January 29, 2021

Via e-mail at shareholderproposals@sec.gov

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

Re: Request by The Wendy’s Company to omit shareholder proposal submitted by the Franciscan Sisters of Allegany, NY

To Whom It May Concern:

Pursuant to Rule 14a-8 under the Securities Exchange Act of 1934, the Franciscan Sisters of Allegany, NY (the “Proponent”) submitted a shareholder proposal (the “Proposal”) to The Wendy’s Company (“Wendy’s” or the “Company”). The Proposal asks Wendy’s to report on the extent to which Wendy’s Quality Assurance audits and third-party reviews effectively protect workers in its food supply chain from human rights violations, in light of the history of worker abuse in the agricultural industry and highly-publicized incidents of COVID-19 outbreaks at Wendy’s food suppliers. The Proposal’s supporting statement also notes Wendy’s apparent reliance on measures proven not to work, rather than joining the Fair Food Program, the gold standard in supply chain monitoring because it has proven uniquely effective at preventing human rights violations—and the only social responsibility program known to have implemented mandatory, enforceable COVID-19 worker safety protocols.

In a letter to the Division dated January 8, 2021 (the “No-Action Request”), Wendy’s stated that it intends to omit the Proposal from its proxy materials to be distributed to shareholders in connection with the Company’s 2021 annual meeting. Wendy’s claims it is entitled to exclude the Proposal in reliance on Rule 14a-8(i)(10), as substantially implemented; and Rule 14a-8(i)(7), on the ground that the Proposal deals with the Company’s ordinary business operations. While Wendy’s asserts that it sets “forth comprehensive guidelines with respect to human rights and labor practices” for its suppliers, the No-Action Request fails to address the actual purpose of the Proposal, which is principally about the effectiveness and record of enforcement of Wendy’s guidelines—in particular as they relate to the COVID-19 pandemic.

2 No Action Request, at 7.
Wendy’s also argues that its decision to continue to do business with suppliers that exposed workers to COVID-19, leading to deaths, somehow does not implicate significant social policy issues transcending ordinary business. In addition, although meat and produce suppliers comprise 180 of Wendy’s 310 suppliers, or nearly 60%, Wendy’s claims that its “day-to-day operations . . . are far removed from any underlying policy consideration of the protection of human rights and worker safety of the country’s meat and produce suppliers.”

The contradictions in Wendy’s claims are stark in its lengthy No-Action Request, repetitious and rife with irrelevant information. This appears to be an attempt to obscure the truth: that Wendy’s is seeking to avoid reporting on whether it is taking effective measures—corroborated by concrete evidence of enforcement—to protect the human rights of vulnerable workers in its meat and produce supply chain.

As discussed more fully below, Wendy’s has not met its burden of proving its entitlement to exclude the Proposal on either basis, and the Proponents respectfully request that Wendy’s request for relief be denied.

The Proposal

The Proposal states:

**RESOLVED:** Shareholders request the Board issue a report, at reasonable cost and omitting proprietary information, addressing Wendy’s Supplier Code of Conduct and the extent to which Wendy’s Quality Assurance audits and third-party reviews effectively protect workers in its food supply chain from human rights violations, including harms associated with COVID-19. This report should include:

- Whether Wendy’s requires its food suppliers to implement COVID-19 worker safety protocols (“Protocols”), and, if so, the content of the Protocols, as well as the section(s) of Wendy’s Quality Assurance audit instrument relating to the Protocols and/or the Code’s Human Rights and Labor Practices Expectations (“Expectations”);
- The number of times Wendy’s has suspended one of its meat or produce suppliers (“Suppliers”) for failing to meet Expectations and/or Protocols;
- A list of all third-party auditors approved by Wendy’s to monitor adherence to Expectations and/or Protocols, the total number of Supplier locations, how often Wendy’s requires third-party audits on-site at each Supplier location for adherence with Expectations and/or Protocols, and the number of Supplier locations so audited in the last year including the number of Supplier workers personally interviewed at each location;
- Whether Wendy’s ensures Suppliers’ workers have access to a third-party grievance mechanism, with the authority to order a remedy, for reporting violations of Expectations and/or Protocols, and, if so, the required procedures, number of grievances filed by Suppliers’ employees in the last year, and outcomes of all such grievances.

(emphasis supplied).

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3 No-Action Request, at 18–20.
4 No-Action Request, at 20.
Substantial Implementation

A determination that the company has substantially implemented a proposal depends upon whether its “particular policies, practices and procedures compare favorably with the guidelines of the proposal.” Where there are important differences between a proposal and acts taken by a company, the Staff will deny no-action relief. Likewise, the Staff has declined to grant relief where a company’s existing general disclosures did not address the specific issues of concern included in a proposal’s request for a report. For example, in Wal-Mart Stores, Inc. (Mar. 29, 2011), the Staff declined to concur that Wal-Mart was entitled to exclude a proposal requesting that the company require all suppliers annually publish “an independently verifiable” report, including “objective assessments on worker safety and worker and human rights” and “incidents of non-compliance and actions taken to remedy those incidents.” The proponents had argued for greater transparency due to an apparent gap between company policies and evidence of their actual implementation.

Here, Wendy’s argues that it has substantially implemented the Proposal because its website provides access to its Supplier Code of Conduct (“Supplier Code”) and a “substantial number” of other “public disclosures” on “various environmental, social and governance topics.” The materials that Wendy’s points to, however, do not address the Proponent’s underlying concerns and essential objectives, for the reasons laid out below, especially with respect to the absence of concrete evidence of implementation by the company.

The Proposal’s underlying concern is the extent to which Wendy’s Supplier Code of Conduct (“Supplier Code” or “Code”), Quality Assurance audits and third-party reviews effectively protect workers in its food supply chain from human rights violations. In particular, the Proposal notes: 1) the widespread human rights abuses in the agricultural industry; 2) massive COVID-19 outbreaks among workers in Wendy’s food supply chain; and 3) Wendy’s apparent reliance on measures proven not to work. Wendy’s points to its Code, but provides no evidence that the Code is enforced or effective, rather than joining the Fair Food Program —awarded a Presidential Medal for Extraordinary Efforts to Combat Human Trafficking by the Obama-Biden administration”-- despite the Program’s unique effectiveness at preventing, through enforcement, human rights violations in

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6 Eli Lilly and Company (Jan, 26, 2018) (proposal requesting that Board strengthen policies and practices regarding contract animal testing laboratories and issue a report to shareholders was not substantially implemented by a company’s existing policy and statements, where proposal noted that existing policy had “strikingly and demonstrably failed for years”).
7 See also Hanes Brands, Inc. (Jan. 13, 2012) (proposal requesting a report on vendor standards pertaining to water use and related pollution was not substantially implemented by the company’s Global Standards for Suppliers, which consisted of a general commitment to favor suppliers who seek to reduce waste and a requirement that suppliers comply with environmental laws).
8 No-Action Request, at 7 & n.5.
agricultural supply chains, ranging from modern-day slavery\textsuperscript{10} to gender-based violence and harassment,\textsuperscript{11} and now protecting workers during COVID-19.\textsuperscript{12}

In other words, the Proposal does not ask whether Wendy’s has a Code of Conduct, audits or third-party reviews in place: it clearly recognizes that those exist. Rather, the Proposal’s essential objective is to obtain information on whether and how Wendy’s enforces those measures to protect workers in Wendy’s meat and produce supply chain.\textsuperscript{13} Without that enforcement, the Proponent’s position is that Wendy’s Supplier Code is just words on paper, and this is why the Proponent has asked for detailed information about enforcement above all: so that shareholders have the information to assess whether Wendy’s processes are effective in terms of protecting workers’ rights on the ground.

The No-Action Request, however, relies heavily on describing Wendy’s Supplier Code, despite the fact that the Code does not contain the information the Proposal seeks. The Code has only two pages that address human rights or labor practices, and those provisions merely require that suppliers comply with applicable law.\textsuperscript{14} The Code’s sections on compliance and verification are comprised of vague and precatory language.\textsuperscript{15} Yet the No-Action Request goes on at great length, claiming the “Code provides transparency on how Wendy’s manages suppliers,” that it is “comprehensive and mandatory” and “articulates how we manage and govern our most relevant environmental and social risks,” and that it sets out “specific expectations and requirements” for suppliers.\textsuperscript{16} The No-Action Request, which takes longer to read than the Code itself, refers to the Code more than 100 times—in what one can only surmise is an effort to conceal that Wendy’s does not share any information on its actual enforcement in practice.

Similarly, Wendy’s claims that its suppliers are subject to “rigorous, comprehensive and stringently enforced applicable local, state/provincial and federal labor laws and regulations.”\textsuperscript{17} However, it is well-established that the laws and regulations on the books to protect farmworkers are not stringently enforced as Wendy’s claims, and that, instead, legal violations are the norm in American agriculture—and this is why the Proposal asks about Wendy’s enforcement of workers’ rights in its food supply chain, not that of the government. Put simply, in addition to being demonstrably false,

\textsuperscript{11} “After #MeToo, This Group Has Nearly Erased Sexual Harassment in Farm Fields,” Civil Eats, (Mar. 9, 2020), https://civileats.com/2020/03/09/after-metoo-this-group-has-nearly-erased-sexual-harassment-in-farm-fields/
\textsuperscript{13} The Proposal’s focus on the effectiveness of Wendy’s existing measures, in light of COVID-19 outbreaks at Wendy’s suppliers, is thus entirely different from the 2019 proposal that Wendy’s was permitted to omit, to which Wendy’s refers in the No-Action Request. (No-Action Request, at 5). The 2019 proposal focused on Wendy’s process to identify and analyze both actual and potential adverse human rights impacts, while this Proposal seeks information on the outcomes of Wendy’s purported efforts.
\textsuperscript{14} No-Action Request, Exhibit B, at 10-11.
\textsuperscript{15} No-Action Request, Exhibit B, at 16-19.
\textsuperscript{16} No-Action Request, at 8.
\textsuperscript{17} No-Action Request, at 8.
Wendy’s reference to existing laws says nothing about what Wendy’s is itself doing to enforce protections for workers in its food supply chain, which is the underlying concern of the Proposal.

Nor do the other four web pages that Wendy’s refers to as its “Public Disclosures”\(^{19}\) contain any information on actual enforcement of Wendy’s Supplier Code. Three of these sources—the “What We Value” page, the “Animal Welfare Program” page, and the “Square Deal” blog—do not contain any relevant information on this at all.\(^{20}\) This is perhaps why Wendy’s only refers to them as “communicating . . . about the principles we value,”\(^ {21}\) but never cites to them as evidence that they have addressed the Proposal’s essential objectives.

Instead, Wendy’s heavily relies on its Supplier Code and its Supply Chain Management page, which it recently updated—perhaps in response to the Proposal.\(^ {22}\) These new scraps of information still leave Wendy’s far short of the substantial implementation mark, as explained further below in relation to each point in the Proposal. In particular, none of the materials to which Wendy’s points discuss any additional COVID-19 protocols the Company has adopted to protect its meat and produce supply chain workers.

In Northrop Grumman Corporation,\(^ {23}\) the Staff declined to concur with a similar position by the company that it had substantially implemented a proposal asking for a report on the management systems and processes it used to implement its human rights policy. Northrop Grumman claimed that its human rights policy, supplier standards and proxy statement contained the requested information, pointing to aspirational statements about expectations for suppliers that are similar to those touted by Wendy’s. The proponents urged that these disclosures lacked concrete information about implementation, the proposal’s essential objective. The Staff agreed with the proponents, explaining that the company’s disclosures did not “compare favorably” with the proposal’s request. The same is true for Wendy’s here.

1. The No-Action Request refers to irrelevant information rather than simply confirming, as it appears it easily could, that it has not required additional COVID-19 protocols for its meat and produce suppliers.

The first part of the Proposal seeks information on “whether Wendy’s requires its food suppliers to implement COVID-19 worker safety protocols (“Protocols”), and, if so, the content of the Protocols,” as well as—critically—information on how Wendy’s audits compliance with the

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\(^{19}\) No-Action Request, at 7, 9.

\(^{20}\) In the past year, the Square Deal blog has included promotional content about menu items and giveaways, and other content, along with several posts about the COVID-19 pandemic. The only content that comes anywhere close to addressing risks to workers in Wendy’s food supply chain is a video from Wendy’s President and CEO in which he states that Wendy’s respects and values suppliers’ “continued commitment to operate safely and continue to take care of their people,” but contains no specific information. A Message to the Wendy’s Community from President and CEO Todd Penegor, Square Deal blog, (May 6, 2020), https://www.squaredealblog.com/home/whats-a-message-to-the-wendys-community-from-president-and-ceo-todd-penegor, (last accessed Jan. 18, 2021).

\(^{21}\) No-Action Request, at 9.

\(^{22}\) The previous version of the Supply Chain Management page, as it appeared in November 2020, is attached as Exhibit A. The new version is attached as Exhibit B, and shows that Wendy’s added information on the number of its suppliers, along with a section entitled, “Adapting to Supply Chain Challenges Amidst a Global Pandemic,” as well as a link to “Read More,” which sends readers to a new page, “Supply Chain Expectations,” attached as Exhibit C, that primarily repeats the content of Wendy’s Supplier Code of Conduct.

\(^{23}\) Northrop Grumman Corporation (Mar. 19, 2019).
Protocols. The No-Action Request relies on Wendy’s recently updated Supply Chain Management web page, specifically the new section on “Adapting to Supply Chain Challenges Amidst a Global Pandemic.” But that web page says nothing—at all—about COVID-19 protections for workers at Wendy’s food suppliers.

Specifically, nothing in Wendy’s recently updated web page indicates whether Wendy’s has adopted or implemented COVID-19 protocols to protect the safety of workers in its meat and produce supply chain. Wendy’s refers to measures it took relating to “distribution partners” (presumably delivery people) and others who “access restaurants,” but these relate to Wendy’s restaurant safety, not the safety of workers in its food supply chain. Wendy’s also refers to remote “Culinary and Quality Assurance” evaluations, but says nothing about whether those evaluations include COVID-19 protocols to protect supply chain workers. The Supply Chain Management website suggests that these remote evaluations relate to food quality, not worker safety, as it references using “Google glasses” to observe “certain . . . suppliers from a quality, food safety and brand standard perspective.”

The fact that shareholders are left to surmise on this issue demonstrates that Wendy’s has not substantially implemented the Proposal’s central objective.

Based on the foregoing, it appears that Wendy’s has not adopted protocols to protect meat and produce workers in its supply chain from COVID-19, or else it would have referred to them in its No-Action Request. Rather than state that, however, Wendy’s further clouds the issue by stating that it expects suppliers to obey the law, including COVID-19-protocols, to the to the extent they “become mandated.” This reveals nothing about what Wendy’s is doing to protect workers in its supply chain, particularly when skyrocketing infection rates among meat and produce workers demonstrate that existing government regulatory efforts or guidance are woefully inadequate.

It is critical to point out what Wendy’s purposefully obscures: there are numerous jurisdictions that entirely lack enforceable COVID-19 protocols for farmworkers and others. Thus, in many jurisdictions without COVID-19 mandates, such as Florida, the Fair Food Program is the only protection farmworkers have. In the words of one farmworker, featured recently in the New York Times: “We were working long days, but they put a lot of protections in place. Lipman Family Farms were a part of the Fair Food program, and followed the procedures.” Yet, for more than a decade, Wendy’s has refused to join the Fair Food Program – despite that all of its major competitors have chosen to do so -- another fact absent from Wendy’s 23-page No-Action Request.

Ultimately, if in fact, as appears to be the case from its No-Action Request, Wendy’s has no COVID-19 safety protocols in place to protect workers in its food supply chain, then Wendy’s can

24 No-Action Request, at 9-10.
25 No-Action Request, at 10.
26 No-Action Request, at 10.
27 See Exhibit B, Supply Chain Management web page.
28 No-Action Request, at 10.
simply say so. But there is no reality in which what it has done—or, more accurately, not done—on this issue qualifies as “substantial implementation” of the Proposal.

2. **Wendy’s request wrongly equates a description of its Supplier Code with information on whether it actually enforces compliance from its meat or produce suppliers.**

The second part of the Proposal seeks information on “the number of times Wendy’s has suspended one of its meat or produce suppliers” for failing to meet Wendy’s Supplier Code, or COVID-19 protocols (if any exist). Wendy’s No-Action Request refers to this request as a desire to know the “extent to which Company enforces compliance with the Code’s human rights expectations with respect to meat and produce suppliers.”32 Rather than provide a straightforward answer, however, Wendy’s points to its “policies and guidelines for determining the processes by which” Wendy’s “would choose to discipline a Supplier”33—not whether it has ever suspended a meat or produce supplier.

Put simply, the Proposal seeks actual evidence of enforcement, and Wendy’s has provided none.

All of the language Wendy’s cites in the No-Action Request (and the language in the Supplier Code itself) is precatory or equivocal, leaving it unclear when, if ever, Wendy’s has acted to enforce the Code. Specifically, the No-Action Request states that:

- The Supplier Code “clearly explains the process by which any covered Supplier could be disciplined or terminated.”
- Wendy’s suppliers “are expected” to comply with the Code, and “are expected” to apply similar standards to their suppliers;
- Non-compliance by a supplier beyond Wendy’s tier-one suppliers, “may have direct consequences to the Supplier’s relationship with Wendy’s”;
- Wendy’s “may require Suppliers to provide additional assurance of their business practices;” and
- Repeated non-compliance “may be cause for immediate termination.”34

Just because Wendy’s *may* discipline a supplier for human rights abuses does not provide shareholders with any information about whether Wendy’s has, in fact, ever done so. The Proponent wishes to know the number of times Wendy’s has suspended its meat and produce suppliers because, without enforcement, the Proponent believes—and expects other shareholders would agree—that, given the well-documented abuses in agricultural and meatpacking industries, Wendy’s Supplier Code is nothing more than words on paper. Wendy’s does not share any information on whether it has ever actually suspended any supplier (including any meat or produce supplier) and thus has not substantially implemented the Proposal.

3. **Wendy’s has not provided concrete information about who reviews its produce suppliers for compliance on human rights issues, how often, what they review, and if they talk to workers.**

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32 No-Action Request, at 10–11.
33 No-Action Request, at 11. (emphasis supplied).
34 No-Action Request, at 11. (emphasis supplied).
The third part of the Proposal seeks “[a] list of all third-party auditors approved by Wendy’s to monitor adherence to Expectations and/or Protocols, the total number of Supplier locations, how often Wendy’s requires third-party audits on-site at each Supplier location for adherence with Expectations and/or Protocols, and the number of Supplier locations so audited in the last year including the number of Supplier workers personally interviewed at each location.” Thus, the Proposal recognizes that Wendy’s has “third-party reviews . . . for certain produce suppliers,” and seeks concrete information on who does those reviews, how often, if workers are interviewed (and, if so, how many workers). Wendy’s refers to this as a request for “a voluminous amount of information.” But the information the Proposal seeks could be provided in one sentence: “Wendy’s has X number of produce supplier locations, which are audited Y times per [year/month/week], including audits performed at Z suppliers in 2020, during which Q (percent or number) of workers were interviewed at each location.” This, along with a list of approved auditors, is all that the Proponent seeks.

Instead of providing this basic information, Wendy’s provides three pages of largely irrelevant and redundant information. For example, Wendy’s makes repeated references to its “regular Quality Assurance audits,” which are wholly irrelevant to this aspect of Proponents’ request. These Quality Assurance audits are not third-party reviews at all—rather, they are Wendy’s own reviews, and appear to be focused on food safety—not workers’ human rights.

Wendy’s, however, tries to make much of the Quality Assurance audits, emphasizing that they are “regular” and include “observational questions related to worker welfare, safety and health.” Leaving aside that these are not third-party audits in the first place, Wendy’s offers no information on what “regular” means—it could be every 3 months, or every 3 years—despite the Proposal asking the specific question of “how often,” specifically, the third-party audits occur. As for the so-called “observational questions,” they do not address Proponents’ concern over effective human rights protections for farmworkers because: 1) serious human rights violations such as forced labor, sexual harassment, discrimination and wage theft are not observable in plain view; 2) “observational” reviews obviously don’t entail worker interviews; 3) Wendy’s has not disclosed what these observations do cover and how it bears any relation to protecting workers’ human rights; and 4) Wendy’s other statements suggest that these audits are now conducted remotely, calling into question what human rights violations they are able freely to “observe” over a video feed.

Perhaps recognizing these shortcomings, Wendy’s points to further irrelevant information, unrelated to the third-party reviews of food suppliers that the Proposal addresses, and wholly lacking in any information on what Wendy’s actually does in practice:

- Wendy’s refers to having “the right to conduct . . . unannounced inspections of Supplier facilities,” but provides no indication if they actually do this;

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35 No-Action Request, at 12.
36 No-Action Request, at 12, 14.
37 No-Action Request, at 12, 14.
38 No-Action Request, at 12.
- Wendy’s states that suppliers “are urged to conduct their own audits”39 and are expected “to document the results of their own internal audits,”40 but provides no information on whether Wendy’s actually reviews or acts on these supplier self-audits;
- Wendy’s refers to the “various methods” that Suppliers may use to demonstrate compliance,41 but provides no information on how or whether Wendy’s disciplines suppliers for non-compliance.

The Proposal’s objective is to obtain concrete information on Wendy’s third-party reviews of produce suppliers in actual practice—in light of widespread abuses in the agricultural industry42 and the failure of traditional social audits to protect workers in supply chains,43 including disease and death in food supply chains during COVID-19. The only information that Wendy’s provides with regard to these third-party reviews, however, is that they pertain to “human rights and labor practices” and that the Ethical Food Initiative, SA8000, and SEDEX/SMETA frameworks are among those “more commonly used today”44—though Wendy’s does not even go so far as to say that Wendy’s itself uses any of these three social certifications. The Proponent is not satisfied with this paltry information, particularly in the face of Wendy’s continued intransigence regarding the Fair Food Program—the gold standard in protection for workers in supply chains, which all of Wendy’s major competitors have joined.

4. Wendy’s No-Action Request equates a description of its Supplier Code with information on whether it provides supply chain workers with access to a third-party grievance remedy for human rights violations.

The fourth part of the Proposal seeks information on “whether Wendy’s ensures Suppliers’ workers have access to a third-party grievance mechanism, with the authority to order a remedy, for reporting violations of Expectations and/or Protocols, and, if so, the required procedures, number of grievances filed by Suppliers’ employees in the last year, and outcomes of all such grievances.” The Proponent seeks this information because an effective third-party grievance mechanism is the final line of protection against worker abuse. When workers have access to, and confidence in, an effective outside grievance mechanism, they can become the frontline monitors of their own human rights, with access to an independent third party for protection. Thus, information on whether supply chain workers have access to—and, if so, how they use—a third-party grievance mechanism is crucial for understanding whether Wendy’s approach to social responsibility is effective at preventing abuse.

As it did in response to other portions of the Proposal, Wendy’s again provides irrelevant information, this time regarding the Supplier Code’s expectations for supplier grievance mechanisms.

39 No-Action Request, at 12.
40 No-Action Request, at 14.
41 No-Action Request, at 12–13.
44 No-Action Request, at 13.
which have nothing to do with a third-party mechanism.\textsuperscript{45} It is nonetheless worth emphasizing that the Supplier Code is set forth in terms of \textit{expectations}, not requirements.\textsuperscript{46} It contains no provisions regarding any oversight by or appeal to Wendy’s—or any third-party—should a complaint made through a Supplier remain unresolved.

More to the point, Wendy’s claims that it “maintains a robust reporting process” that enables supply chain workers “to raise or enquire about any issue.”\textsuperscript{47} Presumably, this refers to Wendy’s toll-free compliance hotline and ethics website. This, too, is not a third-party grievance mechanism. In any event, Wendy’s does not provide any information on how workers in supply chains would even know these exist, let alone if they are able to effectively access and use them to report abuse. Once again, Wendy’s provides zero concrete information about how this system is used in practice.

Instead, Wendy’s claims that the information the Proposal seeks is “sensitive and detailed.”\textsuperscript{48} This is a red herring, as made clear by the fact that, later in its No-Action Request, Wendy’s suggests that it does not have such information, because it refers hotline complaints \textit{to the supplier} for investigation—the antithesis of a third-party grievance mechanism.\textsuperscript{49}

Thus, as with the other elements of the proposal, Wendy’s appears to be avoiding providing a simple admission that it just does not have the information that the Proposal seeks about the effectiveness of its protections for workers in its food supply chain. Instead, as elsewhere, Wendy’s deflects with irrelevant information and thereby claims that it has substantially implemented the request. This evasion is wholly unacceptable to the Proponent, which wants factual answers on the action Wendy’s is taking to protect human rights of workers in Wendy’s food supply chain at a time when certain of its suppliers have exposed those workers to COVID-19, resulting in serious illness and death.

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In short, Wendy’s disclosures do not satisfy the Proposal’s essential objective of providing shareholders with information about the extent to which the Code, Quality Assurance audits and third-party reviews effectively protect workers in its food supply chain from human rights violations. Wendy’s disclosures on all elements of the Proposal fall far short of the concrete information the Proponent seeks. Accordingly, Wendy’s should not be permitted to exclude the Proposal on substantial implementation grounds.

\textbf{Ordinary Business}

Rule 14a-8(i)(7) allows exclusion of proposals related to a company’s ordinary business operations. Wendy’s argues that the Proposal relates to the Company’s ordinary business operations because it

\textsuperscript{45} No Action Request, at 15.
\textsuperscript{46} No Action Request, Exhibit B, Supplier Code, at 14-15 (stating, under “Our Specific Expectations: 1) Suppliers \textit{should} have in place means for any employee to submit anonymous concerns and grievances to Supplier’s management; 2) Suppliers \textit{should} also designate a process in which to record, file and appropriately address concerns; 3) It is \textit{expected} that our Suppliers have a no retaliation policy and that employees must have the opportunity to raise concerns without fear of retaliation.).
\textsuperscript{47} No-Action Request, at 15.
\textsuperscript{48} No-Action Request, at 15.
\textsuperscript{49} No-Action Request, at 23.
addresses “supplier relationships,” without implicating a significant policy issue, and because it would micromanage the Company.

The Proponent does not dispute that proposals on supplier relationships, without more, deal with ordinary business operations. For example, a proposal asking a company to switch suppliers, or to adopt particular procedures for selecting them, would typically be excluded on ordinary business grounds. But companies are generally not allowed to rely on the ordinary business exclusion to omit such proposals if they “focus[] on sufficiently significant social policy issues.” Human rights in the supply chain has long been deemed a significant policy issue, despite the (necessary) connection to supplier relationships.

The Staff rejected an argument similar to Wendy’s in a 2015 Amazon determination. There, the proposal asked Amazon to report on its “process for comprehensively identifying and analyzing potential and actual human rights risks of Amazon’s entire operations and supply chain,” including specific details about that process. Amazon argued that the proposal “relates to the products and services offered for sale by the Company because it requests a report assessing the ‘potential and actual human rights risks’ related to the Company’s ‘entire operations and supply chain.’” The proponents urged that the proposal addressed the sale of products only in the context of human rights, a significant policy issue. The Staff declined to grant relief to Amazon, explaining, “In our view, the proposal focuses on the significant policy issue of human rights.”

Wendy’s tries to downplay the Proposal’s focus on human rights, claiming that the Proposal merely “touches on” human rights and is predominantly concerned with the ordinary business of supplier relationships. Wendy’s claim that the Proposal’s “requests illustrate that the Proposal is more concerned with the Company’s oversight of its Suppliers and the processes and procedures by which the Company ensures compliance with the Code and QSCC SOA rather than any significant policy issue that transcends the day-to-day operations of the Company” ignores the clear language of the Proposal, whose overarching request is, to use Wendy’s own characterization of it, “the protection of human rights of certain farmworkers and meat production workers.” The Proposal does not concern itself with any other aspects of Code compliance or supplier oversight. In the determinations Wendy’s cites on this point, the proposals mentioned a significant policy issue to try to immunize a topic that did not qualify—the Yum, Bristol-Myers Squibb and Costco proposals referred to human rights but the proposal itself addressed employees’ political participation—and thus went beyond the contours of a previously-established significant policy issue, or dealt with a more narrowly-defined topic, like worker health and safety, that unlike human rights more broadly had never been deemed a significant policy issue by the Staff.

Surprisingly, given the energy with which Wendy’s argues that it has already implemented the Proposal to advance the critical issue of human rights in its supply chain, Wendy’s also contends that it does not believe there is “a sufficient nexus between the overarching policy objective of the Proposal – the protection of human rights of certain farmworkers and meat production workers –

50 No-Action Request, at 17.
52 Amazon.com, Inc. (Mar. 25, 2015).
53 Amazon.com, Inc. (Mar. 25, 2015).
54 No-Action Request, at 19.
55 No-Action Request, at 20.
56 See No-Action Request, at 19.
and the Company’s day-to-day business operations as a quick-service restaurant company.” The Proponent notes that Wendy’s has not submitted an analysis by its board of the connection between protecting the human rights of workers in its supply chain and its business operations, as Staff Legal Bulletin 14I (“SLB 14I”) contemplates. SLB 14I states that “going forward, we would expect a company’s no-action request [relying on ordinary business] to include a discussion that reflects the board’s analysis of the particular policy issue raised and its significance” to the company.

Wendy’s assertions regarding its own purchases relative to the entire market for beef and other food manufacturing supplies have no bearing on the significance of those products to Wendy’s own business. Indeed, Wendy’s acknowledges in another section of the No-Action Request that its meat and produce suppliers are its two largest categories of food suppliers. Human rights abuses in the supply chain cause real, not merely speculative, harm to companies by damaging brands, lowering sales and disrupting the supply chain. As the Proposal notes, COVID-19 issues among workers in Wendy’s food supply chain did, in fact, disrupt Wendy’s beef supply. Wendy’s claim that the Proposal lacks a sufficient nexus to its business is thus unpersuasive.

Wendy’s also urges that the Proposal would micromanage because it would “impose specific methods for implementing complex policies in place of the ongoing judgment of the Company’s management and Board of Directors” and requests “voluminous and specific information that is so intricate and complex that shareholders, as a group, would not be in a position to make an informed judgment regarding such information.” Wendy’s first claim is belied by the language of the Proposal, which unambiguously requests a report and would not require Wendy’s to change its behavior. In that regard, it differs from the proposals at issue in the determinations Wendy’s cites on pages 20-21 of the No-Action Request, which sought to control companies’ decisions regarding emissions reductions and even such mundane matters as showerhead water flow.

A 2019 Staff Legal Bulletin undermines Wendy’s argument for exclusion on micromanagement grounds. Staff Legal Bulletin 14K (“SLB 14K”) contrasts a proposal requesting a feasibility report, even one involving “matters of a complex nature,” which “generally would not be viewed as micromanaging,” with one that “prescribes specific timeframes or methods for implementing complex policies,” which “may run afoul of micromanagement.” The Proposal is more similar to the first proposal type, as it does not “prescribe” actions Wendy’s should take to protect workers. By contrast, the proposal at issue in the 2017 Wendy’s determination the Company cites did prescribe such an action—it urged the company to join the Fair Food program—and Wendy’s was allowed to exclude it on micromanagement grounds.

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57 No-Action Request, at 20.
59 No-Action Request, at 22.
61 No-Action Request, at 21-22.
63 SLB 14K, section 4.
65 See No-Action Request, at 20.
Wendy’s likens the Proposal to the one in Ford Motor Company 66 because the Proposal, Wendy’s says, would dictate “the specific method of preparation and the specific information to be included.”67 The Ford proposal asking for a global warming report did not just specify information to be provided in a report; it asked Ford to analyze matters such as the increase/decrease of radiation from the sun, changes in atmospheric gases, and current annual global production of carbon dioxide. The Proposal differs significantly from the one submitted to Ford in that it does not involve technical matters or ask Wendy’s to perform any additional analyses, just to disclose information it already has in its possession.

Wendy’s also relies on a 2019 determination at Amazon 68 allowing exclusion of a proposal asking Amazon to conduct and make publicly available human rights risk assessments on at least three food products Amazon sells that “present a high risk of adverse human rights impacts.” What Wendy’s fails to mention is that a similar proposal, which reduced the number of assessments and did not specify food products, survived challenge on micromanagement grounds the following year. 69 The Amazon determination therefore does not stand for the proposition that a proposal cannot ask a company to provide detailed information, as Wendy’s implies.

More fundamentally, the Proposal does not “prob[e] 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,” as the Commission’s 1998 release put it.70 Wendy’s complains that the Proposal asks for information that “would be of little use to shareholders,”71 but that argument is more appropriately made in Wendy’s statement in opposition. By voting on the Proposal, shareholders will signal whether they find the information useful. Wendy’s has not made the case that shareholders could not make an informed judgment about the disclosure sought by the Proposal. The determinations Wendy’s cites involved technical or scientific data,72 whereas the Proposal would result in disclosure of non-technical information that would allow shareholders to judge the effectiveness of Wendy’s policies and practices in protecting workers’ human rights. Shareholders regularly vote on matters such as executive compensation that require consideration of more complex and technical factors than the information requested by the Proposal.

In sum, Wendy’s has failed to meet its burden of proving it is entitled to omit the Proposal in reliance on Rule 14a-8(i)(7). The Proposal’s subject, human rights, is a significant policy issue, even though it implicates Wendy’s relationship with suppliers. The Proposal would not micromanage Wendy’s, as it does not request technical information, excessive detail, or disclosures that shareholders are incapable of understanding. Exclusion on ordinary business grounds would thus be inappropriate.

* * *

67 No-Action Request, at 21.
68 Amazon.com Inc. (Apr. 3, 2019).
69 Amazon.com Inc. (Apr. 1, 2020).
71 No-Action Request, at 22.
72 See No-Action Request, at 21.
For the reasons set forth above, Wendy’s has not satisfied its burden of showing that it is entitled to omit the Proposal in reliance on Rule 14a-8(i)(10) or Rule 14a-8(i)(7). The Proponent thus respectfully asks that Wendy’s request for relief be denied.

The Proponent appreciates the opportunity to be of assistance in this matter. If you have any questions or need additional information, please contact me at (973) 509-8800.

Sincerely,

Mary Beth Gallagher
Executive Director
Investor Advocates for Social Justice
On behalf of Franciscan Sisters of Allegany, NY

Enclosure: Appendix A – C

cc: Michael G. Berner
Vice President—Corporate & Securities Counsel and
Chief Compliance Officer, and Assistant Secretary
Michael.Berner@wendys.com

Sister Gloria Oehl
Franciscan Sisters of Allegany, NY
srgloria@hotmail.com
EXHIBIT A
Supply Chain Management and Responsible Sourcing

Wendy's is a leader in the development and execution of quality processes and initiatives that are focused intensely on providing a safe and wholesome food supply – from our suppliers’ farms to the customer's table.

The quality, performance and innovation of our suppliers have a direct impact on Wendy's success. To maintain strong supplier relationships, Wendy's and its franchisees are members of Quality Supply Chain Co-op, Inc. SM. This independent cooperative works with leading suppliers to provide Wendy's restaurants with products and services that offer quality, consistency and value.

We take a leadership role in influencing positive behaviors from our suppliers. Among the initiatives we have with our suppliers are Quality Assurance visits to...
Wendy's Supply Chain - A Commitment to Quality

Since we opened the first Wendy's in 1969, we have been proud to source most of our food from American farmers and ranchers. It's a partnership built on mutual respect with an unwavering commitment to quality. This is important, because “Quality is our Recipe.®”

Farming and running restaurants are both hard work. Our restaurants are successful because of our managers and crew members as well as workers on the farm, in the field and everywhere in between. Our goal is to provide our customers with quality and wholesome food, good value and “A Cut Above” experience every visit. With the support of our suppliers, we work to deliver that every day.

Wendy's Animal Welfare Program

At Wendy's, we take our role as a responsible corporate citizen very seriously, which includes the humane treatment of animals.

Wendy's does not own, raise, transport or process livestock. However, we believe it is our obligation to ensure that all of our suppliers exceed government regulations by meeting Wendy's more exacting standards pertaining to the humane treatment of animals.

Click here to learn more about Wendy's Animal Welfare Program.

Wendy's Supplier Code of Conduct: Our Values
The Code is centered around five areas that are important to our brand, our customers and our supply chain, including: Food Safety and Food Ingredients, Farm Animal Health and Well-Being, Human Rights and Labor Practices, Environmentally Sustainable Business Practices, and Business Ethics and Integrity. The Code goes above and beyond the requirements laid out in The Wendy's Company and Quality Supply Chain Cooperative's (QSCC) Codes of Business Conduct and Ethics.

All covered suppliers are expected to annually affirm they have received and understand the specific requirements of the Code.

When it was originally issued in 2016, the Code applied to U.S. suppliers of food, paper and packaging. In 2017, we expanded the Code to include all U.S. and Canadian contracts managed by QSCC, and to other suppliers that provide a significant stream of goods or services to The Wendy's Company on an annual basis beyond those suppliers managed by QSCC.

We continue to work with third-party groups and experts on matters related to Corporate Social Responsibility. This input helps us make informed decisions on expansions to the Code while keeping in mind our value of “Do the Right Thing,” and our commitment to continuous improvement.

In 2017, we expanded the Code to include additional assurances and requirements related to human rights and labor practices. The decision to expand the Code was due in part to the nature of agricultural work, its workforce, and an evaluation of various risk factors.
conditions of every Supplier in our system at least annually. These audits include some observational questions related to worker welfare, safety and health.

Beyond outlining expectations and requirements, we also encourage and applaud continuous improvement by our suppliers in all aspects of our operations. We look forward to sharing more of their best practices and reporting out key results of our efforts as we continue to enhance the Code and the way we do business.

This serves as our public pledge that we will uphold our values and way of doing business.

Click the icon below to access Wendy’s Supplier Code of Conduct.

Wendy's Statement on Responsibly Sourcing Palm
of palm oil, but we recognize the interest in this issue and want to share our updated approach to palm oil sourcing.

**Our Progress**

- Joined the Roundtable for Sustainable Palm Oil (RSPO)
- Joined GreenPalm to participate in the “Book & Claim” program in 2015.
- Completed the Company's first inventory of all palm oil used in North American* restaurants, which represent 95% of all Wendy’s restaurants in 2016.
- Completed the Company's first inventory of supply chain data for international markets to identify status of palm oil used for cooking in 2016.
- Submitted the 2015 and 2016 Roundtable on Sustainable Palm Oil Annual Communications of Progress and the 2015 World Wildlife Fund Palm Oil Buyers Scorecard which summarizes our use of palm oil and announces our commitment to having a plan in place by 2017 to achieve 100% certified sustainable palm oil in North American products by 2022.
- In 2017, achieved sourcing of 100% Mass Balance Certified Sustainable Palm Oil when used for cooking at Wendy’s restaurants in New Zealand, Latin America and Caribbean.

**Our Global Supply Chain**
Internationally, where about 5% of Wendy's restaurants are located, more than 200 restaurants across 13 different countries currently use palm oil for cooking. Understanding the consumer interest in this issue as well as the effects conventional sourcing can have on the environment, we are working with internal teams and our individual franchisees to educate and develop a plan that supports the procurement of sustainable palm oil and considers the complex nature of our international supply chain operations. This is something we are making continual progress on and we look forward to sharing a comprehensive plan in the future.

**Supporting Sustainable Palm Oil Production**

In August 2015 we became members of RSPO. This international organization is recognized as the lead certifying body for Sustainable Palm Oil.

We also joined GreenPalm in 2015 to participate in their “Book and Claim” system and to make an immediate impact toward supporting the production of sustainable palm oil. We purchased GreenPalm certificates for all of our North American supply chain where palm oil is used as an ingredient.

- GreenPalm is the exclusive operator of the RSPO's Book and Claim supply chain option, which supports RSPO certified growers and producers and allows us to immediately support the production of sustainable palm oil. (More information is available [here.](https://web.archive.org/web/20201026033428/https://www.wendys.com/...))

**Where We’re Headed**
By 2017, Wendy's is working to have a plan in place to achieve a goal that 100% of the palm oil sourced for use in our North American supply chain supports the production of sustainable palm oil by 2022.

Our goal is to have this ingredient be RSPO-certified sustainable, but where that cannot be immediately achieved, we would continue to purchase GreenPalm certificates under the RSPO's Book and Claim supply chain option.

*North America is defined as United States and Canada*
EXHIBIT B
Supply Chain Practices

Supply Chain Management and Responsible Sourcing

Wendy's is a leader in the development and execution of quality processes and initiatives that are focused intensely on providing a safe and wholesome food supply – from our suppliers' farms to the customer's table.

The quality, performance and innovation of our suppliers have a direct impact on Wendy's success. To maintain strong supplier relationships, Wendy's and its franchisees are members of Quality Supply Chain Co-op, Inc. SM. This independent cooperative works with leading suppliers to provide Wendy's restaurants with products and services that offer quality, consistency and value.

We take a leadership role in influencing positive behaviors from our suppliers. Among the initiatives we have with our suppliers are Quality Assurance visits to their plants to ensure the highest product quality and integrity. Suppliers undergo regular audits by both trained Wendy's Quality Assurance representatives and
Since we opened the first Wendy's in 1969, we have been proud to source most of our food from American farmers and ranchers. It’s a partnership built on mutual respect with an unwavering commitment to quality. This is important, because “Quality is our Recipe.®”

Farming and running restaurants are both hard work. Our restaurants are successful because of our managers and crew members as well as workers on the farm, in the field and everywhere in between. Our goal is to provide our customers with quality and wholesome food, good value and “A Cut Above” experience every visit. With the support of our suppliers, we work to deliver that every day.

**Wendy's Animal Welfare Program**

At Wendy's, we take our role as a responsible corporate citizen very seriously, which includes the humane treatment of animals.

Wendy's does not own, raise, transport or process livestock. However, we believe it is our obligation to ensure that all of our suppliers exceed government regulations by meeting Wendy's more exacting standards pertaining to the humane treatment of animals.

[Click here to learn more about Wendy's Animal Welfare Program.](https://www.wendys.com/supply-chain-practices)

**Wendy's Supplier Code of Conduct: Our Values in Action – A Public Pledge**

When it was originally issued in 2016, the Code applied to U.S. suppliers of food, paper and packaging. In 2017, we expanded the Code to include all U.S. and Canadian contracts managed by QSCC, and to other suppliers that provide a significant stream of goods or services to The Wendy's Company on an annual basis beyond those suppliers managed by QSCC.

At the end of 2020, the Wendy's North America supply chain encompassed about 450 suppliers, which includes more than 300 food and packaging manufacturing and processing facilities and about 30 distribution centers, which are all covered by the Wendy's Supplier Code of Conduct. Our largest volume of supplier facilities are in the areas of meat protein packing and processing (~100), produce (~80), dairy products (~50), packaging (~50), and bakery items (~30).

Affirmation by suppliers that they have received and understand the expectations under the Code is required annually, and certain provisions of the Code include additional assurances and requirements. For instance, all food suppliers are subject to regular food safety testing protocols and audits. Suppliers of fresh produce and fresh beef have heightened food safety requirements. And suppliers of meat products undergo first- and third-party animal welfare audits and reviews. These heightened standards were developed and informed based on risk-based assessments previously conducted.
the Code was due in part to the nature of agricultural work, its workforce, and an evaluation of various risk factors.

Consequently, the Code now requires third-party reviews related to the human rights and labor practices for suppliers of hand-harvested, whole, fresh produce such as tomatoes, lettuce and berries.

Wendy's requirements for human rights and labor practice assurances require certain fresh produce suppliers to undergo a third-party assessment. Unlike areas such as food safety and animal welfare in which there are industry-wide or global standard assessments and auditing certifications, there does not today exist a singular human rights and labor practices assessment that is broadly used or accepted by all sectors and geographies of agricultural work.

In creating this section of the Code, Wendy's has consulted with experts and evaluated numerous human rights and labor practices frameworks and authorities most prevalent in the U.S. The Code's expectations for Suppliers related to appropriate human rights and labor practices include:

Read More >

In addition to the assurances and third-party assessments required by the Code, we also conduct our own regular Quality Assurance audits of the farms, plants, facilities and other operations locations of all our Suppliers. During these visits our Wendy's Quality Assurance auditors observe operations conditions of our Suppliers. These audits include some observational questions related to worker welfare, safety and health.

Click the icon below to access Wendy's Supplier Code of Conduct.
Adapting to Supply Chain Challenges Amidst a Global Pandemic

In 2020, the COVID-19 global pandemic had an acute impact on Wendy's restaurant operations, supply chain and distribution practices. Just as we changed our approach to delivering outstanding restaurant experiences in the new environment by shifting to a predominantly drive-thru operating model with an increased focus on delivery and digital channels, we also quickly evolved our supply chain engagement.

We recognized the essential work done by truck drivers who work tirelessly to ensure our restaurants are well stocked with fresh food and other necessities. In the wake of dining room closures, to support drivers whose large vehicles can't fit in our drive-through lanes, we introduced temporary procedures to ensure they could enjoy a high-quality, affordable meal while on the road delivering essential goods to hospitals, restaurants and retailers.

We also communicated our expectations to distribution partners and others who regularly access our restaurants to perform evaluations, maintenance and other
We do not own or operate any supply chain or manufacturing operations at Wendy's. We rely on our suppliers to be great partners with us to deliver the high-quality food our customers expect. Thanks to years of work building strong supplier relationships, we were able to successfully pivot many of our interactions with suppliers to virtual formats in the short term. For example, despite the pandemic, we have been able to continue to conduct facility evaluations remotely and collaborate with suppliers on new products using virtual tools and data sharing between suppliers and our Culinary and Quality Assurance teams. Other supply chain impacts involved newly-needed items like face masks, gloves and social distancing signage where we had to quickly develop or expand supply sources to support our system.

Some of these changes have been or will be temporary. With optimism for a 2021 that will see COVID-19 coming under control as a public health crisis, we anticipate certain items and processes will not need to endure permanently, such as requirements for face coverings and social distancing, and restrictions on travel and group gatherings. In other areas, however, we anticipate that we may continue to leverage some of the changes to our supply chain and operations driven by COVID-19 that have enabled new-found ways for us to engage. For example, we are currently piloting a project using Google glasses technology that may allow us to reduce some on-site travel while still observing certain of our suppliers from a quality, food safety and brand standard perspective. Additionally, many protein facilities that handle live animals utilize continuous video monitoring, which could be accessed to observe animal welfare and other required standards in a virtual way in the future. We also expect that there may be changes in certain federal, state, and local or provincial requirements or regulations related to workplace safety conditions based on learnings from the COVID-19 pandemic. As with any area in which regulation evolves, the standards
Our Commitment

Wendy's remains committed to sourcing palm oil from responsible and sustainable sources. We strive to be a responsible steward and promote sustainable practices in our business and our supply chain. We are a minor user of palm oil, but we recognize the interest in this issue and want to share our updated approach to palm oil sourcing.

Our Progress

- Joined the Roundtable for Sustainable Palm Oil (RSPO)
- Joined GreenPalm to participate in the “Book & Claim” program in 2015.
- Completed the Company's first inventory of all palm oil used in North American* restaurants, which represent 95% of all Wendy's restaurants in 2016.
- Completed the Company's first inventory of supply chain data for international markets to identify status of palm oil used for cooking in 2016.
- Submitted the 2015 and 2016 Roundtable on Sustainable Palm Oil Annual Communications of Progress and the 2015 World Wildlife Fund Palm Oil Buyers Scorecard which summarizes our use of palm oil and announces our commitment to having a plan in place by 2017 to achieve 100%
Nearly 95% of all Wendy’s restaurants are located in North America, where we do not use palm oil as a cooking oil. We have a few non-core menu items that contain palm oil as an ingredient such as the breading on our Premium Cod filet, breakfast biscuits and cookies.

**In North America, palm oil represents less than one percent of all vegetable oils used.**

Internationally, where about 5% of Wendy's restaurants are located, more than 200 restaurants across 13 different countries currently use palm oil for cooking. Understanding the consumer interest in this issue as well as the effects conventional sourcing can have on the environment, we are working with internal teams and our individual franchisees to educate and develop a plan that supports the procurement of sustainable palm oil and considers the complex nature of our international supply chain operations. This is something we are making continual progress on and we look forward to sharing a comprehensive plan in the future.

**Supporting Sustainable Palm Oil Production**

In August 2015 we became members of RSPO. This international organization is recognized as the lead certifying body for Sustainable Palm Oil.

We also joined GreenPalm in 2015 to participate in their “Book and Claim” system and to make an immediate impact toward supporting the production of sustainable palm oil. We purchased GreenPalm certificates for all of our North American supply chain where palm oil is used as an ingredient.
Wendy's established an internal team and process for working with our suppliers to continually inventory the palm oil in our North American supply chain and gather reliable, consistent data about its sustainability status.

We have communicated our commitment to responsibly source palm oil to our suppliers. Moving forward we are requesting regular updates from them on their progress in sourcing sustainable palm oil for the products we purchase from them.

By 2017, Wendy's is working to have a plan in place to achieve a goal that 100% of the palm oil sourced for use in our North American supply chain supports the production of sustainable palm oil by 2022.

Our goal is to have this ingredient be RSPO-certified sustainable, but where that cannot be immediately achieved, we would continue to purchase GreenPalm certificates under the RSPO's Book and Claim supply chain option.

*North America is defined as United States and Canada*
Terms and Conditions

© 2021 Quality Is Our Recipe, LLC
EXHIBIT C
The Code’s expectations for Suppliers related to appropriate human rights and labor practices include:

1. **Hiring Practices**: Employing only those individuals who are legally authorized to work. Age, identity and legal right to work is verified for each employee.

2. **Minimum Age Requirements/Child Labor**: Prohibits underage child labor as defined by local, state/provincial and federal agencies. In the United States, follows rules set forth by the Fair Labor Standards Act (FLSA) and other applicable laws, which set wages, hours worked and safety requirements for minors (individuals under age 18). Internationally, we encourage adherence to standards and Conventions set forth by the International Labour Organization (ILO) or similar local authority.

3. **Healthy and Safe Work Environment**: Provision of a safe and healthy workplace in compliance with applicable local, state/provincial and federal laws and regulations.

4. **Housing**: If housing is provided for employees, facilities must be constructed and maintained in accordance with applicable laws, regulations and housing codes.

5. **Voluntary Employment**: Employment only of individuals whose presence in the workplace is voluntary. Consistent with ILO Conventions and Recommendations on forced labor, there should be no utilization of or engagement with factories or production facilities that force work to be performed by unpaid or indentured laborers, or those who must otherwise work against their will.

6. **Working Hours and Time Off**: All employees work in compliance with applicable laws and regulations and with published industry standards pertaining to the number of hours and days worked.

7. **Wages and Benefits**: Employers fairly compensate and provide wages, benefits and overtime premiums to their employees that comply with applicable laws and regulations, account for all hours worked, and match or exceed the local minimum wages and benefits in the relevant industry.

8. **Discrimination and Harassment**: Provision of equal opportunity to employees in compliance with state/provincial and federal laws. Provision of a work environment free of any form of discrimination or harassment.

9. **Freedom of Association**: Respect for the right of employees to join legal organizations of their own choosing. Must not threaten or penalize employees as a result of any lawful efforts to organize or bargain collectively.

For purposes of the third-party reviews, we have evaluated and subsequently authorized several human rights and labor practice frameworks that are generally consistent with the expectations set forth in the Code. Some of the certifications more commonly used today include the Equitable Food Initiative, SA8000, and SEDEX/SMETA. From time to time, we have been asked by certain stakeholders about participation by Wendy’s and our suppliers in the Fair Food Program. Wendy’s considers the Fair Food Program to be an acceptable assurance that would meet the requirements set forth in the Code; however, at the present time, none of our suppliers use the Fair Food Program framework. As we have previously shared, since 2019 we have been sourcing tomatoes for our North America restaurants exclusively from indoor, hydroponic greenhouses while our understanding is that the Fair Food Program operates in the outdoor, field-grown tomato sector.
January 8, 2021

VIA 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: The Wendy’s Company — Shareholder Proposal of the Franciscan Sisters of Allegany, NY

Dear Ladies and Gentlemen:

Pursuant to Rule 14a-8(j) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), The Wendy’s Company, a Delaware corporation (the “Company”), hereby requests confirmation that the staff of the Division of Corporation Finance (the “Staff”) of the U.S. Securities and Exchange Commission (the “Commission”) will not recommend any enforcement action if the Company omits from its proxy statement and form of proxy for its 2021 Annual Meeting of Stockholders (collectively, the “2021 Proxy Materials”) the shareholder proposal (the “Proposal”) and statement in support thereof (the “Supporting Statement”) submitted by the Franciscan Sisters of Allegany, NY (the “Proponent”), which are further described below.

In accordance with Rule 14a-8(j) of the Exchange Act, this letter is being submitted to the Commission no later than eighty (80) calendar days before the Company intends to file its definitive 2021 Proxy Materials with the Commission. In accordance with Section C of Staff Legal Bulletin No. 14D (November 7, 2008) (“SLB No. 14D”), we are submitting this letter to the Commission via email to shareholderproposals@sec.gov. Pursuant to the guidance provided in Section F of Staff Legal Bulletin No. 14F (October 18, 2011), we request that the Staff provide its response to this request for no-action relief via email to the undersigned at the email address noted in the last paragraph of this letter.

Pursuant to Rule 14a-8(j) of the Exchange Act, we are simultaneously sending a copy of this letter and the attachments hereto to the Proponent and its designated agent. Rule 14a-8(k) of the Exchange Act and SLB No. 14D provide that a shareholder proponent is required to send the company a copy of any correspondence that such proponent elects to submit to the Commission or the Staff. Accordingly, we hereby inform the Proponent that, if the Proponent elects to submit additional correspondence to the Commission or the Staff relating to the Proposal, the Proponent should concurrently furnish a copy of such correspondence to the undersigned on behalf of the Company.

[Letter continues with relevant details]
I. THE PROPOSAL

The text of the resolution contained in the Proposal is set forth below:

RESOLVED: Shareholders request the Board issue a report, at reasonable cost and omitting proprietary information, addressing Wendy’s Supplier Code of Conduct and the extent to which Wendy's Quality Assurance audits and third-party reviews effectively protect workers in its food supply chain from human rights violations, including harms associated with COVID-19. This report should include:

- Whether Wendy’s requires its food suppliers to implement COVID-19 worker safety protocols (“Protocols”), and, if so, the content of the Protocols, as well as the section(s) of Wendy’s Quality Assurance audit instrument relating to the Protocols and/or the Code’s Human Rights and Labor Practices Expectations8 (“Expectations”);
- The number of times Wendy’s has suspended one of its meat or produce suppliers (“Suppliers”) for failing to meet Expectations and/or Protocols;
- A list of all third-party auditors approved by Wendy’s to monitor adherence to Expectations and/or Protocols, the total number of Supplier locations, how often Wendy’s requires third-party audits on-site at each Supplier location for adherence with Expectations and/or Protocols, and the number of Supplier locations so audited in the last year including the number of Supplier workers personally interviewed at each location;
- Whether Wendy’s ensures Suppliers’ workers have access to a third-party grievance mechanism, with the authority to order a remedy, for reporting violations of Expectations and/or Protocols, and, if so, the required procedures, number of grievances filed by Suppliers’ employees in the last year, and outcomes of all such grievances.


II. BASIS FOR EXCLUSION OF THE PROPOSAL

As discussed more fully below, we hereby respectfully request that the Staff concur in our view that the Proposal may be properly excluded from the 2021 Proxy Materials for the following, separately sufficient, reasons:

- Rule 14a-8(i)(10) of the Exchange Act (“Rule 14a-8(i)(10)”) because the Company has already substantially implemented the Proposal; and
- Rule 14a-8(i)(7) of the Exchange Act (“Rule 14a-8(i)(7)”) because the Proposal deals with matters relating to the Company’s ordinary business operations.
III. BACKGROUND

On December 9, 2020, the Company received the Proposal via email, accompanied by a cover letter from the Proponent dated December 9, 2020, which stated that a letter verifying the Proponent’s ownership of the requisite number of shares of the Company’s common stock was forthcoming. On December 11, 2020, the Company received a letter via email from Charles Schwab Corporation, dated December 9, 2020 purporting to verify the Proponent’s stock ownership (the “Initial Broker Letter”). On December 14, 2020, in accordance with Rule 14a-8(f)(1), the Company sent a letter to the Proponent (the “Deficiency Letter”) via email requesting a revised written statement that properly verified that the Proponent owned the requisite number of shares of the Company’s common stock for at least one year as of December 9, 2020, the date the Proposal was submitted to the Company. On December 22, 2020, the Company received a letter via email from Charles Schwab Corporation, dated December 22, 2020, verifying the Proponent’s stock ownership (the “Revised Broker Letter”). Copies of the Proposal, Supporting Statement, cover letter, Initial Broker Letter, Deficiency Letter, Revised Broker Letter and related correspondence are attached hereto as Exhibit A, pursuant to Staff Legal Bulletin No. 14C (June 28, 2005) (“SLB No. 14C”).

IV. BACKGROUND OF THE WENDY’S SYSTEM SUPPLY CHAIN

The Company is the world’s third-largest quick-service hamburger company. The Wendy’s® restaurant system (the “Wendy’s System”) includes over 6,800 franchise and Company-owned restaurants globally, with more than ninety percent (90%) located in the United States and Canada. Approximately 95% of restaurants in the Wendy’s System are operated by franchisees. Wendy’s core values were created by our founder, Dave Thomas, fifty (50) years ago — “Quality is our Recipe,” “Do the Right Thing,” “Treat People with Respect,” “Profit Means Growth” and “Give Something Back.” They are timeless guideposts for our employees and franchisees, as well as our suppliers.

Wendy’s restaurants offer an extensive menu, specializing in hamburger sandwiches and featuring fillet of chicken breast sandwiches, chicken nuggets, chili, french fries, baked potatoes, freshly prepared salads, soft drinks, Frosty® desserts and kids’ meals. In addition, the restaurants sell a variety of promotional products on a limited basis. Wendy’s also entered the breakfast daypart across its U.S. system on March 2, 2020. Wendy’s breakfast menu features a variety of breakfast sandwiches, biscuits and croissants, sides such as seasoned potatoes, oatmeal bars and seasonal fruit, and a beverage platform that includes hot coffee, cold brew iced coffee and our vanilla and chocolate Frosty-ccino iced coffee. In providing these products and serving the needs of our customers and franchisees, the Company approves authorized suppliers, vendors and distributors (each, a “Supplier” and collectively, the “Suppliers”) that provide goods, products, equipment and services (collectively, “Products”) to the Wendy’s System. Several hundred Suppliers are approved to supply Products to the Wendy’s System, and the vast majority of Suppliers are located in the United States and Canada, which reflects the footprint of our restaurants. Our core values, strong ethical principles and quality are of paramount importance to us, and we expect Suppliers to use best practices, demonstrate business integrity and uphold the highest ethics in all aspects of their operations, including human rights and labor practices.
As is common with other franchise restaurant concepts, purchasing for the Wendy’s System is governed by a cooperative structure. The Company works closely with Quality Supply Chain Co-op, Inc. ("QSCC") to provide the Wendy’s System with Products that best combine quality, consistency and value. QSCC is the independent cooperative that oversees the supply chain and is the sole authorized purchasing organization for all Wendy’s restaurants in the United States and Canada.

QSCC is an autonomous not-for-profit business entity. The Company and most of our franchisees are members of QSCC, and QSCC is governed by a board of directors democratically elected by QSCC members. While the Company collaborates with QSCC, we do not control the decisions and activities of QSCC except to require that all Suppliers satisfy our quality control standards. QSCC represents its members in supply chain initiatives and operates in ways that ensure QSCC’s cooperative autonomy and continued ownership and control by its members. QSCC requires Suppliers to execute and adhere to a mandatory Supplier Operation Agreement (the "QSCC SOA") that explicitly requires Suppliers to comply with all applicable laws, rules and regulations regarding, among other things, human rights-related matters, including but not limited to workplace health and safety, child labor and voluntary employment.

Furthermore, we have established a comprehensive mandatory Code of Conduct for Suppliers to Wendy’s (the “Code”) that applies to Suppliers of food, paper and packaging to the Wendy’s System that are contractually managed by QSCC and other Suppliers that provide a significant stream of goods or services to the Company on an annual basis, regardless of whether they are contractually managed by QSCC.1 Our commitment to operating under our core values extends to the long-standing, collaborative relationships that we have with Suppliers, and the Code provides public transparency to the requirements that are contractually imposed on Suppliers, the repeated noncompliance with which may be cause for immediate termination.2 All Suppliers are required to reaffirm annually their receipt and understanding of the Code. The Code further obligates Suppliers to maintain a non-retaliatory grievance system and encourages Suppliers and their employees to report any concerns or violations directly to the Company by providing its compliance hotline.3 The Code is further described in Sections V.B and VI.B below, and is publicly available on our corporate website4 and attached hereto as Exhibit B.

V. RULE 14A-8(I)(10) ANALYSIS

A. Rule 14a-8(i)(10) Background

Rule 14a-8-(i)(10) permits a company to exclude a shareholder proposal from its proxy materials “[i]f the company has already substantially implemented the proposal.” The Commission stated in 1976 that the predecessor to Rule 14a-8(i)(10) was “designed to avoid the possibility of

1 Code at 4.
2 Code at 19.
3 Code at 5, 15-16.

When a company has demonstrated that it has already taken actions to address the underlying concerns and essential objectives of a shareholder proposal, the Staff has concurred that the proposal has been “substantially implemented” and may be excluded as moot. The actions requested by a proposal need not be “fully effected” by the company to be excluded; rather, to be excluded, such actions need only to have been “substantially implemented” by the company. See the 1983 Release. In 1998, the Commission reiterated that “substantial” implementation under the rule does not require the company to implement a shareholder proposal fully or exactly as presented or preferred by the proponent. See the 1998 Release. The Staff has noted that “a determination that the company has substantially implemented the proposal depends upon whether [the company’s] particular policies, practices and procedures compare favorably with the guidelines of the proposal.” See Texaco, Inc. (March 28, 1991).

Accordingly, the Staff has permitted the exclusion of shareholder proposals under Rule 14a-8(i)(10) when a company’s actions have satisfactorily addressed the proposal’s underlying concerns and essential objectives. This is true even when the company did not take the exact action requested by the proponent or exercised discretion in determining how to implement the proposal and whether to implement it in full. In 2019, for example, the Staff concurred with our decision to exclude a proposal under Rule 14a-8(i)(10) to commission 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 we would use the assessment’s results, because our Code and other public disclosures on our corporate website “compared favorably” with the Proposal’s guidelines and therefore substantially implemented it. See, e.g., The Wendy’s Company (Apr. 10, 2019). See also Duke Energy Corporation (Feb. 21, 2012) (concurring with exclusion of a proposal requesting the company to assess potential actions to reduce certain greenhouse gas and other emissions because the requested information was available in the company’s Annual Report on Form 10-K and annual sustainability report); Exelon Corp. (Feb. 26, 2010) (concurring with exclusion of a proposal requesting a report on certain aspects of the company’s political contributions because the company already adopted corporate political contribution guidelines and
issued a related report that, together, provided “an up-to-date view of the [c]ompany’s policies and procedures with regard to political contributions” addressing the proposal’s essential objective; *International Business Machines* (Jan. 4, 2010) (concurring with exclusion of a proposal requesting periodic reports of the company’s “Smarter Planet” initiative because the company already reported on certain of those matters through the company’s related web portal, investor website, employment websites, social media and other outlets); and *The Dow Chemical Co.* (Mar. 5, 2008) (concurring with exclusion of a proposal requesting a report discussing how the company’s efforts to ameliorate climate change have affected the global climate because the company already made statements about its efforts related to climate change in various corporate documents and disclosures).

In addition, the Staff has consistently concurred with the exclusion of shareholder proposals requesting reports where the company’s prior public communications addressed the underlying concerns of the proposal, even if the disclosure was not in the exact form requested by the proposal. See, e.g., *Hess Corp.* (Apr. 11, 2019) (concurring with the exclusion on substantial implementation grounds of a proposal requesting a report on how the company could reduce its carbon footprint in alignment with greenhouse gas reductions necessary to achieve the Paris Agreement’s goal where the company had addressed the underlying concern and essential objective of the proposal in its most recent Sustainability Report, its response to a CDP Climate Change Questionnaire and its recent Investor Day Presentation); and *MGM Resorts International* (Feb. 28, 2012) (concurring with the exclusion on substantial implementation grounds of a proposal requesting a report on the company’s sustainability policies and performance, including multiple, objective statistical indicators, where the company’s annual sustainability report addressed the underlying concern and essential objective of the proposal).

Furthermore, the Staff has taken the position that a shareholder proposal requesting that a company’s board of directors prepare a report on a particular corporate initiative may be excluded when the company has published information about that initiative on its website. See, e.g., *The Wendy’s Company*, supra; *Amazon.com, Inc.* (Apr. 1, 2020) (Proposal by International Brotherhood of Teamsters General Fund and the CtW Investment Group); *Nike, Inc.* (Jun. 19, 2020); *Mondelēz International, Inc.* (March 7, 2014) (concurring that a proposal urging the board of directors to prepare a report on the company’s process for identifying and analyzing potential and actual human rights risks in its operations and supply chain was substantially implemented through relevant information on the company’s website); and *The Gap, Inc.* (March 16, 2001) (concurring that a proposal requesting that the board of directors prepare a report on child labor practices of company suppliers was substantially implemented where the company had published information on its website about its vendor code and monitoring programs). See also, e.g., *Aetna Inc.* (March 27, 2009) (concurring that a proposal requesting a report describing the company’s policy responses to concerns regarding gender and insurance was substantially implemented when the company published a paper addressing such issues).

### B. The Proposal is Excludable under Rule 14a-8(i)(10) Because It Has Been Substantially Implemented by the Company

The Proposal and Supporting Statement make clear that the underlying concern or “essential objective” of the Proposal is to obtain information regarding the “extent to which Wendy’s Quality
Assurance audits and third-party reviews effectively protect workers in its food supply chain from human rights violations, including harms associated with COVID-19.” See Exhibit A. The Proposal also demands that any such report include highly detailed information with respect to four specific concerns, which we believe relate to the ordinary business matters listed in the table below, and which we have already addressed and therefore substantially implemented through (i) our mandatory Code that sets forth comprehensive guidelines with respect to human rights and labor practices of our Suppliers, which is freely available on our corporate website; and (ii) a substantial number of other related public disclosures on our corporate website (the “Public Disclosures”)\(^5\) that address various environmental, social and governance topics:

<table>
<thead>
<tr>
<th>Specific Proposal Request</th>
<th>Ordinary Business Matter</th>
</tr>
</thead>
<tbody>
<tr>
<td>Whether the Company requires its food Suppliers to implement COVID-19 safety protocols (“Protocols”) and specific information about any such Protocols</td>
<td>The extent to which the Company has required additional protocols for its Suppliers with respect to COVID-19</td>
</tr>
<tr>
<td>The number of times the Company has suspended one of its meat or produce Suppliers for failing to meet the Code’s expectations regarding human rights and labor practices (the “Human Rights Expectations”) and/or Protocols</td>
<td>The extent to which the Company enforces compliance with the Code’s Human Rights Expectations with respect to its meat and produce Suppliers</td>
</tr>
<tr>
<td>A list of all third-party auditors approved by the Company to monitor adherence to the Human Rights Expectations and/or Protocols, including specific statistics about such audits</td>
<td>The extent to which the Company reviews its meat and produce Suppliers for compliance with the Code’s Human Rights Expectations</td>
</tr>
<tr>
<td>Whether the Company ensures its meat and produce Suppliers’ workers have access to a third-party grievance mechanism, including specific details with respect to such grievances</td>
<td>The Company’s role with respect to a grievance mechanism for the employees of its meat and produce Suppliers</td>
</tr>
</tbody>
</table>

While the Code and Public Disclosures do not detail all of the highly specific and voluminous data requested by the Proposal, the Staff has consistently concurred with the exclusion of proposals under Rule 14a-8(i)(10) where, like here, the proposal has been substantially implemented and disclosed, even if not in the precise manner prescribed by the Proponent. For example, in PG&E Corp. (Mar. 10, 2010), the Staff permitted exclusion under Rule 14a-8(i)(10) of a proposal that requested a report detailing, among other things, the company’s standards for choosing the

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organizations to which it made charitable contributions and the “business rationale and purpose for each of the charitable contributions,” thereby requiring that the company disclose a list of all charitable contributions. The company successfully argued that it had substantially implemented the proposal by reference to its website that described its policies and guidelines for determining the types of grants that it made, even though the website did not specifically list or provide the rationale for each individual contribution. See also The Boeing Co. (Feb. 17, 2011) (concurring with exclusion of a proposal requesting that the company “review its policies related to human rights” and report its findings because the company already adopted its own policies, practices and procedures regarding human rights); ConAgra Foods, Inc. (July 3, 2006) (concurring with exclusion of a proposal requesting a sustainability report because the company was already providing information generally of the type proposed to be included in the report); and The Gap, supra (concurring with exclusion of a proposal requesting a report on child labor practices of company suppliers because the company already established a code of vendor conduct, monitored compliance, published information relating thereto and discussed labor issues with shareholders).

The Code espouses the best practices of our supply chain and outlines the specific expectations and requirements we have for Suppliers. The Code addresses the environmental and social issues that are most relevant to our business and brand and articulates how we manage and govern our most relevant environmental and social risks in light of our operations and supply chain. The Code demonstrates the Company’s priority focus on Supplier responsibility across critical areas of our supply chain. The Company believes people are our most valuable asset and, to that end, the Company takes all human rights and labor practices issues seriously and expects the same from our Suppliers. A Supplier’s repeated noncompliance with the Code is grounds for immediate termination.

It is important to note that, as indicated above, the substantial majority of Suppliers operate and supply the Wendy’s System from the United States and Canada and therefore are subject to rigorous, comprehensive and stringently enforced applicable local, state/provincial and federal labor laws and regulations, which at this time include, in certain areas, particular COVID-19 protocols and mandates specific to different regions. Additionally, the Code specifically addresses various human rights principles relating to global supply chain compliance in connection with our business, as well as the Human Rights Expectations referenced in the Proposal, including the following topics, which are described in greater detail in the Code:

- Hiring Practices
- Minimum Age Requirements and Child Labor
- Healthy and Safe Work Environment
- Housing Conditions
- Voluntary Employment
- Working Hours and Time Off

6 Code at 4.
7 Code at 10.
8 Code at 19.
9 Code at 10-11.
Furthermore, Suppliers are expected to use best practices in all aspects of their operations and conduct business in a manner consistent with the core principles and strong ethical values of the Company and our franchisees. This focus on upholding quality while adhering to such principles and values – specifically, “Do the Right Thing” and “Treat People with Respect” – applies to all components of our business, including human rights and labor practices. Accordingly, the Code represents a codification of our “way of doing business” and a pledge with Suppliers to work toward continuous improvement in all aspects of Company operations, including human rights.

In addition, our corporate website reflects our commitment to communicating with shareholders and other interested parties, such as consumers or employees of our Suppliers, about the principles we value. For example, on our corporate website, we share updates on a variety of Environmental, Social and Governance topics, including information related to our supply chain management, responsible sourcing and our commitment to animal welfare. We also maintain a frequently-updated blog called “The Square Deal” where we provide our views on a variety of important Corporate Social Responsibility topics, including human rights and worker safety, in a more informal setting to better connect with our stakeholders.

i) The Company’s Public Disclosures address the extent to which the Company has required additional protocols for its Suppliers with respect to COVID-19

The Proposal’s first request for detailed information asks for the report to disclose: (i) whether Wendy’s requires its food Suppliers to implement the COVID-19 work safety protocols (“Protocols”); and (ii) if so, the content of the Protocols, as well as the section(s) of Wendy’s Quality Assurance audit instrument relating to the Protocols and/or the Code’s Human Rights Expectations. While this aspect of the Proposal requests specific and detailed information regarding the Company’s supply chain, we believe that the underlying objective of the Proponent is to seek information as to whether the Company has required any additional protocols for its Suppliers with respect to COVID-19. On its corporate website, the Company has already addressed the ways in which it has adapted to supply chain challenges amidst an unexpected global pandemic, including, as requested by the Proposal, specifics regarding the content of new protocols.

10 Code at 2.
11 Code at 10.
12 Code at 4.
13 See The Wendy’s Company, What We Value, supra.
15 See The Wendy’s Company, Wendy’s Animal Welfare Program, supra.
related to the COVID-19 pandemic and the Company’s expectations for any changes to existing protocols going forward.\textsuperscript{17} For example, among other topics, we have disclosed\textsuperscript{18} that:

- we have communicated our “expectations to distribution partners and others who regularly access our restaurants to perform evaluations, maintenance and other necessary services and established a protocol for sharing information as needed to support safety concerns in our restaurants’’; and

- while we do not own or operate any supply chain or manufacturing operations, due to many years of work building strong supplier relationships, the Company was “able to successfully pivot many of our interactions with suppliers to virtual formats in the short term” and that “we have been able to continue to conduct facility evaluations remotely and collaborate with suppliers on new products using virtual tools and data sharing between suppliers and our Culinary and Quality Assurance teams.”

These Public Disclosures also acknowledge that while we anticipate certain items and processes will not need to endure permanently, we recognize that some COVID-19-induced changes to our supply chain and operations are likely to be maintained and that we will closely monitor any changes in federal, state and local or provincial requirements or regulations related to workplace safety conditions based on learnings from the COVID-19 pandemic.\textsuperscript{19} As part of these Public Disclosures, we noted that “[a]s with any area in which regulation evolves, the standards and practices that we expect from our suppliers will also evolve to reflect any heightened requirements placed on suppliers by relevant regulatory authorities.”\textsuperscript{20} Because the Code requires our Suppliers (including their suppliers and contractors) to comply with all applicable federal, state/provincial and local laws and regulations as part of responsible business operations, to the extent COVID-19-specific protocols become mandated, our Code would automatically require our Suppliers to comply with any such requirements.\textsuperscript{21} Therefore, based on the Public Disclosures described above, the Company believes it has substantially implemented the underlying objective of the first request for detailed information in the Proposal relating to the extent to which we have required additional protocols for our Suppliers with respect to COVID-19.

\textit{\textbf{ii) The Company’s Code of Conduct for Suppliers and Public Disclosures address the extent to which the Company enforces compliance with the Code’s Human Rights Expectations with respect to its meat and produce Suppliers}}

The Proposal’s second request for detailed information seeks the disclosure of the number of times the Company has suspended one of its meat or produce Suppliers for failing to meet the Human Rights Expectations and/or Protocols. While this aspect of the Proposal requests specific and detailed information regarding the Company’s supply chain, we believe that the Proposal’s underlying objective is to seek information regarding the extent to which the Company enforces

\textsuperscript{17} The Wendy’s Company, \textit{Adapting to Supply Chain Challenges Amidst a Global Pandemic}, available at \url{https://www.wendys.com/supply-chain-practices} (last visited Jan. 8, 2021).
\textsuperscript{18} \textit{Id.}
\textsuperscript{19} \textit{Id.}
\textsuperscript{20} \textit{Id.}
\textsuperscript{21} Code at 3, 10-11.
compliance with the Code’s Human Rights Expectations with respect to its meat and produce Suppliers. Though the Company does not report the precise and detailed information requested by this aspect of the Proposal, the Code clearly explains the processes by which any covered Supplier could be disciplined or terminated and the degree to which the Company takes seriously its responsibilities to monitor its Suppliers.  

The Code drives the Company’s expectations for all Suppliers and, as a condition of doing business with the Wendy’s System, each of our Suppliers is expected to comply with the provisions outlined in the Code and to reaffirm annually to the Company their receipt and understanding of the applicable provisions of the Code. In addition, Suppliers are expected to require similar standards of doing business from their suppliers and contractors, as applicable, and non-compliance by a supplier or contractor of a Supplier may have direct consequences to the Supplier’s relationship with Wendy’s. Based on an evaluation of various risk factors, we may require Suppliers to provide additional assurance of their business practices related to human rights and labor practices. If a Supplier does not comply with applicable Code provisions to our satisfaction or does not uphold our core values and ethical principles, then termination of the Supplier relationship will likely proceed. Repeat noncompliance is also inconsistent with our way of doing business and may be cause for immediate termination.  

Much like in PG&E, while the Company does not disclose the precise and detailed information requested by this aspect of the Proposal, the provisions of the Code described above set forth the framework for Supplier non-compliance with the Code, as well as the Company’s policies and guidelines for determining the processes by which the Company would choose to discipline a Supplier. Therefore, the Company believes it has substantially implemented the underlying objective of the second request for detailed information in the Proposal regarding the extent to which the Company enforces compliance with the Code’s Human Rights Expectations with respect to its meat and produce Suppliers.  

iii) The Company’s Code of Conduct for Suppliers and Public Disclosures provide information regarding the extent to which the Company reviews its meat and produce Suppliers for compliance with the Human Rights Expectations

The Proposal’s third request for detailed information asks for the report to disclose: (i) a list of all third-party auditors approved by the Company to monitor adherence to the Human Rights Expectations and/or Protocols; (ii) the total number of meat and produce Suppliers; (iii) how often the Company requires third-party audits on-site at each meat or produce Supplier location for adherence with the Human Rights Expectations and/or Protocols; (iv) the number of meat or produce Supplier locations so audited in the last year; and (v) the number of workers at such meat or produce Suppliers personally interviewed at each location. While this aspect of the Proposal requests specific and detailed disclosure regarding the Company’s supply chain, we believe that the Proposal’s underlying objective is to seek information regarding the extent to which the
Company reviews its meat and produce Suppliers for compliance with respect to the Human Rights Expectations and/or Protocols, regardless of whether the reviews and assessments are conducted by the Company’s Quality Assurance team, third-party experts, or both.

Again, while the Company has not implemented every intricate detail or disclosed every statistic requested by the Proponent, the Company believes that the Code and the Public Disclosures compare favorably to this specific request for a voluminous amount information by addressing the underlying concern of the request as described below.

**Oversight Framework**

As described in the Public Disclosures, in addition to the assurances and third-party assessments required by the Code, we also conduct our own regular Quality Assurance audits of the farms, plants, facilities and other operations locations of all our Suppliers, during which the Company’s Quality Assurance auditors observe operations conditions of our Suppliers, which audits include some observational questions related to worker welfare, safety and health.27 We support an open, honest and transparent dialogue with our Suppliers, and we developed the Code with the input of our Supplier community, including the elements summarized below:

- Suppliers undergo regular audits conducted by both trained Company Quality Assurance representatives and third-party experts.28 We have the right to conduct (or have our designee conduct) unannounced inspections of Supplier facilities and records.29 In addition to these Quality Assurance audits, the Code also states that “[s]uppliers of certain fresh agricultural products harvested by hand or in an otherwise manually intensive way will be subject to third party human rights and labor practices reviews”30, with our corporate website explaining that these reviews apply to suppliers of hand-harvested, whole, fresh produce, such as tomatoes, lettuce and berries.31 The corporate website notes that “[u]nlike areas such as food safety and animal welfare in which there are industry-wide or global standard assessments and auditing certifications, there does not today exist a singular human rights and labor practices assessment that is broadly used or accepted by all sectors and geographies of agricultural work.”32

- Suppliers are urged to conduct their own audits and inspections to ensure compliance with the Code and applicable legal and contractual standards. Suppliers are expected to document all audit results.33

- The Company monitors the Code compliance of Suppliers. Verification of a Supplier’s Code compliance may be demonstrated through various methods, including but not limited to: (i) third-party certification; (ii) submission of materials, such as existing sustainability or annual reports, audits or supplier contracts; (iii) compliance with local, state/provincial or national regulatory programs; (iv) Company Quality Assurance audits; and (v)

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27 The Wendy’s Company, Supply Chain Management and Responsible Sourcing, supra.
28 Id.
29 Code at 17.
30 Code at 11.
31 The Wendy’s Company, Supply Chain Management and Responsible Sourcing, supra.
32 Id.
33 Code at 17.
participation in national or international programs focused on continuous improvement of business conduct, as applicable.34

- All Suppliers (including their suppliers and contractors), are expected to comply with all applicable federal, state/provincial and local laws and regulations as part of responsible business operations.35
- As a condition of doing business with the Wendy’s System, each Supplier must comply with all applicable Code provisions and annually reaffirm to the Company the Supplier’s receipt and understanding of the mandatory Code and specific expectations outlined therein.36

Through the Code and the Public Disclosures, the Company is transparent in our explanation of the frequency of and methodology used to conduct audits and assessments of our Suppliers, which serves to address the underlying objective of the Proponent’s request, as well as the overall essential objective of the Proposal.

Specific Disclosures

The Code and the existing Public Disclosures also compare favorably with the third request for specific information contained in the Proposal by addressing many of the detailed requests for information.

First, with respect to the request to provide a list of all third-party auditors approved by the Company to monitor adherence to the Human Rights Expectations and/or Protocols, while the Company does not publish a list of every approved third-party auditor, we do provide disclosure regarding the detailed guidelines and principles that help guide our requirements for assurance and compliance. For example, our corporate website discloses that, with respect to the Human Rights Expectations in the Code, we have “evaluated and subsequently authorized several human rights and labor practice frameworks that are generally consistent with the expectations set forth in the Code” and that “[s]ome of the certifications more commonly used today include the Equitable Food Initiative, SA8000, and SEDEX/SMETA.”37 In addition, the Company also specifically addresses the Fair Food Program that the Proponent cites in the Supporting Statement, noting that “[f]rom time to time, we have been asked by certain stakeholders about participation by Wendy’s and our suppliers in the Fair Food Program” and that we “consider[] the Fair Food Program to be an acceptable assurance that would meet the requirements set forth in the Code; however, at the present time, none of our suppliers use the Fair Food Program framework.”38

Second, with respect to the request to provide the total number of meat and produce Suppliers, the Company discloses on its corporate website that “[a]t the end of 2020, the [Company’s] North America supply chain encompassed about 450 suppliers, which includes more than 300 food and

34 Id.
35 Code at 3.
36 Id. at 5 and 16.
38 Id.
packaging manufacturing and processing facilities and about 30 distribution centers, which are all covered by the [Code]” and that “[the Company’s] largest volume of supplier facilities are in the areas of meat protein packing and processing (~100), produce (~80), dairy products (~50), packaging (~50), and bakery items (~30).”\(^{39}\)

Third, with respect to the request to disclose how often the Company requires third-party audits on-site at each meat or produce Supplier location for adherence with the Human Rights Expectations and/or Protocols, the Public Disclosures already specifically disclose that the assessments conducted by the Company’s Quality Assurance team, which include some observational questions related to worker welfare, safety and health, occur regularly.\(^{40}\) In addition, as described above, the Code is clear that the Company closely monitors compliance of its Suppliers, and that third-party verification is one of the ways in which a Supplier’s compliance with the Code may be demonstrated.\(^{41}\)

Fourth, with respect to the request to disclose the number of meat or produce Supplier locations audited with respect to the Human Rights Expectations and/or the Protocols in the last year, as noted above, the Company conducts “regular” Quality Assurance audits of the farms, plants, facilities and other operations locations of all of its Suppliers and has disclosed the number of its Supplier locations in the Public Disclosures and, therefore, believes it has substantially implemented the requested information.

Finally, though the Company does not publicly disclose the exact number of workers at each of its meat and produce Suppliers who were personally interviewed at each location because it does not maintain or have full access to detailed employment information for the employees of its Suppliers, we expect all Suppliers to document the results of their own internal audits, as set forth in the Code.\(^{42}\)

When viewing the disclosures made by the Company regarding the Proposal’s third request for specific information, we believe that the Company has substantially implemented this prong of the Proposal by addressing the underlying objective regarding the extent to which the Company reviews its meat and produce Suppliers for compliance with the Code’s Human Rights Expectations.

\textit{iv) The Company’s Code of Conduct for Suppliers and Public Disclosures address the Company’s role with respect to a grievance mechanism for the employees of its meat and produce Suppliers}

The Proposal’s fourth request for detailed information asks for the report to disclose: (i) whether Wendy’s ensures that workers at its meat and produce Suppliers have access to a third-party grievance mechanism with the authority to order a remedy, for reporting violations of the Human

\(^{39}\) The Wendy’s Company, \textit{Supply Chain Management and Responsible Sourcing}, supra.

\(^{40}\) \textit{Id.} While this aspect of the Proposal requests specific information only with respect to \textit{third-party} auditors/audits, the Proposal more generally asks for a report that addresses the Code and “the extent to which \textbf{Wendy’s Quality Assurance audits} and \textbf{third-party reviews} effectively protect workers…” (emphasis added).

\(^{41}\) Code at 17.

\(^{42}\) \textit{Id.}
Rights Expectations and/or Protocols; and (ii) if so, the required procedures, the number of grievances filed by employees of the Company’s meat and produce Suppliers, and the outcomes of all such grievances. While this aspect of the Proposal requests specific and detailed disclosure regarding the Company’s supply chain, we believe that the underlying objective of the Proponent is to seek information regarding the Company’s role with respect to a grievance mechanism for the employees of its meat and produce Suppliers. As described in more detail below, the Company believes that its Code and Public Disclosures compare favorably with the information requested by this aspect of the Proposal.

The Company maintains a robust reporting process that enables any workforce member, whether employed by the Company or a Supplier, to raise or inquire about any issue concerning our business, operations or supply chain. In fact, while the Proposal asks for specific information regarding a third-party grievance mechanism, the Company’s standards for the reporting process and resources it expects from its Suppliers are effectively communicated in the Code. The Code requires each Supplier to have in place means for any employee to submit anonymous concerns and grievances to the Supplier’s management. As part of this grievance process, Suppliers must also designate a process in which to record, file and appropriately address concerns by taking appropriate action in a confidential manner, as necessary.43 We also prohibit workplace retaliation and expect Suppliers to have a no-retaliation policy that provides Supplier employees with the opportunity to speak with their leadership without fear or concern of retaliation when asking questions or raising concerns.44 Our Code further reinforces its grievance and no-retaliation policy requirements by stipulating that Suppliers be well equipped to address and remedy many business ethics concerns and violations described in the Code that could arise in their respective organizations.45 The Code also includes the Company’s toll-free compliance hotline phone number and ethics website internet address, stating that Suppliers and their employees may use those reporting mechanisms to report business ethics concerns directly to the Company.46

These disclosures directly address the Proposal by providing detailed and specific information regarding the framework that the Company has instilled to ensure that all of the employees of all of its Suppliers have access to a grievance mechanism, including the Company’s, as disclosed by the Code.47 As described below in greater detail in Section VI.D, while the Company does not disclose the precise number of grievances and the outcomes of all of those grievances, providing such sensitive and detailed information is not necessary for the Staff to concur that the Company has substantially implemented the Proposal. Much like in PG&E, the Staff has commonly permitted differences between a company’s actions and a shareholder proposal if the company’s actions satisfactorily address the proposal’s essential objectives, even when the company did not take the exact action requested by the proponent or exercised discretion in determining how to implement the proposal and whether to implement it in full.

Based on the application of the Code and the Public Disclosures described above, and in connection with the Staff’s existing precedent, the Company believes it has substantially

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43 Code at 15.
44 Id.
45 Id.
46 Id.
47 Id.
implemented the underlying objective of the Proponent’s request for detailed information relating to the Company’s role with respect to a grievance mechanism for the employees of its meat and produce Suppliers and, therefore, believes that the Proposal should be excluded pursuant to Rule 14a-8(i)(10).

VI. RULE 14A-8(I)(7) ANALYSIS

A. Rule 14a-8(i)(7) Background

Rule 14a-8(i)(7) allows for the exclusion of a shareholder proposal that “deals with a matter relating to the company’s ordinary business operations.” In its release accompanying the 1998 amendments to Rule 14a-8 of the Exchange Act, the Commission stated that the “ordinary business” term “refers to matters that are not necessarily ‘ordinary’ in the common meaning of the word” and “is rooted in the corporate law concept providing management with flexibility in directing certain core matters involving the company’s business and operations.” See the 1998 Release. According to the Commission in the 1998 Release, the underlying policy of the ordinary business exclusion is “to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholder meeting.”

The Commission identified “two central considerations” that underlie the ordinary business exclusion, as set forth in the 1998 Release. The first of these considerations is that “[c]ertain 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.” Id. (footnote omitted).

In the 1998 Release, the Commission distinguished proposals pertaining to ordinary business matters from those “focusing on sufficiently significant social policy issues,” the latter of which “generally would not be considered to be excludable” under Rule 14a-8(i)(7). Id. When the Staff assesses Rule 14a-8(i)(7) proposals in this regard, the Staff considers the terms of the resolution and its supporting statement as a whole. See SLB No. 14C. The Staff also expounded on the significant social policy exception in Staff Legal Bulletin No. 14E (October 27, 2009) (“SLB No. 14E”), in which the Staff indicated that “[i]n those cases in which a proposal’s underlying subject matter transcends the day-to-day business matters of the company and raises policy issues so significant that it would be appropriate for a shareholder vote, the proposal generally will not be excludable under Rule 14a-8(i)(7) as long as a sufficient nexus exists between the nature of the proposal and the company”. The Staff went on to note in SLB 14E that “[c]onversely, in those cases in which a proposal’s underlying subject matter involves an ordinary business matter to the company, the proposal generally will be excludable under Rule 14a-8(i)(7)”.

Notwithstanding the significant social policy exception, even when a proposal involves a significant policy issue, the proposal may nevertheless be excluded under Rule 14a-8(i)(7) if the proposal seeks to micromanage 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

A proposal framed in the form of a request for a report does not change the nature of the proposal. The Commission has stated that a proposal requesting the dissemination of a report may be excludable under Rule 14a-8(i)(7) if the subject matter of the report is within the ordinary business of the issuer. See Exchange Act Release No. 20091 (Aug. 16, 1983). See also The Wendy’s Company (Mar. 2, 2017).

B. The Proposal is Excludable under Rule 14a-8(i)(7) Because Supplier Relationships and Decisions Regarding Such Relationships are Fundamental to the Company’s Day-to-Day Business Operations

In the 1998 Release, the Commission cited “management of the workforce, . . . decisions on production quality and quantity, and the retention of suppliers” as examples of tasks that are fundamental to management’s ability to run a company on a daily basis. The Staff has also consistently concurred that proposals involving supplier relationships related to ordinary business operations and could therefore be excluded from proxy materials under Rule 14a-8(i)(7), as described in detail below.

For example, in Foot Locker, Inc. (Mar. 3, 2017), a shareholder proposal requested a report outlining the steps that the company was taking, or could take, to monitor the use of subcontractors by the company’s overseas apparel suppliers (which report was requested to disclose, among other topics, the extent to which company codes of conduct were applied to apparel suppliers and subcontractors, the process and procedures for monitoring compliance with corporate codes of conduct by apparel suppliers and subcontractors and the processes and procedures that the company had in place for dealing with code non-compliance by apparel suppliers and subcontractors). In granting relief to exclude the proposal under Rule 14a-8(i)(7), the Staff determined that the proposal related “broadly to the manner in which the company monitors the conduct of its suppliers and their subcontractors.” See also Amazon.com, Inc. (Apr. 1, 2020) (Proposal by International Brotherhood of Teamsters General Fund and the CtW Investment Group) (proposal requesting a report on the company’s steps taken to reduce the risk of accidents, including the board’s oversight process of safety management, staffing levels, and inspection and maintenance excludable under Rule 14a-8(i)(7) because the proposal focused on workplace accident prevention, an ordinary business matter); Kraft Foods Inc. (Feb. 23, 2012) (proposal requesting a report detailing the ways the company would assess water risk to its agricultural supply chain and mitigate the impact of such risk excludable under Rule 14a-8(i)(7) because the proposal concerned “decisions relating to supplier relations...[which] are generally excludable under Rule 14a-8(i)(7)”; The Southern Co. (Jan. 19, 2011) (concurring with Rule 14a-8(i)(7) exclusion of a proposal requesting that the company “strive to purchase a very high percentage” of “Made in the USA” goods and services because the proposal related to “decisions relating to supplier relationships”); Spectra Energy Corp. (Sept. 10, 2010, recon. denied Oct. 25, 2010) (concurring with Rule 14a-8(i)(7) exclusion of a proposal the same as that in Southern Co., supra, on the same basis); Alaska Air Group, Inc. (March 8, 2010) (concurring with Rule 14a-8(i)(7) exclusion of a proposal requesting a report on the company’s aircraft contract repair stations and the company’s procedures for overseeing maintenance performed by the contract repair stations,
as the proposal concerned “decisions relating to vendor relationships [which] are generally excludable under Rule 14a-8(i)(7)”; Continental Airlines, Inc. (March 25, 2009) (concurring with Rule 14a-8(i)(7) exclusion of a proposal requesting a policy on contract repair stations because the proposal related to “decisions relating to vendor relationships”); Dean Foods Co. (Mar. 9, 2007) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that requested an independent committee review of the company’s standards for organic dairy product suppliers, noting that the proposal related to the company’s “decisions relating to supplier relationships”); International Business Machines Corp. (Dec. 29, 2006) (concurring with Rule 14a-8(i)(7) exclusion of a proposal that sought to have the company update its supplier evaluation and selection process because the proposal related to company business operations and “decisions relating to supplier relationships” specifically); and PepsiCo, Inc. (Feb. 11, 2004) (concurring with Rule 14a-8(i)(7) exclusion of a proposal concerning company relationships with different bottlers because the proposal related to “decisions relating to vendor relationships”).

The Company has invested significant time and resources in identifying, approving and maintaining relationships with Suppliers who exemplify our core values and ethical principles and comply with the Code and the QSCC SOA, both of which include provisions governing human rights and labor practices. Our Supplier relationships have been developed over an extensive period of time and in collaboration with QSCC on behalf of its members, and the effective processes and practices for vetting, contracting with, monitoring and auditing Suppliers are comprehensive, detailed and involve other parties in addition to the Company. Much like in Foot Locker, the extent to which the Company applies and enforces its Code involves decisions that are fundamental to our day-to-day operations and entails a variety of ordinary business considerations, including, but not limited to, compliance with laws, quality control, brand management, labor management, contract negotiation, resource management and the treatment of confidential information. Such considerations are complex and cannot, as a practical matter, be subject to shareholder oversight, particularly when the requests are as intricately detailed and granular as in the Proposal. Accordingly, the ability to source high quality Products that meet our food safety and quality assurance standards from approximately 450 Suppliers across the Wendy’s System, and to ensure that those Suppliers meet the requirements set forth in the Code and the QSCC SOA, is an intrinsic, chief component of our central day-to-day business operations.

C. The Proposal is Excludable under Rule 14a-8(i)(7) Because It Involves Ordinary Business Matters Regardless of Whether the Proposal Touches upon a Significant Policy Issue

The 1998 Release distinguishes proposals pertaining to ordinary business matters from those involving “significant social policy issues,” the latter of which are not excludable under Rule 14a-8(i)(7) because they “transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote.” When assessing whether the focus of the proposal is a significant social policy issue, the Staff considers the terms of the proposal and its supporting statement as a whole. See SLB No. 14C.

We acknowledge the Staff’s position regarding the inclusion of shareholder proposals that relate to “significant social policy issues” that “transcend day-to-day business matters of the Company” and that such proposals might not be excludable under Rule 14a-8(i)(7). See SLB No. 14E. Even
where a proposal touches on a significant policy issue, however, the Staff has concurred in the exclusion of proposals when such proposals broadly focus on ordinary business matters. See Staff Legal Bulletin No. 141 (Nov. 1, 2017). In particular, while the Staff has determined that some proposals addressing human rights issues may constitute social policy issues that might not be excludable under Rule 14a-8(i)(7), the Staff has concurred on several occasions that merely invoking or phrasing a social policy issue in a proposal does not bar an exclusion determination if the proposal does, in fact, deal with tasks that are fundamental to management’s ability to run the company on a day-to-day basis and seek to micromanage the Company by probing too deeply into business decisions and relationships upon which shareholders are not adequately informed to render judgment. See, e.g., Pilgrim’s Pride Corp. (Feb. 25, 2016) (concurring in the exclusion of a proposal requesting a report describing the company’s policies, practices, performance and improvement targets related to occupational health and safety under Rule 14a-8(i)(7) for relating to workplace safety, an ordinary business matter); Bristol-Myers Squibb Co. (Jan. 7, 2015) (concurring with Rule 14a-8(i)(7) exclusion of a proposal regarding human rights because the proposal related to the company’s ordinary business operations); Yum! Brands, Inc. (Jan. 7, 2015) (exclusion of a proposal the same as that in Bristol-Myers, supra, on the same basis); Costco Wholesale Corp. (Nov. 14, 2014) (exclusion of a proposal the same as that in Bristol-Myers, supra, on the same basis). See also PetSmart, Inc. (Mar. 24, 2011) (concurring with Rule 14a-8(i)(7) exclusion of a proposal that would have required suppliers to certify that they did not violate certain federal legislation and state law equivalents relating to the treatment of animals, noting that although humane treatment of animals is a significant policy issue, the scope of the laws covered by the proposal was too broad and thus too far removed from the company’s control to be a proper focus of the proposal).

Here, while the Proposal implicates social policy concerns, its primary focus is on the Company’s relationship with, and monitoring of, its Suppliers – a complex business matter that the Company addresses as part of its daily operations. Specifically, the Proposal requests that the Company’s Board of Directors commission a report that discloses, among other items, the “number of times Wendy’s has suspended one of its meat or produce suppliers…for failing to meet ‘[the Human Rights] Expectations’ and/or ‘Protocols’”, “[a] list of all third-party auditors approved by Wendy’s to monitor adherence,” “the number of [meat and produce Supplier] locations so audited in the last year including the number of [meat and produce Supplier]workers personally interviewed at each location” and “[the] number of grievances filed by [meat and produce Supplier] employees in the last year, and outcomes of all such grievances.” These requests illustrate that the Proposal is more concerned with the Company’s oversight of its Suppliers and the processes and procedures by which the Company ensures compliance with the Code and QSCC SOA rather than any significant policy issue that transcends the day-to-day operations of the Company – precisely the type of day-to-day operations that the 1998 Release indicated are too impractical and too complex to subject to direct shareholder oversight. As in Bristol-Myers, Yum!, Pilgrim’s Pride and the other precedents described above, even if certain aspects of the Company’s supply chain were deemed to implicate significant policy issues, the Proposal’s broad and detailed request clearly relates to the Company’s ordinary business operations and does not transcend the day-to-day operations of the Company for which our management, rather than shareholders, is best equipped to evaluate.

Furthermore, the Staff has indicated that when a proposal relating to a company’s ordinary business operations also raises a significant policy issue, the proposal will be excludable under
Rule 14a-8(i)(7) unless “a sufficient nexus exists between the nature of the proposal and the company.” See SLB No. 14E. The Company does not believe there is a sufficient nexus between the overarching policy objective of the Proposal – the protection of human rights of certain farmworkers and meat production workers – and the Company’s day-to-day business operations as a quick-service restaurant company. The Company is not directly involved in the operation of farms or meatpacking facilities – the two primary examples cited in the Proposal – and does not employ any workers at farms or meatpacking facilities. Instead, the Company contracts with independent Suppliers who process or manufacture the food items that are ultimately served in Wendy’s restaurants. Those Suppliers, in turn, contract as needed with farmers, producers and processors that grow, raise and/or harvest the products needed to make these food items. The Company is neither a producer nor a supplier of meat or produce, and the Company’s purchases of meat and produce represent a minuscule portion of the total amounts of those products supplied and sold in the United States and Canada. For instance, the Company purchases only about 1% of the total beef produced in the United States, and in Canada, the amount purchased represents an even smaller percentage of the beef produced in that country. In addition, our food manufacturing Suppliers represent less than 1% of all food manufacturing facilities in the United States. Therefore, we believe that the Company’s day-to-day operations of running a quick-service hamburger concept are far removed from any underlying policy consideration of the protection of human rights and worker safety of the country’s meat and produce Suppliers. Based on this lack of a sufficient nexus between the underlying substance of the Proposal and the Company’s operations, the Company does not believe that the Proposal relates to a policy that is sufficiently significant to the Company such that it is appropriate for a shareholder vote.

D. The Proposal is Excludable under Rule 14a-8(i)(7) Because It Seeks to Micromanage the Company by Probing Too Deeply into Complex Matters and Aspects of the Company’s Business and Operations

As described above, notwithstanding the significant social policy exception, even when a proposal involves a significant policy issue, the proposal may nevertheless be excluded under Rule 14a-8(i)(7) if it seeks to micromanage the company by specifying in detail the manner in which the company should address the policy issue. See, e.g., SLB No. 14J and SLB No. 14K. For example, in The Wendy’s Company (Mar. 2, 2017), the Staff concurred with our exclusion of a proposal under Rule 14a-8(i)(7) that requested the Company “take all necessary steps to join the Fair Food Program” to support the rights and labor conditions of tomato workers, which the Company argued implicated its supplier relationships and decisions, because the proposal “sought to micromanage 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”. Here, the Proposal likewise seeks to micromanage the Company’s management of complex issues upon which shareholders could not make an informed decision at our annual meeting of stockholders. SLB No. 14J and SLB No. 14K; 1998 Release.

In particular, as described in SLB No. 14J and the 1998 Release, “a proposal may probe too deeply into matters of a complex nature if it ‘involves intricate detail, or seeks to impose specific time-frames or methods for implementing complex policies’” (footnote omitted). See, e.g., Marriott International Inc. (March 17, 2010) (proposal limiting showerhead flow to no more than 1.6 gallons per minute and requiring the installation of mechanical switches to control the level of
water flow was excludable for micromanaging despite recognition that global warming, which the proposal sought to address, is a significant policy issue; and Duke Energy Corporation (Feb. 16, 2001) (proposal requesting eighty percent reduction in nitrogen oxide emissions from the company’s coal-fired plants and limit of 0.15 pounds of nitrogen oxide per million British Thermal Units of heat input for each boiler was excludable despite proposal’s objective of addressing significant environmental policy issues). In addition, the Staff clarified in SLB No. 14K that “in considering arguments for exclusion based on micromanagement…we look to whether the proposal seeks intricate detail or imposes a specific strategy, method, action outcome or timeline for addressing an issue, thereby supplanting the judgment of management and the board” and “a proposal, regardless of its precatory nature, that prescribes specific timeframes or methods for implementing complex policies…may run afoul of micromanagement” (footnotes omitted). See, e.g., Devon Energy Corp. (Mar. 4, 2019) (proposal seeking annual reporting on “short-, medium- and long-term greenhouse gas targets aligned with the greenhouse gas reduction goals established by the Paris Climate Agreement to keep the increase in global average temperature to well below 2 degrees Celsius and to pursue efforts to limit the increase to 1.5 degrees Celsius” was excludable on the basis of micromanagement under Rule 14a-8(i)(7)).

SLB No. 14J also clarifies that the micromanagement framework “also applies to proposals that call for a study or report,” noting that “a proposal that seeks an intricately detailed study or report may be excluded on micromanagement grounds” and “a proposal calling for a report may be excludable if the substance of the report relates to the imposition or assumption of specific timeframes or methods for implementing complex policies” (footnote omitted). See, e.g., Amazon.com, Inc. (Apr. 3, 2019) (proposal requesting human rights impact assessments for food products sold by the company that presented a high risk of adverse human rights impacts excludable under Rule 14a-8(i)(7) because the proposal “would micromanage the [c]ompany by seeking to impose specific methods for implementing complex policies in place of the ongoing judgments of management as overseen by its board of directors”); PayPal Holdings, Inc. (Mar. 6, 2018) (proposal requesting a detailed and resource-intensive report regarding the feasibility of achieving “net-zero” greenhouse gas emissions by 2030 was excludable for micromanaging despite recognition that reduction of greenhouse gas emissions is a significant policy issue); Apple Inc. (Dec. 5, 2016) (proposal the same as that in PayPal, supra, was excluded on the same basis); and Ford Motor Company (Mar. 2, 2004) (concurring in the omission of a proposal seeking to dictate “the specific method of preparation and the specific information to be included in a highly detailed report”).

Much like in Amazon.com, PayPal and Apple, the Proposal not only seeks an intricately detailed report that imposes specific methods for implementing complex policies in place of the ongoing judgment of the Company’s management and Board of Directors, but, like Ford Motor Company, also dictates the specific method of preparation and the specific information to be included. Although the Proposal begins by requesting a report that “address[es] Wendy’s Supplier Code of Conduct and the extent to which Wendy’s Quality Assurance audits and third-party reviews effectively protect workers in its food supply chain from human rights violations,” the Proposal goes on to dictate the specific – and highly detailed – information that must be included in the report.
In particular, the Proposal alternates between requesting (i) general information that the Company already makes publicly available, as described above in greater detail in Section V.B.ii, and (ii) voluminous and specific information that is so intricate and complex that shareholders, as a group, would not be in a position to make an informed judgment regarding such information. For example, the Proposal requests such highly specific information with respect to the Company’s meat and produce Suppliers and the Code’s Human Rights Expectations that it would be of little use to shareholders, including:

- the specific “content of the [COVID-19 worker safety protocols]”;
- the “number of times Wendy’s has suspended one of its meat or produce suppliers…for failing to meet [the Human Rights] Expectations and/or Protocols”;
- a “list of all third-party auditors approved by Wendy’s to monitor adherence to [the Human Rights] Expectations and/or Protocols”;
- the “total number of [meat and produce Supplier] locations…audited in the last year”;
- the “number of [meat and produce Supplier] workers personally interviewed at each location”;
- the “required procedures” for all of the third-party grievance mechanisms of the Company’s [meat and produce Suppliers] for reporting violations of the Code’s Human Rights Expectations and/or the Protocols;
- the “number of grievances filed by [meat and produce Suppliers’] employees in the last year; and
- the “outcomes of all such grievances.”

Not only does the management of Supplier relationships represent complicated matters that are integrally entwined in our ordinary business operations and inherent to management’s ability to run the Company’s operations on a day-to-day basis, but the Proposal also focuses on the Company’s two largest categories of food Suppliers – meat and produce – which constitute approximately 180 of the Company’s 300 food processing and manufacturing locations. Evaluating and weighing these matters involve the deliberation and expertise of professionals and experts in various disciplines who carefully evaluate, among other things, often complex and competing considerations that relate to the Company, QSCC and our Suppliers alike, such as industry and Product standards, practices and advancements, business operations and expenditures, legal and regulatory requirements and compliance. The breadth and depth of the analyses and decisions relating to the Company’s diverse supply chain require multifaceted and complex decision-making processes, as well as detailed information not available to shareholders. Moreover, by substituting the Proposal for management’s practices and processes, the Proponent seeks to micromanage not only the Company, but also QSCC and our Suppliers, under the guise of a report, upon which our shareholders, as a group, would not be in a position to make an informed judgment. The specific information requested by the Proposal touches upon numerous aspects of the business and operations of the Company, QSCC and our Suppliers and consequently would impinge on management’s ability to run the Company and operate our business on a day-to-day basis. In addition, as the Company is not responsible for and does not control the employment policies or practices of our Suppliers, in most instances it would not be appropriate for the Company to be involved (and the Company would not expect to be involved) in complaints or grievances those independent Suppliers might receive from their employees from time to time.
In the event the employee of a Supplier (including a meat or produce Supplier) brought a concern regarding their employer to our attention via the Company’s publicly available toll-free compliance hotline phone number or ethics website internet address, our general process would be to direct that concern to an appropriate contact at the Supplier to investigate and address as appropriate consistent with their applicable policies and procedures. If a concern raised questions as to a Supplier’s compliance with its contractual obligations to the Company or expectations as set forth in the Code, the Company might also conduct its own follow up as reasonably necessary to evaluate and address the situation, including any impact on the Company or the Company’s relationship with the Supplier.

Not only would compiling a report of the type requested by the Proposal be highly impracticable and require a substantial investment of time and resources, in the event the Company were required to prepare the report requested by the Proponent, the level of detail noted above would effectively replace the judgment of the Company’s management and Board of Directors in their consideration and preparation of any such report, limiting its usefulness to the Company’s shareholders.

Accordingly, consistent with Ford Motor Company, PayPal and the other precedent described above, the Company believes that the Proposal may be excluded from its 2021 Proxy Materials as micromanaging the Company pursuant to Rule 14a-8(i)(7).

VII. CONCLUSION

For the reasons discussed above, the Company believes that the Proposal may be omitted from the 2021 Proxy Materials in reliance on both Rule 14a-8(i)(10) and Rule 14a-8(i)(7).

Based on the foregoing analysis, we respectfully request that the Staff concur with the Company’s view and confirm that the Staff will not recommend enforcement action to the Commission if the Company omits the Proposal from its 2021 Proxy Materials.

If you have any questions, or if the Staff is unable to concur with our view without additional information or discussions, we respectfully request the opportunity to confer with members of the Staff prior to the issuance of any written response to this letter. Please do not hesitate to contact me by telephone at (614) 764-3220 or by email at Michael.Berner@wendys.com.

Regards,

Michael G. Berner
Vice President – Corporate & Securities Counsel and Chief Compliance Officer, and Assistant Secretary

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48 Code at 15.
Attachments

cc: The Franciscan Sisters of Allegany, NY
    Mary Beth Gallagher (as agent for the Franciscan Sisters of Allegany, NY) (mbgallagher@iasj.org)
    Craig Marcus, Ropes & Gray LLP (craig.marcus@ropesgray.com)

404837
EXHIBIT A

PROPOSAL AND PROPONENT DOCUMENTATION
December 9, 2020

E. J. Wunsch  
Chief Legal Officer, Chief Compliance Officer and Secretary  
The Wendy’s Company  
One Dave Thomas Boulevard  
Dublin, Ohio 43017

Sent via mail and email to: corporate-secretary@wendys.com; heidi.krings@wendys.com; investorrelations@wendys.com

Dear Mr. Wunsch:

The Franciscan Sisters of Allegany, NY are Catholic institutional investors committed to aligning our investments with our values as part of our mission to promote social justice and human rights. We participate in the work of Investor Advocates for Social Justice (IASJ) and the Interfaith Center on Corporate Responsibility (ICCR). We have previously engaged Wendy’s through an investor letter calling on Wendy’s to join the Fair Food Program (FFP). We respectfully offer the enclosed shareholder proposal on Protecting Essential Food Chain Workers’ Rights During COVID-19.

The Franciscan Sisters of Allegany, NY is the beneficial owner of 160,7923 shares of Wendy’s stock. The Franciscan Sisters of Allegany, NY has held stock continuously for over one year and intends to retain the requisite number of shares through the date of the Annual Meeting. A letter of verification of ownership is forthcoming.

Please address all communication regarding this proposal to Mary Beth Gallagher, Executive Director of Investor Advocates for Social Justice located at 40 South Fullerton Ave, Montclair, NJ 07042, email address: mbgallagher@iasj.org and phone number (973) 509-8800. Please also email a copy to srgloria@hotmail.com. We look forward to constructive dialogue about these concerns.

Sincerely,

Sr. Chris Treichel, OSF  
Treasurer
Whereas: Wendy’s has acknowledged human rights “risk factors” in its food supply chain from “the nature of agricultural work.”¹

There is, indeed, a well-documented history of human rights violations in the U.S. agricultural industry, including slavery, sexual assault, and workplace safety violations. Essential workers in food supply chains—especially on farms and in meatpacking facilities—are now also at heightened risk of exposure to, and death from, COVID-19.

Wendy’s claims to address human rights risks through a Supplier Code of Conduct, Quality Assurance audits, and third-party reviews of human rights and labor practices for certain produce suppliers.

But Wendy’s meat suppliers have had widely-publicized COVID-19 outbreaks, disrupting Wendy’s beef supply.² A Cargill plant had the largest COVID-19 outbreak linked to a single facility in North America: 1,560 cases.³ Inadequate protections at Tyson resulted in more than 11,000 employees contracting COVID-19,⁴ and a wrongful death lawsuit alleges Tyson managers bet on how many workers would get infected.⁵ COVID-19 outbreaks among farmworkers are legion⁶ and likely impact workers at Wendy’s produce suppliers.

Meanwhile studies show that conventional social auditing fails to detect workplace abuses, demonstrating the importance of worker-driven mechanisms with enforcement. Yet Wendy’s is the only major fast food chain that has not joined the Fair Food Program—the recognized “gold standard” for supply chain monitoring,⁷ and the only social responsibility certification known to have mandatory, enforceable COVID-19 safety protocols for farmworkers.

**RESOLVED:** Shareholders request the Board issue a report, at reasonable cost and omitting proprietary information, addressing Wendy’s Supplier Code of Conduct and the extent to which Wendy’s Quality Assurance audits and third-party reviews effectively protect workers in its food supply chain from human rights violations, including harms associated with COVID-19. This report should include:

- Whether Wendy’s requires its food suppliers to implement COVID-19 worker safety protocols (“Protocols”), and, if so, the content of the Protocols, as well as the section(s)

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¹ https://www.wendys.com/supply-chain-practices
² https://www.nytimes.com/2020/05/05/business/coronavirus-meat-shortages.html
³ https://newsinteractives.cbc.ca/longform/cargill-covid19-outbreak
of Wendy’s Quality Assurance audit instrument relating to the Protocols and/or the Code’s Human Rights and Labor Practices Expectations (“Expectations”);

- The number of times Wendy’s has suspended one of its meat or produce suppliers (“Suppliers”) for failing to meet Expectations and/or Protocols;
- A list of all third-party auditors approved by Wendy’s to monitor adherence to Expectations and/or Protocols, the total number of Supplier locations, how often Wendy’s requires third-party audits on-site at each Supplier location for adherence with Expectations and/or Protocols, and the number of Supplier locations so audited in the last year including the number of Supplier workers personally interviewed at each location;
- Whether Wendy’s ensures Suppliers’ workers have access to a third-party grievance mechanism, with the authority to order a remedy, for reporting violations of Expectations and/or Protocols, and, if so, the required procedures, number of grievances filed by Suppliers’ employees in the last year, and outcomes of all such grievances.

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Good morning,

Please see attached for a shareholder proposal from the Franciscan Sisters of Allegany that was sent to the IR inbox.

Thanks,

Kelsey

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From: Ellen Weaver <ejweaver@fsallegany.org>
Sent: Wednesday, December 9, 2020 3:35 PM
To: Corporate-Secretary <Corporate-Secretary@wendys.com>; heidi.krings@wendys.com; Investor Relations <InvestorRelations@wendys.com>
Cc: Mary Beth Gallagher <mbgallagher@iasj.org>; 'Gloria Oehl (srgloria@hotmail.com)'
<srgracia@hotmail.com>
Subject: [EXT] Shareholder Participation Documents

Dear Mr. Wunsch,

Attached are two documents from the Franciscan Sisters of Allegany for your review. The hard copies of these items have been sent overnight by FedEx to your attention. A letter of verification of ownership will be forthcoming.

These items are being sent on behalf of our Treasurer, Sister Chris Treichel, OSF.

Thank you and best to you,

Ellen J Weaver
Finance Manager / Franciscan Sisters of Allegany
PO Box W, St Bonaventure, NY 14778
Phone: 716-373-0200 Ext. 3209
Fax: 716-373-5774
December 09, 2020

Ellen J Weaver
P.O. Box W
Saint Bonaventure, NY 14778
US

Questions: +1 877-594-2578 x0012036

Important Information about your account.

I am writing in response to your request for information regarding the account referenced below.

Account Number: ...

Account Registration: Margaret Mary Kimmins, Margaret Magee, Gloria Oehl, Patricia A Treichel and Ellen J Weaver, Agents for the Franciscan Sisters of Allegany NY Inc.

Account Type: Brokerage

On December 8, 2020 you held 160.7923 shares of Wendys CO. (WEN).

This letter is for informational purposes only and is not an official record. Please refer to your statements and trade confirmations as they are the official record of your transactions.

Thank you for investing with Schwab. We appreciate your business and look forward to serving you in the future. If you have any questions or if we can help in any other way, please call me or any Client Service Specialist at +1 877-594-2578 x0012036, Monday through Friday, from 9:00 a.m. to 7:00 p.m. ET.

Sincerely,

Rick Divine
Sr Specialist, Escalation Support
Rick.Divine@schwab.com
+1 877-594-2578 x0012036
9800 Schwab Way
Lone Tree, CO 80124

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Good morning,

The Franciscan Sisters of Allegany sent verification of share ownership through the IR inbox on Friday to go along with their proposal from a couple weeks ago.

Thanks!
Kelsey

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From: Ellen Weaver <ejweaver@fsallegany.org>
Sent: Friday, December 11, 2020 7:10 PM
To: Corporate-Secretary <Corporate-Secretary@wendys.com>; heidi.krings@wendys.com; Investor Relations <InvestorRelations@wendys.com>
Cc: Mary Beth Gallagher <mbgallagher@iasj.org>; 'Gloria Oehl (srgloria@hotmail.com)'
Subject: [EXT] Shareholder Participation - Additional Document

Mr Wunsch,

Following the shareholder proposal filing materials, please find verification of our share ownership attached.
I recognize there may need to be alternative language and am working to secure that, but want to make sure to send this alongside our proposal in the meantime.

Sincerely,

Ellen J Weaver
Finance Manager / Franciscan Sisters of Allegany
PO Box W, St Bonaventure, NY 14778
Phone: 716-373-0200 Ext. 3209
Fax: 716-372-5774
December 14, 2020

VI A ELECTRONIC DELIVERY

Mary Beth Gallagher
Executive Director
Investor Advocates for Social Justice
40 South Fullerton Ave.
Montclair, NJ 07042

RE: Rule 14a-8 Proposal (The Wendy’s Company)

Dear Ms. Gallagher:

I am writing in response to a letter from Sr. Chris Treichel, OSF on behalf of the Franciscan Sisters of Allegany, NY (the “Sisters”) to Mr. E. J. Wunsch, Chief Legal Officer and Secretary of The Wendy’s Company (the “Company”), dated and received via email on December 9, 2020 (the “Letter”), with a stockholder proposal requesting that the Company issue a report describing the extent to which workers in the Company’s food supply chain are protected from human rights violations, including harms associated with COVID-19 (the “Proposal”) for inclusion in the Company’s proxy materials for its 2021 Annual Meeting of Stockholders (the “Proxy Materials”). The Letter requests that the Company direct all communication regarding the Proposal to your attention.

The Letter states that “The Franciscan Sisters of Allegany, NY is the beneficial owner of 160.7923 shares of Wendy’s stock [and has] held stock continuously for over one year and intends to retain the requisite number of shares through the date of the Annual Meeting” and that “[a] letter of verification of ownership is forthcoming.” On December 11, 2020, the Company received a letter via email from Charles Schwab dated December 9, 2020 (the “Schwab Letter”). The Schwab Letter states that “[o]n December 8, 2020 [the Sisters] held 160.7923 shares of Wendy’s CO. (WEN).”

Rule 14a-8 of the Securities Exchange Act of 1934 (“Rule 14a-8”) sets forth the securities ownership requirements for a proponent to properly submit a proposal, which the Schwab Letter fails to meet in two respects. First, Rule 14a-8(b) requires a shareholder to provide proof of ownership that he or she has “continuously held at least $2,000 in market value, or 1% of the company’s securities entitled to be voted on the proposal at the meeting for at least one year by the date [the shareholder] submit[s] the proposal” (emphasis added). While the Schwab Letter confirms that the Sisters held 160.7923 shares of the Company’s common stock as of December 8, 2020, the Proposal was dated and received via email on December 9, 2020, thus leaving a gap between the date of verification in the Schwab Letter and the date of the Proposal. Second, as described above, Rule 14a-8(b) requires a shareholder to provide proof of ownership that he or she
has owned the requisite number of shares “continuously” and “for at least one year by the date [the shareholder] submit[s] the proposal.” While the Letter from the Sisters states that “The Franciscan Sisters of Allegany, NY is the beneficial owner of 160.7923 shares of Wendy’s stock [and has] held stock continuously for over one year and intends to retain the requisite number of shares through the date of the Annual Meeting”, the Schwab Letter speaks only to the Sisters’ holdings as of December 8, 2020 and does not contain a comparable statement regarding the continuous ownership for at least one year from December 9, 2020 (the date that the Proposal was dated and received via email). Pursuant to Rule 14a-8(b), it is the “record” owner that must verify and provide evidence that, at the time a proponent submitted a proposal, the proponent continuously held the securities for at least one year. Because the Letter states that the Sisters are beneficial owners of the Company’s common stock, then the Proposal should have been accompanied by documentation confirming that the Sisters meet the applicable securities ownership requirements, such as a written statement from the “record” holder of such common stock (e.g., a broker or bank) verifying that the Sisters met such requirements at the time the Proposal was submitted.

The eligibility requirements of Rule 14a-8(b) establish that a proponent must have continuously held at least $2,000 in market value, or one percent, of the company’s securities entitled to be voted on the proposal at the meeting for at least one year by the date of the proposal’s submission (the proponent must also continue to hold those securities through the date of the meeting). As indicated above, the Company has not yet received sufficient proof that the Sisters have met these requirements. Therefore, please provide revised documentation from the “record” holder demonstrating that the Sisters own and have continuously held at least $2,000 of the Company’s common stock for at least the one-year period preceding and including December 9, 2020 (the date on which the Proposal was received electronically by the Company).

In accordance with Staff Legal Bulletin Nos. 14F and 14G published by the Division of Corporation Finance of the U.S. Securities and Exchange Commission (the “SEC”), if the Sisters’ broker or bank is not a DTC participant or an affiliate of a DTC participant, then the Company must be provided with proof of securities ownership from the DTC participant or affiliate of the DTC participant through which the Sisters’ common stock is held. In the event that the Sisters hold their common stock through a securities intermediary that is not a broker or bank, then the Company must be provided with proof of securities ownership from both (i) the securities intermediary and (ii) a DTC participant or an affiliate of a DTC participant that can verify the holdings of the securities intermediary. For your reference, we have enclosed herewith copies of Rule 14a-8 and SEC Staff Legal Bulletin Nos. 14F and 14G.

If the Sisters have not met these Rule 14a-8(b) securities ownership requirements, or if the Sisters do not respond within 14 calendar days as described below in this paragraph, then in accordance with Rule 14a-8(f), the Company will be entitled to exclude the Proposal from the Proxy Materials. If the Sisters wish to proceed with the Proposal, then the Sisters must respond and submit adequate evidence (such as a written statement from the “record” holder of the Sisters’ common stock) verifying that the Sisters have in fact met the Rule 14a-8(b) securities ownership requirements. Such response must be postmarked or transmitted electronically no later than 14 calendar days from the date on which you received this notification letter.

In the event that it is demonstrated that the Sisters have met the eligibility requirements of Rule 14a-8(b), the Company reserves the right to exclude the Proposal if, and to submit to the SEC
the reasons for which, in the Company’s judgment, the exclusion of the Proposal from the Proxy Materials would be in accordance with SEC proxy rules.

Please direct all further correspondence with respect to this matter to my attention at the mailing address provided on the first page of this notification letter or by email to michael.berner@wendys.com.

Sincerely yours,

Michael G. Berner
Assistant General Counsel – Corporate and Securities Counsel, and Assistant Secretary

Enclosures

cc: Mr. E. J. Wunsch, Chief Legal Officer and Secretary
    Ms. Liliana Esposito, Chief Communications Officer
Dear Ms. Weaver and Ms. Gallagher,

This email is to confirm Wendy's receipt of the Rule 14a-8 proposal submitted by The Franciscan Sisters of Allegany, NY (the “Sisters”).

Both your original email sent on 12/9 and your follow-up email sent on 12/11 indicate that the Sisters beneficially own 160.7923 shares of Wendy’s stock; however, to date, Wendy’s has not been provided with appropriate documentation to verify your share ownership for purposes of Rule 14a-8.

Pursuant to Rule 14a-8(b), the “record” owner of the shares must verify and provide evidence that, at the time a proponent submitted a proposal, the proponent continuously held the requisite number of shares for at least one year. Accordingly, please provide documentation from the “record” holder demonstrating that the Sisters own and have continuously held at least $2,000 of Wendy’s common stock for at least the one-year period preceding and including December 9, 2020 (the date on which your proposal was received electronically by Wendy’s).

Attached is a letter, with separate enclosures, that provides additional details regarding the technical requirements of Rule 14a-8. As explained in the letter, if the Sisters have not met the Rule 14a-8(b) share ownership requirements, or if the Sisters do not respond within 14 calendar days, then Wendy’s will be entitled to exclude your proposal from our proxy materials.

Please direct all further correspondence with respect to this matter to my attention.

Thank you,

Mike

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From: Ellen Weaver <ejweaver@fsallegany.org>
Sent: Wednesday, December 9, 2020 3:35 PM
To: Corporate-Secretary <Corporate-Secretary@wendys.com>; heidi.krings@wendys.com; Investor Relations <InvestorRelations@wendys.com>
Cc: Mary Beth Gallagher <mbgallagher@iasj.org>; 'Gloria Oehl (srgloria@hotmail.com') <srgloria@hotmail.com>
Subject: [EXT] Shareholder Participation Documents

Dear Mr. Wunsch,
Attached are two documents from the Franciscan Sisters of Allegany for your review. The hard copies of these items have been sent overnight by FedEx to your attention. A letter of verification of ownership will be forthcoming.

These items are being sent on behalf of our Treasurer, Sister Chris Treichel, OSF.

Thank you and best to you,

Ellen J Weaver  
Finance Manager / Franciscan Sisters of Allegany  
PO Box W, St Bonaventure, NY 14778  
Phone: 716-373-0200 Ext. 3209  
Fax: 716-372-5774

Wendy’s Information Security Notice: This is an external email. Stop and think before you click links or open attachments.
December 22, 2020

E. J. Wunsch
Chief Legal Officer, Chief Compliance Officer and Secretary
The Wendy's Company
One Dave Thomas Boulevard
Dublin, Ohio 43017

Sent via mail and email to: corporate-secretary@wendys.com; heidi.krings@wendys.com; investorrelations@wendys.com

Dear Mr. Wunsch:

Pursuant to our filing of the shareholder proposal on Protecting Essential Food Chain Workers' Rights During COVID-19 on December 9, 2020, please find enclosed verification of ownership of 160.7923 shares of Wendy's stock. The Franciscan Sisters of Allegany intend to hold these shares through the Annual Shareholder Meeting.

Please address all communication regarding this matter to Mary Beth Gallagher, Executive Director of Investor Advocates for Social Justice located at 40 South Fullerton Ave, Montclair, NJ 07042, email address: mbgallagher@iasj.org and phone number (973) 509-8800. Please also email a copy to srgloria@hotmail.com. We look forward to constructive dialogue about these concerns.

Kindly confirm receipt of the verification.

Sincerely,

Sr. Chris Treichel, OSF
Treasurer
Dear Ellen Weaver,

I'm writing to confirm that 160.7923 shares of Wendy's Company (symbol WEN) are held in the above referenced account for Franciscan Sister of Allegany. Gloria Oehl, Patricia Treichel, Osf, and Ellen Weaver are the authorized agents for this account.

As of the date of this letter, the shares have been continuously held in this account since the original date of purchase on 08/02/2019. The shares currently have a value of at least $2,000.00.

This letter is for informational purposes only and is not an official record. Please refer to your statements and trade confirmations as they are the official record of your transactions.

Thank you for choosing Schwab. We appreciate your business and look forward to serving you in the future. If you have any questions, please call me or any Client Service Specialist at +1 877-561-1918 x35485.

Sincerely,

Brady Richardson
Sr Specialist, Escalation Support
2423 E Lincoln Dr
Phoenix, AZ 85016-1215
Dear Mr. Wunsch,

Attached are two documents for your review, those being a letter from the Franciscan Sisters of Allegany and a letter of verification of holdings from Charles Schwab. Based on the number of shares and share prices throughout the period, it is known that the value of the holdings remained above $2,000 throughout.

The verification from Charles Schwab was provided after the close of business and the close of shipping facilities on Dec 22, 2020. However, they are being forwarded by email today. The hard copies of these items will be sent overnight by FedEx to your attention upon the resumption of business on Dec 23, 2020.

These items are being sent on behalf of our Treasurer, Sister Chris Treichel, OSF.

Sincerely,

Ellen J Weaver
Finance Manager / Franciscan Sisters of Allegany
PO Box W, St Bonaventure, NY 14778
Phone: 716-373-0200 Ext. 3209
Fax: 716-372-5774
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Please direct all further correspondence with respect to this matter to my attention.

Thank you,

Mike

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Sent: Wednesday, December 9, 2020 3:35 PM
To: Corporate-Secretary <Corporate-Secretary@wendys.com>; heidi.krings@wendys.com; Investor Relations <InvestorRelations@wendys.com>
Cc: Mary Beth Gallagher <mbgallagher@iasj.org>; 'Gloria Oehl (srgloria@hotmail.com)'
<srgloria@hotmail.com>
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Thank you and best to you,

Ellen J Weaver
Finance Manager / Franciscan Sisters of Allegany
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or open attachments

Wendy’s Information Security Notice: This is an external email. Stop and think before you click links or open attachments
EXHIBIT B

CODE OF CONDUCT FOR SUPPLIERS TO WENDY'S
The Wendy’s Company (Wendy’s) has established this Code of Conduct (Code) for all suppliers and vendors (collectively Suppliers) that are approved to provide goods, products, equipment or services (collectively Products) to the system of restaurants and other outlets operated under the Wendy’s concept in the U.S. and Canada (the System), regardless of where the Supplier operates. The term “Supplier” includes all persons, entities, companies or organizations that have entered into a written agreement with Wendy’s or who have been otherwise approved by Wendy’s to supply or manufacture Products to be sold to the System.

Wendy’s expects Suppliers to use best practices in all aspects of their operations and to conduct business in a way that is consistent with the values of Wendy’s and our franchisees, and the strong ethical principles established by our founder, Dave Thomas.

The Code is guided by Dave’s Five Legacy Values:
- Quality is Our Recipe
- Do the Right Thing
- Treat People with Respect
- Profit Means Growth
- Give Something Back
All Suppliers, and their suppliers and contractors, are expected to comply with applicable local, state/provincial and federal laws and regulatory requirements as part of responsible business operations, including but not limited to: applicable employment, immigration, civil rights, and antidiscrimination laws, food safety, animal welfare, environmental, and any other required industry standards. The Code applies specifically to Suppliers’ business on behalf of Wendy’s, and Suppliers are expected to affirm they have received and understand the specific outlined expectations of the Code. Suppliers with their own codes of conduct may share those with Wendy’s as part of the affirmation process.

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The below links will take you to specific sections of the Code.

Scope and Application .......................................................... pg4
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Human Rights and Labor Practices ......................... pg10
Environmentally Sustainable Business Practices ...... pg12
Business Ethics and Integrity ........................................... pg14
Compliance ............................................................................ pg16
A Mutual Commitment ...................................................... pg20
The Code represents a codification of Wendy’s “way of doing business” and a pledge, with our Suppliers, to work toward continuous improvement in all aspects of our operations. Wendy’s intent is to build relationships with our core Suppliers through open and honest evaluation based on mutual respect for knowledge and understanding of the process, the needs of the System, and the capabilities of our Suppliers.

Since its inception, this Code has applied to all food, paper and packaging suppliers of products to the System contractually managed by Quality Supply Chain Co-op, Inc. (QSCC). QSCC, and its wholly owned subsidiary QSCC Canada Inc., was formed to act as the sole authorized purchasing organization for Wendy’s company and Wendy’s franchised restaurants located in the United States and Canada. QSCC is not an affiliate of Wendy’s and was organized and operates independently of Wendy’s. Wendy’s and most of Wendy’s U.S. franchisees are shareholders of QSCC.

This Code also applies to those Suppliers that provide a significant stream of goods or services to Wendy’s on an annual basis, regardless of whether they are contractually managed by QSCC. The Code’s provisions apply to all suppliers. However certain sections may be inapplicable to certain suppliers. For example, Food Safety and Food Ingredients is...
relevant only to those suppliers that provide food, paper or packaging services to Wendy’s, and Farm Animal Health and Well-Being is relevant only to meat and protein suppliers that are included within the scope of the Wendy’s animal welfare program.

The Code should not be read in lieu of, but in addition to, a Supplier’s obligations as set out in any agreements between Wendy’s or QSCC and the Supplier. In the event of a conflict between the Code and an agreement between Wendy’s or QSCC and the Supplier, the agreement between Wendy’s or QSCC and the Supplier will govern and control. The provisions of the Code are intended only to confirm the basic requirements that are expected of Suppliers to the System. This Code shall in no way be construed as conferring, or in any way granting, rights of any kind to any third party.

Wendy’s and its Suppliers understand that the Code can and will continue to evolve as necessary to incorporate industry and product or process changes that may range from production practices to new technologies. It is not a punitive Code, but an engaging one, that promotes collective, aspirational thinking and partnership between Wendy’s and its Suppliers encourages new learning and research that is applicable to each other’s respective operations.

Suppliers are required to re-affirm annually to Wendy’s Quality Assurance their receipt and understanding of this mandatory Code. This Code will continue to be expanded to include Suppliers of Wendy’s that provide products outside of the U.S. and Canada and outside the QSCC relationship on a go forward basis.
At our heart, Wendy’s is a provider of great, high-quality foods for our customers. With our Suppliers, we share the objective of assuring the ingredients in the foods we serve are safe. Regardless of which Wendy’s restaurant is visited, customers need to be confident Suppliers to those restaurants adhere to our strict food safety processes and quality standards.

**Food Safety and Food Ingredients**

Our Specific Expectations

**Food Safety**

Wendy’s understands that the safety of the foods served in our restaurants is our stock in trade – without confidence in our food, we lose trust. That trust extends to our Supplier community, and we hold our Suppliers to the food safety and quality assurance standards that are among the most stringent in the restaurant industry.

Our goal is to constantly exceed our customers’ expectations – every day and in every restaurant. Wendy’s continually monitors our food products and works hard to improve them. Wendy’s Suppliers are expected to provide the System with the specified quality products and ingredients at all times and must immediately report to Wendy’s any issues that could affect the safety or quality of our foods.
Suppliers are required to meet the extensive food safety and quality assurance guidelines set forth by both regulatory agencies and Wendy’s, and to demonstrate that they have rigorous food safety and quality management systems in place in all Wendy’s supply operations. Our expectation is that all foods for Wendy’s are produced, packaged, held and transported under conditions that assure a safe, quality product.

To meet our customers’ demand for food safety and quality, Wendy’s and our Suppliers further agree to:

- Maintain strict standards for raw products and finished ingredients that meet or exceed government requirements;
- Adhere to a strict food safety testing program;
- Follow rigid food handling, hygiene and preparation procedures;
- Promptly retain any product suspected to be unsafe until a food safety review can be completed; and
- Remain vigilant: keep monitoring and improving our processes to maintain product safety.

Food Ingredients

Wendy’s knows that the best food comes from the best ingredients. We also know that consumers today have greater interest than ever before about what’s in their food, and we respond to that by providing customers with food sourced from safe, quality ingredients.

Suppliers are expected to:

- Source ingredients and produce finished products that adhere to and comply with Wendy’s specifications;
- Demonstrate that ingredients were procured in a responsible way that is consistent with Wendy’s animal welfare standards;
- Provide accurate and timely ingredient statements, allergen declarations, and nutrition profiles consistent with our commitment to transparency; and
- Ensure ingredients are safe and of the specified quality.

More about Wendy’s Positions on Food Safety and Food Ingredients

Wendy’s has been proactive in our food safety and food ingredient programs, including advancements toward eliminating partially hydrogenated oils, sharing food allergen information and promoting sustainability in food ingredients. To learn more about Wendy’s positions, visit www.wendys.com/en-us/nutrition-info.
We are proud that for decades Wendy’s has been a leader in setting and enforcing standards for the humane care of animals raised for our food as part of a responsible, safe and sustainable food supply chain.

Our public commitment to animal welfare originated in the 1990s with the establishment of comprehensive standards for farm animal care, standards that today still shape our contracting and procurement process. In 2001, we established an Animal Welfare Program to regularly review corporate policies and supplier performance, to evaluate relevant academic and scientific research, and to make recommendations as needed for improvement or updates.

We know that the manner in which animals raised for food are cared for and on-farm best management practices are important to our customers – as they are to us. While Wendy’s does not own or raise livestock or poultry, our position as a leader in the restaurant industry encourages us to take a proactive, responsible role in the health and well-being of these animals.

**Our Specific Expectations**

**Audits**

Wendy’s rigorous animal welfare auditing protocol for our Suppliers, which evaluates areas including, but not limited to, housing, transportation and processing, is a leader in the restaurant industry and is led by trained internal and external auditors. We began animal handling audits in the mid-1990s, and our on-farm auditing program has strengthened
since that time to allow us to continue to affirm our Suppliers meet our high expectations for animal welfare.

Our beef, pork and chicken Suppliers are audited annually, and any who do not achieve a score of “excellent” will be audited at least twice each year to verify compliance. Audits are reviewed by external animal welfare experts as an added measure of assurance. Companies that are unable to maintain our strict guidelines face termination as approved Suppliers of Wendy’s.

**Compliance with Animal Welfare Policies**

We expect Suppliers to Wendy’s to comply with our robust animal welfare policies and audit processes. The Code as it relates to animal welfare is intended to be a reflection of the commitment made by Suppliers, but does not supersede Suppliers’ participation in Wendy’s Animal Welfare Program.

Our priority focus for Supplier conduct includes proper animal handling, animal welfare as a component of food safety and quality, and regular improvement. As a restaurant industry leader, we take our role in shaping this important issue very seriously.

Our animal welfare focus is on our beef, chicken and pork Suppliers, which represent approximately 40 percent of our food purchases. Outside experts in animal science and veterinary care, including the renowned Dr. Temple Grandin of Colorado State University, provide counsel and guide our decision making. Since 1998, Wendy’s also has followed the American Meat Institute (now the North American Meat Institute) animal welfare guidelines for beef and pork production.

As a partner with our food Suppliers and the farms that supply them, Wendy’s provides the following support in animal welfare:

- Supplier collaboration and education to support an effective program and regular improvement
- Expert certification and national program participation
- Commitment by senior management
- Ongoing verification of animal welfare practices
- Continuous Improvement

Our commitment is broad, but our focus is targeted. Being informed about emerging issues in animal welfare is important to us, and our animal welfare policy and Supplier expectations will be updated as needed to reflect new learnings. We encourage our Suppliers to actively engage in industry programs and education on animal care, and to bring to Wendy’s any relevant background that will strengthen our Animal Welfare Program.

**More about Wendy’s Positions on Animal Welfare**

Wondering what questions we get the most when it comes to animal welfare? Visit [www.wendys.com/animalwelfare](http://www.wendys.com/animalwelfare) for more background on how Wendy’s feels about some of the pressing issues of farm animal care, including laying hen and broiler chicken housing, gestation stalls, harvest and processing, antibiotic use and more.
At Wendy’s, we believe our success begins and ends with our people and the Supplier companies that have been thoughtfully selected to do business with us. This focus on upholding quality while adhering to a core set of values – specifically, Do the Right Thing and Treat People with Respect as it relates to human rights and labor practices – encompasses everything we do.

People are our most valuable asset. Collectively, it is the respect and dignity we hold for each individual and value we place on trusted relationships that enables our mutual success. To that end, we take all human rights and labor practices issues seriously and expect the same from our Suppliers.

Nearly 90 percent of Wendy’s operations are located in the U.S., and most of Wendy’s food is sourced through American farms and ranches. As such, we expect compliance with the Fair Labor Standards Act (FLSA) and other applicable laws.

For Suppliers in Canada, we expect compliance with the Employment Standards Act (ESA) and other applicable laws.

For our suppliers with international operations, our expectations for their behavior outside of the U.S. are informed by standards set forth by the United Nations in The Universal Declaration of Human Rights and the International Labor Organization (ILO), to the extent they are consistent with applicable law. We encourage our Supplier partners to respect these human rights and labor declarations as part of their business practices.

Based on an evaluation of various risk factors, Wendy’s may require certain suppliers to provide additional assurance of their business practices related to Human Rights and Labor Practices.
Our Expectations

Consistent with Wendy’s or QSCC’s agreements with Suppliers, we expect all Suppliers to comply with applicable employment and labor laws and regulations. In particular, we expect all Suppliers to adhere to the following:

**Hiring Practices.** Wendy’s Suppliers commit to employing only those individuals who are legally authorized to work. Suppliers are responsible for verification of age, identity and legal right to work for each employee.

**Minimum Age Requirements / Child Labor.** Underage child labor as defined by local, state/provincial and federal agencies is not to be tolerated by Wendy’s Suppliers. Wendy’s expects all Suppliers to follow the rules set forth by the FLSA/ESA and other applicable laws, which set wages, hours worked and safety requirements for minors (individuals under age 18). For suppliers internationally, we encourage adherence to standards and Conventions set forth by the ILO or similar local authority.

**Healthy & Safe Work Environment.** Suppliers are expected to provide a safe and healthy workplace in compliance with applicable local, state/provincial and federal laws and regulations.

**Housing Conditions.** In the event any Supplier provides housing for its employees, facilities must be constructed and maintained in accordance with applicable laws, regulations and housing codes.

**Voluntary Employment.** Our Suppliers should only employ individuals whose presence in the workplace is voluntary. Consistent with ILO Conventions and Recommendations on forced labor, our Suppliers should not utilize or engage with factories or production facilities that force work to be performed by unpaid or indentured laborers, or those who must otherwise work against their will.

**Working Hours and Time Off.** Our Suppliers should ensure all employees work in compliance with applicable laws and regulations and with published industry standards pertaining to the number of hours and days worked.

**Wages and Benefits.** Our Suppliers are expected to fairly compensate and provide wages, benefits and overtime premiums to their employees that comply with applicable laws and regulations, account for all hours worked, and match or exceed the local minimum wages and benefits in the relevant industry.

**No Discrimination or Harassment.** We expect every Supplier to provide equal opportunity to its employees in compliance with state/provincial and federal laws. We also expect our Suppliers to provide a work environment free of any form of discrimination or harassment.

**Freedom of Association.** Our Suppliers must respect any right of its employees to join legal organizations of their own choosing. Suppliers must not threaten or penalize employees as a result of any lawful efforts to organize or bargain collectively.

**Labor Practices Reviews.** Suppliers of certain fresh agricultural products harvested by hand or in an otherwise manually intensive way will be subject to third party human rights and labor practices reviews.
Sustainable business practices are woven into the fabric of how Wendy’s operates and are the epitome of Do the Right Thing as defined in our core values. Today, perhaps more than ever, those sustainable “right things” that we do should be transparent and clearly articulated.

Being environmentally responsible serves not only as a driver for defining Wendy’s sustainable business practices, but also as a positive change agent, because sustainability practices are constantly evolving and not static.

Equally important to Wendy’s is that we share with our Suppliers the practices we’ve successfully put in place and encourage Suppliers to follow our lead when possible.

We look to our Suppliers that are leaders in sustainability and welcome their input and sharing of best practices.

By treating both our environment and our communities with respect and care, we earn the opportunity each day to contribute and make a difference.
Working Toward a Sustainable Future

Suppliers are encouraged to operate responsibly at all times with a commitment to preserving our environment for future generations. Suppliers with active sustainability initiatives are encouraged to address, document and make continuous improvement efforts with regard to the following environmental considerations:

- Water usage including wastewater management
- Soil management (specifically agricultural operations)
- Energy reduction and fossil fuel usage
- Material and food waste reduction
- Packaging and recycling
- Solid waste reduction
- Emissions from manufacturing, processing and transportation
- Responsible construction and development
- Protection of forests and high conservation value areas
- Hazardous material handling and disposal
- Responsible sourcing of raw materials

Our Specific Expectations

Suppliers are expected to comply with applicable legal environmental requirements and regulations, including securing and renewing all related permits.

In developing sustainable business practices, Wendy’s encourages Suppliers to consider developing and deploying an environmental management system, based on international standards such as ISO 14001:2004, in an effort to identify, document, manage and/or mitigate any environmental issues or concerns.
The way in which we conduct business says a lot about Wendy’s. Every interaction we have, decision we make and transaction we authorize has the potential to enhance or diminish our reputation.

Defining acceptable business behavior starts with adhering to applicable laws, regulations and industry standards and guidelines. However, our values, work ethic and commitment to doing the right thing have been synonymous with the Wendy’s brand since its founding. It also is what we look for and expect from our supply chain partners. In order for us to succeed together, ethical behavior must be a mutual commitment.

Our Suppliers are expected to uphold the highest business ethics and demonstrate their business integrity at all times. In addition, Wendy’s supports and encourages Suppliers to provide annual ethics training to all employees.

**Business Ethics and Integrity**

**Our Specific Expectations**

**Gifts, Gratuities and Entertainment.** Outside of customary business practices within specified limits, our Suppliers should not offer or provide any gifts, gratuities or entertainment to any individual to grant or receive a favor in return; or in an attempt to influence or gain an unfair advantage in any aspect of an existing or prospective business opportunity.

**Anti-bribery and Corruption.** Consistent with our stance on gifts, gratuities and entertainment, our Suppliers should not promise or imply an unfair advantage to secure or retain business. Suppliers must not pay bribes, accept any form of kickbacks, or act in any manner that would violate domestic or foreign laws or regulations.

**Confidential and Proprietary Information.** Throughout the course of a relationship, a Supplier may have knowledge of or access to sensitive business information that may be confidential and proprietary based on trust and/or necessity to fulfill contractual obligations and agreements. It is the responsibility of our Suppliers to protect that information by keeping it confidential at all times. Suppliers should not share confidential and proprietary information with other parties, except as specifically agreed to in writing or authorized by an officer at Wend-
dy’s or when disclosure is required by law. This includes, but is not limited to, pricing, financials, products and product innovation, materials/ingredients, and customer data.

**Brand and Trademark Use.** We take our brand reputation seriously. Any desired use of Wendy’s trademarks, logos, domain names or other intellectual property by a Supplier must be submitted to Wendy’s legal department for approval prior to use. Further, our Suppliers must respect and avoid any misuse of Wendy’s intellectual property.

**Conflict of Interest.** Our Suppliers are expected to report any existing or prospective business situation and/or relationship that may appear as a conflict of interest in relation to its role as a Supplier to Wendy’s. Suppliers also should disclose if any officers or employees have material or economic interests with others that may suggest a conflict of interest in relation to its role as a Supplier to Wendy’s. Any questions regarding prospective conflicts of interest should be directed to Supplier’s primary Wendy’s representative for clarification.

**Data Security.** Wendy’s is focused on protecting the information of our employees, customers, and partners. We expect our partners to be equally focused on securing data that is sensitive, regulated or could impact the System. At a minimum, Suppliers are expected to comply with applicable laws and regulations in the jurisdictions in which they operate and apply information security and business continuity practices that adequately protect their businesses and conform to the industry standard. Wendy’s reserves the right to audit or examine a Supplier’s data security practices where relevant to the System and the Products provided to Wendy’s. In the event a supplier’s data regarding Wendy’s Products becomes compromised, Wendy’s will engage with appropriate representatives of the supplier to determine if further action should be taken.

**Grievance.** Our Suppliers should have in place means for any employee to submit anonymous concerns and grievances to Supplier’s management. Suppliers should also designate a process in which to record, file and appropriately address concerns by taking appropriate action in a confidential manner, as necessary.

**No Retaliation.** Employees of our Suppliers must have the opportunity to speak with their leadership without fear or concern of retaliation when asking questions or raising concerns. It is expected that our Suppliers have a no retaliation policy.

**Reporting Business Ethics Violations.** With both a grievance and no retaliation policy in place, Suppliers should be well equipped to address and remedy many business ethics concerns and violations described in this section of the Code that could arise in their organizations. Suppliers and their employees also can report business ethics concerns to Wendy’s toll-free, 24-hour compliance hotline at 1-800-256-8595 or the ethics website at www.wendys.ethicspoint.com.

**More about Wendy’s Code of Business Conduct and Ethics**

Compliance with the Code of Conduct

As a condition of doing business with the System, each of our Suppliers is expected to comply with the provisions outlined in the Code and to re-affirm annually to Wendy’s Quality Assurance their receipt and understanding of the applicable provisions of the Code. Suppliers are also expected to require similar standards of doing business from their suppliers and contractors, as applicable. Non-compliance by a supplier or contractor of a Supplier may have direct consequences to the Supplier’s relationship with Wendy’s.

Where necessary, Suppliers should interpret the Code broadly. Our intent is that Suppliers commit not only to the “letter” but also the “spirit” of the Code.
Accountability and Verification

Each Supplier of food, paper and packaging related products should conduct audits and inspections to ensure its compliance with the Code and applicable legal and contractual standards, and Suppliers are expected to document the results of those audits.

Wendy’s may monitor a Supplier’s compliance with the Code, and has the right to conduct, or have its designee conduct, unannounced inspections of a Supplier’s facilities and records.

Verification of a Supplier’s compliance with the Code may be demonstrated through a number of methods, including, but not limited to, the following:

• Certification by third-party organizations
• Submission of materials, such as existing sustainability or annual reports, audits or supplier contracts
• Compliance with local, state/provincial or national regulatory programs
• Wendy’s Quality Assurance or Wendy’s Animal Welfare Program audits
• Participation in national or international programs focused on continuous improvement of business conduct, as applicable
Compliance with the Code of Conduct

Continuous Improvement

Wendy’s recognizes the important role that continuous improvement plays in advancing conduct within its Supplier organizations. As such, the relationship between Wendy’s and its Suppliers is a journey based on mutual trust and transparency, and Wendy’s strongly advocates that Suppliers work toward improvement of policies, practices, processes and best talent.

Wendy’s expects Suppliers to work toward continuous improvement in:

- Implementation – basic compliance with the applicable provisions of the Code
- Enhanced practices – doing more than what is required within the Code
- Best practices – exceeding industry expectations consistently in one or more areas of the Code

Wendy’s plans on recognizing Suppliers who go above and beyond, as it relates to continuous improvement, and looks forward to celebrating the successes of its Suppliers.
Non-Compliance

In addition to any contractual rights of Wendy’s or QSCC, should a Supplier be found to be in non-compliance with the applicable provisions of the Code, Wendy’s expectations for response and successful resolution may include any of the following:

- Immediate implementation of corrective measures by the Supplier under a plan approved by Wendy’s;
- Initiation of a probationary period before a return to in-compliance status;
- Development of a continuous improvement program; or
- Performance of and completion of a satisfactory re-audit.

On occasion when unintended violations do occur, despite Suppliers’ demonstrated good-faith attempts to adhere to the Code, Wendy’s will work collaboratively with Suppliers to correct issues of non-compliance.

Actions and/or issues of repeat non-compliance are inconsistent with our way of doing business and may be cause for immediate termination.

If successful resolution of non-compliance cannot be achieved to the satisfaction of Wendy’s, or if it is determined that the Supplier is no longer in a position to uphold the core values and ethical principles of Wendy’s, then termination of the relationship with Wendy’s will likely proceed.
Above all, Wendy’s expects its suppliers to consider at all times what is right and responsible.

Our core values were created by our founder Dave Thomas more than 40 years ago:

- Quality is Our Recipe
- Do the Right Thing
- Treat People With Respect
- Profit Means Growth
- Give Something Back

They are timeless guideposts for the Wendy’s family – including our Supplier community.
THE SQUARE DEAL™ BLOG

STAY UP TO DATE WITH WENDY’S CORPORATE SOCIAL RESPONSIBILITY INITIATIVES AT WWW.SQUAREDEALBLOG.COM