Corp.* (Mar. 10, 2010), the Staff permitted exclusion under Rule 14a-8(i)(10) of a proposal requesting that the company provide a report disclosing, among other things, the company's standards for choosing the organizations to which the company makes charitable contributions and the "business rationale and purpose for each of the charitable contributions." In arguing that the proposal had been substantially implemented, the company referred to a website where the company had described its policies and guidelines for determining the types of grants that it makes and the types of requests that the company typically does not fund. Although the proposal appeared to contemplate disclosure of each and every charitable contribution, the Staff concluded that the company had substantially implemented the proposal. *See also, e.g., The Wendy's Co.* (Apr. 10, 2019) (permitting exclusion under Rule 14a-8(i)(10) of a proposal requesting a report assessing human rights risks of the company's operations, including the principles and methodology used to make the assessment, the frequency of assessment and how the company would use the assessment's results, where the company had a code of ethics and a code of conduct for suppliers and disclosed on its website the frequency and methodology of its human rights risk assessments); *MGM Resorts Int'l* (Feb. 28, 2012) (permitting exclusion under Rule 14a-8(i)(10) of a proposal requesting a report on the company's sustainability policies and performance, including multiple objective statistical indicators, where the company published an annual sustainability report); *Exelon Corp.* (Feb. 26, 2010) (permitting exclusion under Rule 14a-8(i)(10) of a proposal requesting a report disclosing policies and procedures for political contributions and monetary and non-monetary political contributions where the company had adopted corporate political contributions guidelines).

In particular, in *JPMorgan Chase & Co.* (Feb. 5, 2020) the Staff permitted exclusion under Rule 14a-8(i)(10) of a proposal requesting that the company's board review the Business Roundtable's Statement on the Purpose of a Corporation, provide oversight and guidance as to how the statement should alter the company's governance and management system and publish recommendations regarding implementation of the statement. The company argued that it had substantially implemented the proposal because it already operated in accordance with the principles set forth in the Business Roundtable's Statement on the Purpose of a Corporation, which conclusion was supported by the company's corporate governance and nominating committee. In permitting exclusion of the proposal, the Staff stated that "it appears that the board's actions compare favorably with the guidelines of the [p]roposal and that the company has, therefore, substantially implemented the [p]roposal," noting in particular the company's representation that "the [c]orporate [g]overnance & [n]ominating [c]ommittee of the [b]oard again reviewed the BRT Statement and determined that no additional action or assessment is required, as the [c]ompany already operates in accordance with the principles set forth in the BRT Statement with oversight and guidance by the [b]oard of [d]irectors, consistent with the [b]oard's fiduciary duties." *See also Apple Inc.* (Dec. 17, 2020)*.

In this instance, the Company has substantially implemented the Proposal, the essential objective of which is to obtain a report on ways the Company can advance racial equity. In particular, the Proposal's supporting statement notes that such an assessment could help "obtain a complete picture of how [the Company] contributes to, and could help dismantle, systemic racism." As described below, the Company already publishes extensive information relating to its current efforts and future commitments to address systemic racism and advance racial equity. The Company works with and considers feedback from nonprofit partners, employees and customers, and considers work done across the Company, including for example, the work of the Company's *PolicyCenter*, Office of Diversity & Inclusion and the JPMorgan Chase Institute, which engage with policy, business, community, and nonprofit leaders. Moreover, as described in the Company's definitive proxy statement for the 2020 annual meeting of shareholders,¹ many of these positions and practices are overseen and reviewed by the Public Responsibility Committee of the Board of Directors (the "Board").

¹ *See the Company's Definitive Proxy Statement for its 2020 Annual Meeting of Shareholders*, available at <https://www.sec.gov/Archives/edgar/data/19617/000119312520098865/d822689ddef14a.htm>.

In this regard, the Company's website features an "Impact" landing page, which describes the Company's various initiatives to advance racial equity.² Accessible through that landing page is a "Path Forward" website, which provides detailed information on the Company's plan to advance racial equity by committing \$30 billion over the next five years to "drive an inclusive recovery [from the COVID-19 pandemic], support employees and break down barriers of systemic racism."³ The Path Forward website acknowledges the problems of historical systemic racism, noting that "[s]tructural barriers in the U.S. have created profound racial inequalities, made worse by the COVID-19 pandemic. The existing racial wealth gap puts a strain on families' economic mobility and restricts the U.S. economy." Moreover, the Company's Chairman and Chief Executive Officer addresses these issues on the Path Forward website, stating that "[s]ystemic racism is a tragic part of America's history" and that "[w]e can do more and do better to break down systems that have propagated racism and widespread economic inequality, especially for Black and Latinx people. It's long past time that society addresses racial inequities in a more tangible, meaningful way." Similarly, the Company's Global Head of Diversity and Inclusion is quoted on the website as saying, "[w]e have a responsibility to intentionally drive economic inclusion for people that have been left behind. The COVID-19 crisis has exacerbated long-standing inequities for Black and Latinx people around the world. This moment is a catalyst to create change and build an economy that creates and sustains opportunity and racial equity for Black and Latinx communities."

After acknowledging the problem of systemic racism, the Path Forward website proceeds to describe, in detail, the Company's significant commitment to advancing racial equity. For example, the website discloses that the Company plans to "promote and expand affordable housing and homeownership for underserved communities" by originating 40,000 new home purchase loans for Black and Latinx households through an additional \$8 billion commitment in mortgages. In addition, the website notes that the Company intends to promote Black- and Latinx-owned businesses by providing an additional 15,000 loans to small businesses in majority-Black and -Latinx communities up to \$2 billion and to spend an additional \$750 million with Black and Latinx suppliers. The website also highlights that the Company has committed to invest equity in early-stage companies that create opportunities in underserved communities, with a particular focus on serving the needs of Black and Latinx people.

Recognizing that "[t]here are significant racial disparities in the financial health of Black and Latinx households, which serve as a barrier to achieve financial

² See *Impact*, available at <https://www.jpmorganchase.com/impact>.

³ See *Our Path Forward*, available at <https://www.jpmorganchase.com/impact/path-forward>.

stability, meet their long-term financial goals and build wealth,” the Path Forward website notes that the Company also has committed to help improve financial health and access to banking in Black and Latinx communities by helping one million people open low-cost checking or savings accounts. In particular, the website explains that the Company has committed to hiring 150 new community managers, opening new Community Center branches in underserved communities and materially increasing marketing spend to reach more customers who are currently underserved, unbanked or underbanked. Similarly, the website notes that the Company has committed to investing up to \$50 million in the form of capital and deposits in Black and Latinx-led Minority Depository Institutions (“MDI”) and Community Development Financial Institutions (“CDFI”), and continuing to mentor and advise select MDIs and CDFIs to help them achieve future success.

The Path Forward website also describes the Company’s commitment to enhancing diversity by accelerating its investment in employees and “build[ing] a more diverse and inclusive workforce.” Noting that “[w]e will take actions to build a more equitable and representative workforce, and support solutions and job training to advance racial equity in the workforce,” the website states that the Company will hold executives accountable “by incorporating priorities and progress into year-end performance evaluations and compensation decisions” for members of the Operating Committee and their direct reports. In addition to adopting initiatives to promote workforce diversity, the website emphasizes that the Company is partnering with third parties to advance racial equity and increase internal accountability. Notably, as described on the Path Forward website, the Company has committed to creating partnerships with Historically Black Colleges and Universities (“HBCU”) through curriculum development, scholarships and mentorship programs to increase the pipeline of HBCU students entering the financial planning profession. The website also notes that the Company intends to support non-profit organizations led by diverse individuals to create innovative workforce solutions and provide job training to close opportunity gaps in the labor market and advance racial equity in the workforce. Moreover, the website highlights that the Company has committed to regularly track its progress on racial equity and share results with senior leadership, as well as externally with the Chase Advisory Panel (which engages with national consumer policy groups), to assess performance and enforce accountability.

While the \$30 billion commitment and accompanying initiatives described on the Path Forward website represent a significant step in the Company’s efforts to advance racial equity, the Company’s commitment to racial equity is not limited only to those initiatives. For example, on the Company’s “Real change, right now” website, accessible directly from the Company’s main webpage, the Company describes its other programs and financial contributions to advance racial equity, many of which predate the commitments described on the Path Forward website. These include, among others: hiring and mentoring students of color; advancing

policies to help lower barriers to jobs for people with criminal backgrounds; advocating for criminal justice reform; making homeownership more accessible to communities of color; expanding access to capital for minority-owned businesses; investing to drive inclusive growth and create greater economic opportunity; opening more bank branches in majority-minority communities; supporting civil rights organizations, such as the Leadership Conference Education Fund, N.A.A.C.P. Legal Defense and Educational Fund, Inc., the National Urban League, Inc., the Equal Justice Initiative, and diverse-led nonprofit organizations; and promoting a diverse and inclusive culture for the Company's employees and business.⁴ As emphasized by the Company's Chairman and Chief Executive Officer, "[w]e have a collective responsibility to stand up and take serious action to address centuries of structural racism. We can all do better and do more."

The Company's "Real change, right now" website also includes links to the Company's other racial equity initiatives, such as Advancing Black Pathways, which aims to expand economic opportunity for the Black community,⁵ The Fellowship Initiative, which matches high school students in underserved communities with employee mentors,⁶ and The *PolicyCenter*, which focuses on solutions to drive inclusive economic growth, such as advocating for federal and state policy changes to remove barriers to employment for people with criminal backgrounds.⁷ In this regard, the Company recently announced a commitment to triple the number of young people it engages with through The Fellowship Initiative over the next decade.⁸

Given the Company's multiple public commitments and initiatives to advance racial equity and combat systemic racism, the Company has satisfied the Proposal's essential objective of obtaining a report on ways the Company can advance racial equity and its public disclosures and actions compare favorably with

⁴ See *Real change, right now*, available at <https://www.jpmorganchase.com/impact/real-change-right-now>.

⁵ See *Advancing Black Pathways*, available at <https://www.jpmorganchase.com/impact/people/advancing-black-pathways>.

⁶ See *The Fellowship Initiative*, available at <https://www.jpmorganchase.com/impact/people/mentoring-skilled-volunteerism/the-fellowship-initiative>.

⁷ See *PolicyCenter*, available at <https://www.jpmorganchase.com/impact/our-approach/policy-center>.

⁸ See *JPMorgan Chase's The Fellowship Initiative Expands to Help More than 1,000 Young Black and Latinx Men in U.S. Cities Access Economic Opportunity*, available at <https://www.jpmorganchase.com/news-stories/jpmc-tfi-expands-to-help-more-than-1000-young-black-latinx-men>.

those requested by the Proposal. In addition, at a meeting held on January 7, 2021, the Corporate Governance & Nominating Committee (the “Committee”) of the Company’s Board of Directors (the “Board”) reviewed the Proposal. As discussed further below, the Committee determined that the Company already has assessed its impact with respect to nonwhite stakeholders and communities of color and has announced numerous, significant commitments to advance racial equity going forward. Most notably, in determining the contours of its \$30 billion commitment, the Company assessed ways it could advance racial equity. Accordingly, the Proposal has been substantially implemented and may be excluded pursuant to Rule 14a-8(i)(10).

B. 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.

Under Rule 14a-8(i)(7), a shareholder proposal may be excluded from a company’s proxy materials if the proposal “deals with matters relating to the company’s ordinary business operations.” In Exchange Act Release No. 34-40018 (May 21, 1998), the Commission stated that the policy underlying the ordinary business exclusion rests on two central considerations. The first recognizes that certain tasks 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. The second consideration relates to 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.

1. The Proposal deals with the Company’s ordinary business operations.

The Commission has stated that a proposal requesting the dissemination of a report is excludable under Rule 14a-8(i)(7) if the substance of the proposal is within the ordinary business of the company. *See* 1983 Release (“[T]he staff will consider whether the subject matter of the special report or the committee involves a matter of ordinary business; where it does, the proposal will be excludable under Rule 14a-8(c)(7).”); *see also Netflix, Inc.* (Mar. 14, 2016) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that requested a report describing how company management identifies, analyzes and oversees reputational risks related to offensive and inaccurate portrayals of Native Americans, American Indians and other indigenous peoples, how it mitigates these risks and how the company incorporates these risk assessment results into company policies and decision-making, noting that the proposal related to the ordinary business matter of the “nature, presentation and content of programming and film production”).

In accordance with the policy considerations underlying the ordinary business exclusion, the Staff has permitted exclusion under Rule 14a-8(i)(7) of proposals relating to the community impacts of a company's operations. In *Amazon.com, Inc.* (Mar. 28, 2019), for example, the Staff permitted exclusion under Rule 14a-8(i)(7) of a proposal requesting an analysis of the community impacts of the company's operations "considering near- and long-term local economic and social outcomes, including risks, and the mitigation of those risks, and opportunities arising from its presence in communities." In the proposal's supporting statement, the proponents argued that the company faced "significant financial and reputational risks" due to its alleged negative impacts on, among others, housing availability, access to education, transportation and other infrastructure concerns in the communities in which it operates. In concurring with the company's view that the proposal could be excluded under Rule 14a-8(i)(7), the Staff noted that the proposal "relates generally to 'the community impacts' of the [c]ompany's operations and does not appear to focus on an issue that transcends ordinary business matters." *See also, e.g., Amazon.com, Inc.* (Mar. 16, 2018) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that requested a report on risks relating to the societal impact of the company's growth).

In addition, the Staff has permitted exclusion of proposals that relate to a company's relationships with its customers. *See, e.g., JPMorgan Chase & Co.* (Feb. 21, 2019) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that requested the board complete a report on the impact to customers of the company's overdraft policies); *AT&T Inc.* (Dec. 28, 2016) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that requested the company provide free tools to customers to block robocalls); *Ford Motor Co.* (Feb. 13, 2013) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that requested removal of dealers that provided poor customer service, noting that "[p]roposals concerning customer relations are generally excludable under rule 14a-8(i)(7)"); *The Coca-Cola Co.* (Jan. 21, 2009, *recon. denied* Apr. 21, 2009) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that requested a report on how the company could provide information to customers regarding the company's products, noting that the proposal "relat[ed] to Coca-Cola's ordinary business operations (i.e., marketing and consumer relations)").

The Staff also has permitted exclusion under Rule 14a-8(i)(7) of shareholder proposals relating to the products and services offered by a company. *See, e.g., Pfizer Inc.* (Mar. 1, 2016) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting a report describing the steps the company has taken to prevent the sale of its medicines to prisons for the purpose of aiding executions, noting that the proposal "relates to the sale or distribution of [the company's] products"); *The Walt Disney Co.* (Nov. 23, 2015) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting that the company's board of directors approve the release of a specific film on Blu-ray, noting that the proposal "relates to the products and services offered

for sale by the company”); *Wells Fargo & Co.* (Jan. 28, 2013, *recon. denied* Mar. 4, 2013) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting a report discussing the adequacy of the company’s policies in addressing the social and financial impacts of the company’s direct deposit advance lending service, noting that the proposal “relates to products and services offered for sale by the company”).

In this case, the Proposal seeks a wide-ranging report that would address multiple aspects of the Company’s ordinary business operations, including community impacts, the Company’s relationships with its customers and the products and services offered by the Company. In particular, the Proposal requests a report concerning the Company’s “adverse impacts on nonwhite stakeholders and communities of color.” The supporting statement also refers to the Company’s relationships with “the communities it serves.” While both of these concerns have been specifically recognized by the Staff as ordinary business matters upon which a proposal may be excluded pursuant to Rule 14a-8(i)(7), the broad scope of the report requested by the Proposal would also relate to the Company’s decisions regarding the products and services it offers. Accordingly, consistent with the precedent described above, the Proposal is excludable under Rule 14a-8(i)(7).

2. *The Company’s Corporate Governance & Nominating Committee has considered the Proposal’s request and determined that, in light of the numerous actions already taken by the Company, the Proposal does not focus on a significant policy issue that transcends the Company’s ordinary business.*

We are aware that a proposal may not be excluded under Rule 14a-8(i)(7) if it is determined to focus on a significant policy issue. The fact that a proposal may touch upon a significant policy issue, however, does not preclude exclusion under Rule 14a-8(i)(7). As stated in Staff Legal Bulletin No. 14I (Nov. 1, 2017) (“SLB 14I”), “whether the significant policy exception applies depends, in part, on the connection between the significant policy issue and the company’s business operations.” According to the Staff, a “well-developed discussion of the board’s analysis” of whether a particular issue is sufficiently significant – because the matter transcends ordinary business and would be appropriate for a shareholder vote – may assist the staff in its review of no-action requests under Rule 14a-8(i)(7). *See* SLB 14I. In Staff Legal Bulletin No. 14J (Oct. 23, 2018) (“SLB 14J”), the Staff provided a non-exclusive list of factors a board might consider in arriving at its conclusion that an issue is not sufficiently significant in relation to the company. In addition, the Staff stated that a company’s request for exclusion should “include a discussion that reflects the board’s analysis of the proposal’s significance to the company” and should detail “the specific processes employed by the board to ensure that its conclusions are well-informed and well-reasoned.” *See* SLB 14I; *see also Apple Inc.* (Dec. 2, 2019 *recon. denied* Jan. 17, 2020) (permitting exclusion under Rule

14a-8(i)(7) of a proposal requesting a report on risks associated with omitting certain terms from its equal employment opportunity policy, where the board's nominating and corporate governance committee analyzed the proposal and concluded that it did not present a significant policy issue for the company). In addition, in Staff Legal Bulletin No. 14K (Oct. 16, 2019) ("SLB 14K") the Staff reiterated its view of the utility of a board analysis and provided further guidance on certain factors in such analysis.

In this instance, the Committee evaluated the Proposal and the Company's significant commitments and actions with respect to the issue raised by the Proposal and concluded the Proposal does not focus on a significant policy issue that transcends the Company's ordinary business. In particular, at a meeting held on January 7, 2021, the Committee reviewed the Proposal, taking into consideration its own substantial knowledge of the Company, the Company's operations and business environment, and input from management. Based on this review, the Committee determined that, as a result of the numerous actions already taken by the Company, the Proposal does not present a significant issue that transcends the Company's ordinary business. In reaching this conclusion, the Committee reviewed the following factors, as described in SLB 14J and 14K, and made the following determinations.

- i. The Company has already made extensive commitments to advance racial equity and there is not a significant difference between the objective of the Proposal and what the Company already has done.*

As described in SLB 14K, the Committee considered "[w]hether the company has already addressed the issue in some manner, including the differences – or the delta – between the proposal's specific request and the actions the company has already taken, and an analysis of whether the delta presents a significant policy issue for the company." In accordance with the discussion on pages 5 through 9 of this letter, the Committee considered that the Company already has assessed its impact with respect to nonwhite stakeholders and communities of color and, as informed by this assessment, made numerous, significant commitments to advance racial equity going forward. The Company also works with and considers feedback from nonprofit partners and considers work done across the Company, including, for example, the work of the Company's PolicyCenter, Office of Diversity & Inclusion and the JPMorgan Chase Institute, which engage with policy, business, community, and nonprofit leaders. Most notably, in determining the contours of its \$30 billion commitment, the Company assessed ways it could advance racial equity. In addition, the Company's senior leadership has publicly committed to addressing the problems of racial inequity and systemic racism by developing and committing to a number of significant initiatives to advance racial equity, including through an

Accountability Framework wherein the Company will hold members of the Operating Committee and their direct reports accountable toward achieving company-wide diversity representation goals by incorporating diversity and inclusion priorities into year-end performance evaluations and compensation decisions. The Committee also considered that the Public Responsibility Committee of the Board already provides oversight and review of the Company's positions and practices on public policy issues that reflect the Company's values and impact its reputation among all of its stakeholders. Although the Company does not provide a retrospective report on its past actions, given the Company's significant financial commitment and its many initiatives outlined above, the Company already is addressing the Proposal's goal and the issue of advancing racial equity. Thus, any remaining differences between the Proposal and the Company's actions do not present a significant policy issue to the Company.

ii. Implementation of the Proposal has no bearing on the Company's core business activities and financial statements.

Further, because the Company has already taken a number of significant actions to advance racial equity and combat systemic racism and there is little difference between the Proposal's request and the Company's current and planned actions, implementation of the Proposal would not have a clear impact on the Company's core business activities and financial statements.

iii. In light of the Company's strong commitment to this issue, shareholders have not demonstrated significant interest in the type of audit or report requested by the Proposal.

The Company is actively engaged with a number of its shareholders on issues relating to racial equity and the actions the Company is taking to address these issues. Indeed, these engagements provide the Company with useful feedback, which is considered when developing the Company's policies and commitments. The Company is not aware, however, of any shareholders other than the Proponent who have requested an "audit" or report of the type described in the Proposal or who have submitted a shareholder proposal to the Company requesting an audit or report on this topic.

iv. The issue presented by the Proposal has never been voted on.

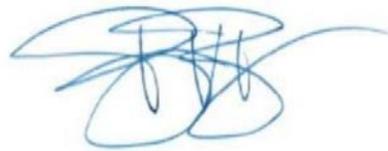
The Proposal has not been previously voted on by shareholders, nor has anyone other than the Proponent requested the type of action sought by the Proposal. Although the Proposal's specific request has not been considered before, the most recent time a shareholder proposal on the related topic of gender and racial pay equity was considered by the Company's shareholders in 2020, that proposal received only 9.4% support.

After considering these factors, the Committee determined that the specific actions requested by the Proposal do not raise a significant policy issue that transcends the Company's ordinary business. Accordingly, consistent with the precedent described above, the Proposal may be excluded pursuant to Rule 14a-8(i)(7) as relating to the Company's ordinary business operations.

Conclusion

On the basis of the foregoing, the Company respectfully requests the concurrence of the Staff that the Proposal may be excluded from the Company's proxy materials for the 2021 Annual Meeting. If you have any questions or would like any additional information regarding the foregoing, please do not hesitate to contact me at (202) 371-7180. Thank you for your prompt attention to this matter.

Very truly yours,



Brian V. Breheny

Enclosure

cc: Tejal K. Patel
Corporate Governance Director
CtW Investment Group

Molly Carpenter
Corporate Secretary
JPMorgan Chase & Co.

EXHIBIT A

(see attached)



November 12, 2020

JPMorgan Chase & Co.,
Chairman and CEO James Dimon
Office of the Secretary
4 New York Plaza,
New York, NY 10004-2413

Dear Chairman and CEO Dimon:

In light of recent high profile police killings of Black people, the ensuing nationwide protests against racial injustice, and companies' responses to these events, we urge the board of JPMorgan Chase & Co. ("JPMorgan") to conduct and disclose the results of a racial equity audit that would identify, prioritize, and remedy the adverse impacts of the company's policies and practices on non-white stakeholders and communities of color. The board should engage a variety of key stakeholders in undergoing this audit and evaluating the specific topics to be addressed, including civil rights organizations, employees, and customers.

As outlined further below, we believe that this disclosure would demonstrate concrete steps that the company has taken to address racial injustice and unequal treatment not only in its own workplace, but also within the community that it serves. JPMorgan, like many other issuers, has made a public statement supporting Black Lives Matter and racial justice. While these statements are informative to investors, the meaning is lost without concrete action and introspection by company leadership.

The CtW Investment Group works with pension funds sponsored by unions affiliated with Change to Win, a federation of unions representing nearly 5.5 million members, to enhance long term shareholder value. These funds have over \$250 billion in assets under management and are substantial JPMorgan shareholders.

The Banking Industry's Role in Reinforcing Racial Inequality Raises Concern

The current reckoning on racial injustice facing the financial industry is not new, with the industry playing a significant role in the economic inequality facing communities of color. White households on average hold 10 times the wealth of Black households, which is largely attributable to institutionalized racism within the U.S. financial system. The driving factor for this inequality in wealth distribution is lenders failing to issue mortgages to minorities. By way of example, for every \$1 loaned out to finance residential properties in white neighborhoods in Chicago from 2012-2018, a mere 12 cents was invested in Black neighborhoods, despite anti-discrimination laws that were passed in the 1960's that bar such practices, known as "redlining."¹

Mortgage issuances are just one concern, however. Black and Hispanic banking customers have also been reported to face higher monthly checking account fees than white customers. According to a recent survey, Black and Hispanic customers reported paying \$12 and \$16 per month, respectively, for

¹ Jennifer Tescher, *American Banker*, "Bankers need to walk the walk on equality," June 9, 2020, available at <https://www.americanbanker.com/opinion/bankers-need-to-walk-the-walk-on-equality>.

overdraft penalties and ATM surcharges, versus \$5 per month for white customers.² A 2018 study by *New America* reinforced these findings, noting that Black and Hispanic communities face higher costs associated with opening accounts, higher maintenance fees, and larger minimum deposit requirements than their white counterparts.³ Given that checking accounts effectively operate as a mechanism to participate more actively in the economy, these requirements redirect income and reduce the economic power of people of color, who also typically earn less than white customers. In light of the current pandemic and the significant spike in unemployment, these requirements threaten to reverse years of gains in the number of households having access to a bank account.

Further, there is a trend within the financial industry to not only charge more to communities of color, but exit those markets entirely effectively creating “banking deserts.” In fact, more bank branches have been closed in predominantly Black neighborhoods, even wealthy ones, than any other community broken down by race. The lack of mainstream banking makes communities of color even more vulnerable as they are forced to resort to predatory financial alternatives, such as payday lenders and check cashing services that often charge significantly more fees than traditional banks.

The lack of bank branches not only impacts personal banking, but commercial banking that is based very much on the relationship between business owners and financial advisors. A 2018 Federal Reserve study noted that “banks without a local branch were much less likely to originate small business loans in that community.”⁴ Minority-owned businesses continue to struggle with access to capital, much of which is restricted by the industry’s low approval rates for funding small businesses within communities of color. The Federal Reserve has reported that more than half of Black-owned businesses that applied for a loan were rejected, twice the rate of a white owned business.⁵ A study by *The Business Journals* of its 44 markets found that the four largest banks, including JPMorgan, made 91% fewer Small Business Administration 7(a) loan guarantees to Black-owned businesses in 2019 than in 2007.⁶

These trends have only been exacerbated further as a result of the coronavirus pandemic, with white-owned businesses receiving 83% of the first-round of loans authorized through the Paycheck Protection Program (“PPP”), from April 1-17, 2020, according to *Bloomberg*.⁷ Although this gap narrowed once a second tranche of funding was released on April 27, the damage had already been done. Between February and April 2020, over 41% of Black-owned businesses and 32% of Hispanic-owned businesses

² Kristopher J. Brooks, *CBS News*, “Blacks and Latinos say they pay higher bank fees, research suggests, they’re right,” January 16, 2020, available at <https://www.cbsnews.com/news/minorities-report-paying-higher-banking-fees-than-white-people-bankrate-survey-says/>.

³ Jacob Faber & Terri Friedline, *New America*, *The Racialized Costs of Banking*, June 2018, available at https://d1y8sb8igg2f8e.cloudfront.net/documents/The_Racialized_Costs_of_Banking_2018-06-20_205129.pdf, p. 4-5.

⁴ Zach Fox, et. al, *S&P Global*, “Bank Branch Closures Take Greatest Toll on Majority Black Areas,” July 25, 2019, p. 5.

⁵ Gene Marks, *The Guardian*, “Black owned firms are twice as likely to be rejected for loans. Is this Discrimination?” January 16, 2020, available at <https://www.theguardian.com/business/2020/jan/16/black-owned-firms-are-twice-as-likely-to-be-rejected-for-loans-is-this-discrimination>.

⁶ Matthew Kish & Malia Spencer, *The Business Journals*, “One System Unequal Access,” October 15, 2020, available at <https://www.bizjournals.com/portland/news/2020/10/15/unequal-access-how-the-us-financial-system-is.html?b=1602790745%5E21787983>.

⁷ Jason Grotto et. al., *Bloomberg*, “White America Got a Head Start on Small-Business Virus Relief,” June 30, 2020, available at <https://www.bloomberg.com/graphics/2020-ppp-racial-disparity/?sref=cdlci118>.

went out of business due to the pandemic. Only 17% of white-owned businesses were forced to close during the same period.

Finally, not only have the financial industry's external practices adversely impacted communities of color, but its internal practices reflect little progress in achieving racial equity within the industry's workforce and leadership teams. The House Financial Services Committee recently held a hearing on workforce diversity within the banking industry, noting that at "megabanks," like JPMorgan, just under 10% of the workforce was Black. More alarming still was the fact that a mere 19% of executive senior level positions at all banks that reported back to the Committee were held by ethnic or racial minorities.⁸ In order to better evaluate their full impact on communities of color, financial institutions must review their human capital management practices in relation to employees of color.

JPMorgan's External and Internal Practices Raise Concerns Regarding Racial Inequality

JPMorgan recently announced a \$30 billion initiative to close the racial wealth gap in response to the Black Lives Matter protests in June 2020. This commitment includes \$12 billion to mortgages and refinance loans for underserved communities, \$14 billion to finance affordable housing, and \$2 billion in loans to small businesses in majority Black and Hispanic communities. Simply pledging funds, however, is not enough to bridge the gap between decades of discrimination and the lack of wealth creation within Black and Brown communities.

While providing funding to communities of color may appear beneficial at first glance, these initiatives do not address the inequality in JPMorgan's own lending practices and product offerings. For example, in Chicago from 2012 to 2018, JPMorgan loaned out 41 times more funding for mortgages to white neighborhoods than to Black neighborhoods. In 2017, JPMorgan settled a federal lawsuit for \$55 million related to allegations that mortgage brokers it worked with had discriminated against minority borrowers from 2006 to 2009 by charging them approximately \$1,000 more on average. A letter from the Senate Banking Committee in late 2019 lists additional multi-million dollar settlements from 2013 and 2014 related to fraudulent lending practices, including predatory lending.⁹ The bank's history of these discriminatory practices is concerning given it is unclear what steps JPMorgan has taken to remedy these issues, particularly in the context of its recent financial pledge.

Just late last year, a *New York Times* piece exposed how the company's practices have effectuated discrimination in the banking industry. In one instance, a Black client who had received \$320,000 in a wrongful death lawsuit was effectively deemed as undesirable for services. A JPMorgan manager was quoted as saying, "You've got somebody who's coming from Section 8, never had a nickel to spend," further stating, "This is not money she respects. She didn't earn it." Also concerning was the treatment of former NFL player Jimmy Kennedy, who is Black and a former client of JPMorgan. When being denied an elite service designation, Mr. Kennedy was told by a Black JPMorgan employee, "We're in Arizona. I

⁸ House of Representatives, Financial Services Committee, *Diversity and Inclusion: Holding America's Large Banks Accountable*, February 2020, available at <https://docs.house.gov/meetings/BA/BA13/20200212/110498/HHRG-116-BA13-20200212-SD003-U1.pdf> (see Figures 5 and 6).

⁹ U.S. Senate, Committee on Banking, Housing, and Urban Affairs, Letter to James Dimon, JP Morgan Chase, December 19, 2019, available at <https://www.banking.senate.gov/imo/media/doc/2019.12.19%20-%20Letter%20to%20JPMC.pdf>.

don't have to tell you about the demographics in Arizona. They don't see people like you a lot."¹⁰ We find it difficult to understand how JPMorgan can work towards racial equality when its own practices have failed to address race discrimination in providing financial services to customers.

Additionally, the company announced plans to open new branches in cities such as Chicago, Los Angeles, and Detroit as part of their \$30 billion initiative. These new branches do not, however, redress the bank's decision to reduce the number of branches in majority Black communities by 22.8% from 2010 to 2018, giving JPMorgan the distinction of most branch closures of all the major national banks in the United States during that time period. As noted earlier, bank branch closures can not only create banking deserts, but also prevent the development of personal relationships with bank managers that are critical to financing small businesses owned by people of color.

The impact of the bank's policies on Black owned businesses can also be seen in its inequitable distribution of PPP funding to minority and women owned business. A recent House of Representatives' report found that JPMorgan applied a policy of only accepting applications for funding from clients with an existing banking relationship.¹¹ The design of JPMorgan's program allowed the wholesale banking arm (servicing high net worth companies) to utilize a relationship manager to process the application, resulting in larger commercial clients being processed faster. Small businesses on the other hand that were existing clients were required to complete an online application. As a result, at the end of the first round of the PPP 70% of the loans issued by JPMorgan, the country's largest PPP issuer, went to majority white congressional districts. We wonder how committed JPMorgan could be to minority owned small businesses when its actions reflect an apparent disregard of the practical effects of its policies.

Additionally, though JPMorgan has committed to providing donations to community organizations, the company has also provided support to the very same law enforcement institutions that are now being criticized for discrimination and excessive force against Black and Brown communities. JPMorgan holds a seat on the New Orleans's police foundation boards, and the company also previously donated over \$4.5 million to the New York City Police Foundation, which was used for "security upgrades" including security monitoring software for the department's main data center. Critics see such foundations to operate as a subversive means of funding equipment outside the public eye, including surveillance tools that are used by police departments against communities of color. We hope that this proposed audit would address JPMorgan's relationships with police foundations.

Lastly, we note that JPMorgan, like many of its peers, appears to be lagging in its own development and retention of employees of color. The company discloses that over 51% of its workforce are people of color, yet there were no Black or Hispanic executives within its C-suite until September 2020, after the Black Lives Matters protests, when the company added new members to its key Operating Committee. The company has faced numerous allegations of discrimination by Black and Hispanic employees. In 2018, the company paid \$19 million to settle allegations of widespread discrimination against Black

¹⁰ Emily Flitter, *New York Times*, "This is what racism sounds like in the banking industry," December 14, 2019, available at <https://www.nytimes.com/2019/12/11/business/jpmorgan-banking-racism.html>.

¹¹House Select Subcommittee on the Coronavirus Crisis, *Underserved and Unprotected: How the Trump Administration Neglected the Neediest Small Businesses in the PPP*, October 2020, available at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/PPP%20Report%20Final%20%283%29.pdf>, p. 5.

financial advisors. Two former JPMorgan home lending advisors who are Hispanic are pursuing claims that they were assigned poorer, less profitable locations compared to non-Hispanic advisors. In early 2020, a proposed class action was filed alleging JPMorgan had a “segregated employment policy” that placed Black personal bankers in lower income branches and offered them fewer promotional opportunities. The company also faces a pending suit related to claims made by a long-time Black secretary of being subject to repeated bullying and microaggressions by other JPMorgan employees. Although the company recently mandated diversity training for its employees, there are few details as to the program, and we question how JPMorgan is monitoring and addressing any equity gaps in compensation, promotion, and retention of employees of color as it attempts to create a sustainable, diverse management talent pool.

Conclusion:

Implementation of any next steps by JPMorgan to address racial injustice and economic inequality requires careful study of how its products and services have contributed to this imbalance. An audit that involves consultation by a variety of stakeholders, including employees and community groups, will provide a framework for this analysis. If you would like to discuss our concerns, please contact my colleague Tejal K. Patel, Corporate Governance Director, at tejal.patel@ctwinvestmentgroup.com.

Sincerely,

A handwritten signature in blue ink that reads "Dieter Waizenegger". The signature is fluid and cursive, with a stylized flourish at the end.

Dieter Waizenegger
Executive Director



November 12, 2020

Ms. Molly Carpenter
Secretary at JPMorgan Chase & Co.
Office of the Secretary
4 New York Plaza
New York, NY 10004-2413

Dear Ms. Carpenter:

On behalf of the CtW Investment Group ("CtW"), I hereby submit the enclosed shareholder proposal ("Proposal") for inclusion in the JPMorgan Chase & Co. ("Company") proxy statement to be circulated to Company shareholders in conjunction with the next annual meeting of shareholders. The Proposal is submitted under Rule 14(a)-8 (Proposals of Security Holders) of the U.S. Securities and Exchange Commission's proxy regulations.

CtW is the beneficial owner of approximately 45 shares of the Company's common stock, which have been held continuously for more than a year prior to this date of submission. The Proposal requests that the Board oversee a racial equity audit analyzing the Company's adverse impacts on nonwhite stakeholders and communities of color.

CtW intends to hold the shares through the date of the Company's next annual meeting of shareholders. The record holder of the stock will provide the appropriate verification of the fund's beneficial ownership by separate letter. Either the undersigned or a designated representative will present the Proposal for consideration at the annual meeting of shareholders.

If you have any questions or wish to discuss the Proposal, please contact Tejal K. Patel, at (202) 394-8945 or tejal.patel@ctwinvestmentgroup.com. Copies of correspondence or a request for a "no-action" letter should be sent to Ms. Patel via the email address listed above.

Sincerely,

A handwritten signature in blue ink that reads 'Dieter Waizenegger'.

Dieter Waizenegger
Executive Director, CtW Investment Group

RESOLVED that shareholders of JPMorgan Chase & Co. (“JPMorgan”) urge the Board of Directors to oversee a racial equity audit analyzing JPMorgan’s adverse impacts on nonwhite stakeholders and communities of color. Input from civil rights organizations, employees, and customers should be considered in determining the specific matters to be analyzed. A report on the audit, prepared at reasonable cost and omitting confidential or proprietary information, should be publicly disclosed on JPMorgan’s website.

SUPPORTING STATEMENT

High-profile police killings of Black people—most recently George Floyd—have galvanized the movement for racial justice. That movement, together with the disproportionate impacts of the COVID-19 pandemic have focused the attention of the media, the public and policy makers on systemic racism, racialized violence and inequities in employment, health care, and the criminal justice system. In October 2020, JPMorgan committed \$30 billion over five years to further racial equity.

JPMorgan has a conflicted history when it comes to addressing racial injustice within the communities it serves. The company has faced several lawsuits related to discriminatory lending practices against communities of color, including a federal lawsuit that settled for \$55 million related to mortgage discrimination. JPMorgan has closed numerous branches in majority-Black communities, reducing its number of branches to 22.8% from 2010 to 2018. A widely publicized 2019 *New York Times* article documented JPMorgan’s overt discriminatory practices against both its clients and employees, including the belittling of a Black client as “somebody who is coming from Section 8.”¹ More recently, by the end of the first round of the Paycheck Protection Program (“PPP”), 70% of the loans issued by JPMorgan, the nation’s largest PPP issuer, went to majority white congressional districts.

The company also faces several lawsuits from Black and Hispanic employees alleging they were assigned poorer, less profitable locations or lower income branches. In early 2020, a proposed class action was filed alleging JPMorgan had a “segregated employment policy” that placed Black personal bankers in lower income branches and offered them fewer promotional opportunities. That case has been stayed pending arbitration. The company also faces a pending suit related to claims made by a long-time Black secretary of being subject to repeated bullying and microaggressions by other JPMorgan employees.

JPMorgan’s charitable contributions are not fully aligned with its public statements. JPMorgan has contributed to police foundations in New York and New Orleans, which bypass normal procurement processes to buy equipment for police departments, including surveillance technology that has been used to target communities of color and nonviolent protestors.

¹ Emily Flitter, *New York Times*, “This is what racism sounds like in the banking industry,” December 14, 2019, available at <https://www.nytimes.com/2019/12/11/business/jpmorgan-banking-racism.html>.

A racial equity audit would help JPMorgan identify, prioritize, remedy and avoid adverse impacts on nonwhite stakeholders and communities of color. We urge JPMorgan to assess its behavior through a racial equity lens in order to obtain a complete picture of how it contributes to, and could help dismantle, systemic racism.



HOWARD N. HANDWERKER

First Vice President

OFFICE (626) 432-9907

CELL (626) 437-4819

howardhandwerker@amalgamatedbank.com

November 12, 2020

Molly Carpenter
Secretary at JPMorgan Chase & Co.
Office of the Secretary
4 New York Plaza
New York, NY 10004-2413

Dear Ms. Carpenter:

Please be advised that Amalgamated Bank holds 45 shares of JPMorgan Chase & Co. ("Company") common stock beneficially for the CTW Investment Group ("CTW"), the proponent of a shareholder proposal submitted to the Company on November 12, 2020, in accordance with Rule 14(a)-8 of the Securities and Exchange Act of 1934. CTW has continuously held at least \$2,000.00 worth of the Company's common stock for more than one year prior to submission of the resolution and plans to continue ownership through the date of your 2021 annual meeting.

Amalgamated Bank serves as custodian and record holder for CTW Investment Group. The above-mentioned shares are registered in a nominee name of Amalgamated Bank. The shares are held by the Bank through DTC Account #2352.

Sincerely,

A handwritten signature in black ink that reads "Howard N. Handwerker".