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February 25, 2021

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

Re: Response to Amazon.com, Inc.'s  
January 25, 2021 No-Action Request

Dear Counsel:

I write on behalf of the New York City Teachers' Retirement System, the New York City Employees' Retirement System, and the Board of Education Retirement System of the City of New York (collectively, the "Systems") in response to the letter from Amazon.com, Inc. ("Amazon"), dated January 25, 2021, that informed the staff of the Office of Chief Counsel of the Division of Corporate Finance ("Staff") that Amazon intends to omit the Systems' shareholder proposal ("Proposal") from its 2020 proxy materials ("No-Action Request").<sup>1</sup> Amazon has not met its burden of establishing that the Proposal may be excluded under either the substantial implementation standard of Rule 14a-8(i)(10) or the ordinary business standard of Rule 14a-8(i)(7). Accordingly, the Systems respectfully request that the Staff deny the No-Action Request.

**PROPOSAL AND SUPPORTING STATEMENT**

The Proposal<sup>2</sup> states:

**RESOLVED:** Shareholders urge the Leadership Development and Compensation Committee ("Committee") of the Amazon.com Board of Directors to prepare a report, prior to the 2022 annual meeting, at a reasonable cost and excluding proprietary and personal information, on the adequacy of Amazon's efforts to reduce or mitigate health and safety risks from the coronavirus pandemic, including the Committee's oversight thereof.

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<sup>1</sup> The Systems' boards of trustees have authorized the Comptroller to file the Proposal on their behalf. APG Asset Management N.V. ("APG") is a co-lead filer of the Proposal. APG has reviewed and joins in this response to Amazon's No-Action Request.

<sup>2</sup> The full text of the Proposal and Supporting Statement is included in Exhibit A to Amazon's No-Action Request.

The supporting statement (“Supporting Statement”) notes that during the COVID-19 pandemic Amazon’s workforce has expanded dramatically and that online orders have surged as consumers have increasingly relied on companies that offer home delivery options. During the same period, some of Amazon’s warehouses became COVID-19 hotspots, raising concerns that sick workers could spread the virus more broadly. Numerous media outlets reported that employees feared coming to work and worried for the safety of their community. In response, investors called on the Committee to report on “the performance metrics it used to oversee the effectiveness of Amazon’s COVID response,” but the Committee has provided no such report. Despite reportedly investing \$10 billion in 2020 for COVID-related workplace initiatives, Amazon’s disclosures provide only “limited insight into the effectiveness of Amazon’s COVID response.” More specifically, Amazon has not disclosed overall trends and has compared infection rates for workers to the general population, even though the general population is proportionately composed of more vulnerable individuals. Amazon’s public disclosures have failed to “identify hotspots, trends by job or facility category, or to discuss infection rates for delivery driver contractors.” The Supporting Statement concludes by calling on the Committee, which is responsible for overseeing and monitoring human capital management, to provide “[i]ndependent and transparent oversight, including scientifically valid data assessments” that can help “ensure that Amazon’s COVID investments produce outcomes beneficial for its employees and shareowners, and serve as a standard in the industry.”

## **INTRODUCTION**

Amazon’s internal response to the public health and safety risks presented by the COVID-19 pandemic has been substantial and of profound significance to the company and its investors. Amazon states that it invested a staggering \$10 billion on COVID-related initiatives in 2020 to keep its hundreds of thousands of employees safe while continuing to provide timely and efficient delivery of products to its customers.<sup>3</sup> Amazon has also engaged in a marketing blitz to tout the various actions it has taken to promote the health and safety of its workers.<sup>4</sup> Nevertheless, Amazon’s disclosures concerning the actual *effectiveness* or *adequacy* of its response have been tightly controlled by Amazon management and fundamentally inadequate. What the Proposal seeks is an independent, methodologically-sound report from the Committee—which is composed of independent directors charged with overseeing and monitoring human capital management—on the adequacy and effectiveness of Amazon’s efforts to reduce or mitigate the health and safety risks presented by a once-in-a-century pandemic. As one article noted: “Amazon’s lack of transparency, combined with a lack of federal protections for U.S. workers who contract infectious diseases in the workplace, make it almost impossible to track the spread of COVID-19 at one of America’s largest employers during a coronavirus-led boom in online retail. This has left some of its 500,000 warehouse workers at its 110 U.S. fulfillment centers—deemed essential during the lockdown—attempting to fill the information

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<sup>3</sup> See <https://www.aboutamazon.com/news/operations/amazon-will-invest-4-billion-to-keep-employees-safe-and-get-people-what-they-need>

<sup>4</sup> See, e.g., <https://www.aboutamazon.com/news/company-news/amazons-covid-19-blog-updates-on-how-were-responding-to-the-crisis>

gap.”<sup>5</sup> Recognizing the risks created by this situation—both to the sustainability of Amazon’s human capital management and public health at large—numerous large shareholders have called upon Amazon to provide “details on whether the changes [made by Amazon in response to the COVID-19 pandemic] have actually improved worker safety.”<sup>6</sup> To date those disclosures have not been forthcoming and that void is the problem this Proposal, if adopted, seeks to alleviate.

As we discuss in more detail below, Amazon has not substantially implemented the Proposal through its existing disclosures, nor has it demonstrated that the Proposal deals with ordinary business matters concerning the Company’s legal compliance program or its strategy in the conduct of pending litigations and investigative proceedings. Regardless, the Proposal raises significant policy issues concerning the adequacy of Amazon’s response to an unprecedented public health crisis and the disclosure of its oversight of those efforts—a matter on which the SEC itself has urged companies to publicly report. Accordingly, the Proposal transcends any ordinary business concern and warrants a shareholder vote.

### **AMAZON HAS NOT SUBSTANTIALLY IMPLEMENTED THE PROPOSAL**

Amazon’s claim that it has substantially implemented the Proposal through its COVID-19 Response Disclosures and the Report is not persuasive.<sup>7</sup> These materials do not compare favorably to the guidelines of the Proposal, nor do they satisfy the two essential objectives of the Proposal, which are that the Committee prepare a report that addresses: (1) the adequacy of Amazon’s efforts to reduce or mitigate health and safety risks from the COVID-19 pandemic; and (2) the Committee’s own oversight of those efforts. Accordingly, Amazon has not substantially implemented the Proposal.

#### **A. The Substantial Implementation Standard**

To establish substantial implementation, a company must demonstrate that its actions address the guidelines and implement the essential objectives of the challenged proposal. In making its determination, the Staff examines whether the company’s particular policies, practices, and procedures compare favorably with the proposal’s guidelines. *Texaco, Inc.* (avail. Mar. 6, 1991, *recon. granted* Mar. 28, 1991). To prevail, a company must have sufficiently addressed *both* the proposal’s guidelines and its essential objectives. *Exelon Corp.* (avail. Feb. 26, 2010).

#### **B. The Essential Objectives and Guidelines of the Proposal**

The first essential objective is that the Committee report on the adequacy of Amazon’s

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<sup>5</sup> April Glaser, *et al.*, “Lack of oversight and transparency leave Amazon employees in the dark on COVID-19,” *NBC News* (Sept. 30, 2020), available at <https://www.nbcnews.com/tech/tech-news/lack-oversight-transparency-leave-amazon-employees-dark-covid-19-n1241549>.

<sup>6</sup> Annie Palmer, “Amazon investors want the company to address worker safety at its shareholder meeting,” *CNBC* (May 25, 2020), available at <https://www.cnb.com/2020/05/25/amazon-shareholder-meeting-investors-want-worker-safety-disclosures.html>. See also Deb Goldberg, *et al.*, “Amazon Must Disclose the COVID-19 Impact on Its Workers,” *Responsible Investor* (June 4, 2020), available at <https://www.responsible-investor.com/articles/amazon-must-disclose-the-covid-19-impact-on-its-workers>.

<sup>7</sup> Capitalized terms not defined in this letter have the same meaning assigned to them in the No-Action Request.

efforts to reduce or mitigate health and safety risks presented by the COVID-19 pandemic. “Adequacy” is the operative term here. “Adequacy” is a normative concept that implies the existence of some standard or metric against which the sufficiency of something is to be measured, assessed, or evaluated. Merriam-Webster, for example, defines “adequacy” as “the quality or state of being adequate,” and defines “adequate” as “sufficient for a specific need or requirement.”<sup>8</sup> Accordingly, any report that addresses the adequacy of Amazon’s efforts to reduce or mitigate health and safety risks from the COVID-19 pandemic must go beyond simply enumerating the various actions that Amazon has taken in response to the COVID-19 pandemic. To “substantially implement” the Proposal, Amazon’s existing disclosures would need to evaluate the sufficiency or effectiveness of those efforts to reduce or mitigate the health and safety risks presented by the COVID-19 pandemic. As the Supporting Statement makes clear, the Proposal is focused on gaining “insight into the *effectiveness* of Amazon’s COVID response” (emphasis added), and is not narrowly focused on the *components* of that response. While the Proposal does ask the Committee to assess the adequacy of Amazon’s efforts, nothing in the Proposal or Supporting Statement necessitates that the Committee select any particular metric or standard for its report, let alone legal or regulatory standards. As long as the Committee relies on “scientifically valid data assessments,” it is free to choose the particular standards or metrics it wishes to use to evaluate the adequacy of Amazon’s efforts to reduce or mitigate health and safety risks from the COVID-19 pandemic.

The second essential objective of the Proposal is that the Committee report on its own oversight of Amazon’s COVID-19 response efforts. The Supporting Statement explains that “[i]ndependent and transparent oversight” from the Committee includes the use of “scientifically valid data assessments” so that its oversight “can help ensure that Amazon’s COVID investments produce outcomes beneficial for its employees and shareowners,” and provide “a standard in the industry.” Accordingly, any report on the Committee’s own oversight of Amazon’s COVID-19 response efforts should explain *how* it is overseeing and evaluating the adequacy of Amazon’s efforts to reduce or mitigate the health and safety risk of the COVID-19 pandemic, not simply *that* it is exercising such oversight.

The guidelines of the Proposal are straightforward: (1) the Committee, in light of its independence and responsibility for overseeing and monitoring human capital management, should be the entity that prepares the report; (2) the report should be completed at some point prior to Amazon’s annual meeting in 2022—a guideline that allows the Committee to produce a thorough report that addresses the adequacy of Amazon’s historical response (Amazon’s efforts during the first wave of the pandemic) and its continuing response; (3) the report should address the essential objectives discussed above; and (4) the report should be produced at a reasonable cost and exclude proprietary and personal information.

### **C. Amazon’s COVID-19 Response Disclosures Do Not Assist in Substantially Implementing the Proposal**

Amazon points to a variety of public disclosures, which it refers to as the “COVID-19 Response Disclosures,” to argue that it has substantially implemented the Proposal. As explained

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<sup>8</sup> Merriam Webster Online Dictionary, Merriam Webster, Inc. (2021), available at <https://www.merriam-webster.com>.

below, none of these materials adequately addresses the essential objectives of the Proposal or compares favorably with the Proposal's guidelines. Accordingly, they do not assist in demonstrating that Amazon has substantially implemented the Proposal.

1. *Amazon's COVID-19 Vaccination and Testing Blog Does Not Assist in Substantially Implementing the Proposal.*

In discussing its various COVID-19 Response Disclosures, Amazon first notes that it "maintains a blog providing updates on how it is responding to COVID-19." No-Action Request at 4. While the blog is long on information concerning the actions Amazon has taken to respond to the pandemic, the Proposal specifically requests information about the *adequacy* of Amazon's efforts and the Committee's oversight of those efforts. That is, an assessment of *how well* Amazon has responded, not simply *how* it has responded. Amazon does not identify anything from the blog that contains information addressing either essential objective, and a review of the blog discloses none. Additionally, nothing in the blog compares favorably to the guidelines of the Proposal. Accordingly, Amazon's COVID-19 blog does not assist in substantially implementing the Proposal.

2. *The Sustainability Report Does Not Assist in Substantially Implementing the Proposal.*

Amazon next notes that it has "published a sustainability report addressing its efforts to keep its workers safe." No-Action Request at 4-5.<sup>9</sup> As with the blog, Amazon does not contend that the sustainability report contains any information addressing the *adequacy* of its efforts to reduce or mitigate health and safety risks presented by the COVID-19 pandemic or the Committee's oversight of those efforts. And a review of the sustainability report reveals that it is devoid of any information on these two essential objectives. Therefore, the sustainability report, like the blog, does not provide any information that would assist in substantially implementing the Proposal.

3. *Amazon's Workplace Safety Webpage Does Not Assist in Substantially Implementing the Proposal.*

Amazon's workplace safety webpage also fails to advance Amazon's substantial implementation argument. No-Action Request at 5. Much like the sustainability report, the workplace safety webpage discloses basic factual information about specific actions that Amazon has taken to address workplace safety issues during the COVID-19 pandemic. But simply identifying *what* Amazon has done to respond to the COVID-19 pandemic is no substitute for what the Proposal requests: a report on the *adequacy*, and the Committee's *oversight*, of that response. Accordingly, like the COVID-19 blog and sustainability report, the disclosures on Amazon's workplace safety webpage do not provide any information that would

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<sup>9</sup> The web address that Amazon provides for the September 2020 sustainability report (<https://sustainability.aboutamazon.com/pdfBuilderDownload?name=sustainability-all-in-september-2020>) is no longer an active link. Therefore, the discussion in this section is based on Amazon's updated December 2020 sustainability report, also entitled "All In: Staying the Course on Our Commitment to Sustainability," available at <https://sustainability.aboutamazon.com/pdfBuilderDownload?name=sustainability-all-in-december-2020>.

assist in substantially implementing the Proposal.

4. *Amazon's Disclosure of COVID-19 Infection Rates Among Frontline Employees Does Not Assist in Substantially Implementing the Proposal.*

Amazon next points to an October 1, 2020 report that compares COVID-19 infection rates for Amazon's frontline workers with the general population. No-Action Request at 5.<sup>10</sup> The report discloses that 19,816 of Amazon's and Whole Food Market's 1,372,000 frontline workers had tested positive or been presumed positive for COVID-19 at some point during the March 1 – September 19, 2020 period, which is roughly the first wave of the pandemic. The report compares the COVID-19 positivity rate for frontline workers with “the general population, as reported by Johns Hopkins University for the same period, accounting for geography and the age composition of our employees to make the data as accurate as possible,” and concludes that “if the rate among Amazon and Whole Foods Market employees were the same as it is for the general population rate, we estimate that we would have seen 33,952 cases among our workforce. In reality, 19,816 employees have tested positive or been presumed positive for COVID-19—42% lower than the expected number.”<sup>11</sup> Amazon has not updated the report since releasing it nearly five months ago.

Unlike Amazon's other COVID-19 Response Disclosures, the infection rate report at least attempts to provide some assessment of Amazon's efforts to reduce or mitigate health and safety risks from the COVID-19 pandemic by comparing the infection rate of Amazon workers with the infection rate of the general population. Unfortunately, this assessment was immediately panned by experts for “fall[ing] short of assessing whether [Amazon] did a good job protecting its workforce through the pandemic.”<sup>12</sup> In particular, Amazon's report was “unhelpful because it failed to reveal whether the infection rate was improving or growing worse,”<sup>13</sup> and Amazon's comparison of its workers' infection rate to that of the general population was described as “fundamentally flawed” and “essentially useless for employees trying to assess whether it's safe to show up for work.”<sup>14</sup>

Dr. Preeti Malani, an infectious disease expert from the University of Michigan, said the report “looks like someone just put a bunch of numbers together,” and added that he had “no idea what to make of them.”<sup>15</sup> Dr. Irvia Hertz-Picciotto, an environmental epidemiologist and professor at UC-Davis, found that Amazon's infection rate comparison “reveal[ed] a lack of understanding of epidemiology” because it ignored the “healthy worker effect,” which is “a bias that occurs when you compare a cohort of working people with another group with a mix of employed and unemployed people. Statistical groups that exclude the unemployed—like Amazon workers—tend to be more healthy than ones that include jobless people ... which is

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<sup>10</sup> Amazon Staff, “Update on COVID-19 Testing” (Oct. 1, 2020), *available at* <https://www.aboutamazon.com/news/operations/update-on-covid-19-testing>.

<sup>11</sup> *Id.*

<sup>12</sup> Spencer Soper, “Amazon Study of Workers' COVID Is Faulted Over Lack of Key Data,” *Bloomberg.com* (Oct. 6, 2020), *available at* <https://www.bloomberg.com/news/articles/2020-10-06/amazon-covid-19-study-is-faulted-for-failure-to-measure-progress>.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

why scientists typically avoid such comparisons.”<sup>16</sup> Ron Fricker, a statistics professor from Virginia Tech, flatly concluded that the information in the report was “useless from a public health perspective” because it was “aggregated over a period of months without disclosing any trends about when the number of cases reported each day or each week went up or down.”<sup>17</sup>

Additionally, Amazon aggregated data at the state level, which potentially obscured outbreaks in particular Amazon facilities within those states. More meaningful metrics would have focused on new cases reported daily, and averages over one- and two-week periods, which can show whether new cases are increasing or decreasing.<sup>18</sup> Finally, “Amazon counted in its workforce anyone who had worked for the company at any time during [the six months covered by the report],” which “could inflate the overall number of workers used to calculate the infection rate, making the infection rate lower.”<sup>19</sup>

In sum, Amazon’s October 2020 report on COVID-19 infection rates is methodologically flawed and does not assess, in any robust and scientifically-sound manner, the adequacy of Amazon’s efforts to reduce or mitigate health and safety risks from the COVID-19 pandemic. Further, the report does not address the Committee’s oversight of Amazon’s efforts and thus fails to satisfy one of the essential objectives of the Proposal. Finally, even if the report were methodologically sound, it is incomplete because it only addresses the infection rate for Amazon and Whole Foods Market employees during the first wave of the pandemic (March 2020 – September 2020). The second wave of the pandemic has proven to be substantially more deadly and widespread than the first wave,<sup>20</sup> and the adequacy of Amazon’s response to the second wave of the COVID-19 pandemic is not addressed at all in its existing disclosures. Thus, the report does not compare favorably with the guidelines of the Proposal and does not address its essential objectives. Accordingly, it does not assist in substantially implementing the Proposal.

#### **D. The Report Created to Respond to the Proposal Does Not Assist in Substantially Implementing the Proposal**

Like the COVID-19 Response Disclosures discussed above, the Report, which is attached as Exhibit B to the No-Action Request, fails to assist in substantially implementing the Proposal. Although Amazon claims the Report was specifically prepared “in response to the Proposal” and “under the auspices of and reviewed and affirmed by the Committee” (No-Action Request at 5), it is largely a regurgitation of the same or similar factual material found in the earlier COVID-19 Response Disclosures. Thus, it is insufficient for the same reasons.

Section I and Exhibit A of the Report identify the various “actions the Company has taken to reduce or mitigate health and safety risks to employees from the COVID-19 pandemic.” No-Action Request at 5. While we welcome these factual disclosures, they do not address the

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<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> COVID-19 had caused just over 200,000 deaths in the United States as of October 1, 2020, the date of Amazon’s report comparing infection rates. As of February 25, 2021, COVID-19 had caused a total over 500,000 deaths in the United States, rendering the second wave of COVID-19 pandemic substantially more deadly than the first wave. See <https://www.worldometers.info/coronavirus/country/us/>.

essential objectives of the Proposal. Simply put, enumerating what Amazon has *done* to respond to the COVID-19 pandemic—no matter how long the list—says nothing about the *adequacy* of those efforts in reducing or mitigating health and safety risks from the COVID-19 pandemic. Neither the Report nor the COVID-19 Response Disclosures provide a scientifically valid assessment of the adequacy of Amazon’s response efforts.<sup>21</sup> Although Amazon cites to a string of prior no-action determinations to argue that the Report and COVID-19 Response Disclosures substantially implement the Proposal, none of these prior determinations suggests that a proposal requesting an assessment of the adequacy of a company’s response to a particular issue is substantially implemented by pointing to disclosures that simply identify the various actions the company has taken in its response.<sup>22</sup>

Section II of the Report purports to address the Committee’s oversight of Amazon’s efforts to respond to the COVID-19 pandemic. However, this discussion does not satisfy the Proposal’s request that the Committee report on its own oversight of the adequacy of Amazon’s efforts to reduce or mitigate health and safety risks from the COVID-19 pandemic. The Report notes that there have been seven meetings of the Committee during 2020 in which “workplace safety and our response to the COVID-19 pandemic has been a significant topic of discussion and oversight,” and that the members participated in 17 Board teleconference discussions that “addressed and provided on-going updates on Amazon’s overall response to the COVID-19 pandemic.” No-Action Request, Ex. B. The Report provides no further detail about the topics

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<sup>21</sup> No portion of the Report is specifically devoted to assessing the adequacy of Amazon’s response efforts. When discussing how the Report addresses the adequacy of Amazon’s efforts, Amazon resorts to pointing to two generic, boilerplate statements that are devoid of any factual content: (1) “the Company has ‘taken extraordinary measures to promote safety and health as our employees continue to provide essential services around the globe during the COVID-19 pandemic,’” and (2) “we have growing confidence that our employees are safe at work.” No-Action Request at 7. The first simply implies that because Amazon has taken measures it considers extraordinary, they must be adequate. That conclusion simply does not follow. The second statement is conclusory, as it fails to identify any basis for Amazon’s “growing confidence” that its employees are safe at work. Finally, Amazon cites its October 2020 report that compared the case infection rates of its employees to the general population during the first six months of the pandemic. *Id.* at 7. But as discussed above, because this report is so methodologically flawed, it is not sufficient basis for assessing the adequacy of Amazon’s efforts to reduce or mitigate health and safety risks from the COVID-19 pandemic. Additionally, it only provides data for the first wave of the pandemic. In short, the Report and the COVID-19 Response Disclosures are devoid of a robust, scientifically-valid assessment of the adequacy of Amazon’s historical and continuing efforts to reduce or mitigate the health and safety risks of the COVID-19 pandemic.

<sup>22</sup> Amazon cites *Mondelēz International, Inc.* (avail. Mar. 7, 2014), *The Boeing Co.* (avail. Feb. 17, 2011), *Caterpillar, Inc.* (avail. Mar. 11, 2008), *Wal-Mart Stores, Inc.* (avail. Mar. 10, 2008), *PG&E Corp.* (avail. Mar. 6, 2008), *The Dow Chemical Co.* (avail. Mar. 5, 2008), and *Johnson & Johnson* (avail. Feb. 22, 2008) for the proposition that a proposal requesting a report can be excluded on substantial implementation grounds where the company has already prepared a report or other disclosures addressing the subject matter of the requested report. These determinations are not applicable here because the subject matter of the requested report—the *adequacy* of Amazon’s efforts to reduce or mitigate health and safety risks from the coronavirus pandemic—has simply not been addressed by the Report or the COVID-19 Response Disclosures. Amazon cites *Amazon.com, Inc. (Sisters of the Order of St. Dominic of Grand Rapids et al.)* (avail. Mar. 27, 2020), *The Dow Chemical Co.* (avail. Mar. 18, 2014, recon. denied Mar. 25, 2014), *Target Corp. (Johnson and Thompson)* (avail. Mar. 26, 2013), *AutoZone, Inc.* (avail. Oct. 9, 2019), and *Duke Energy Corp.* (avail. Feb. 21, 2012) as support for its argument that a proposal can be excluded where a company’s public disclosures “compare favorably” to the proposal’s request, even if they do not provide as much information as the proponent desires or in the proponent’s desired format. Here, however, the failure is one of kind, not quantity. Amazon has not provided the *kind* of information (*i.e.*, information concerning the adequacy of its efforts) sought in the Proposal. Accordingly, prior determinations on whether a sufficient amount of information has been provided or whether that information was provided in the desired format, are not on point.

discussed during these meetings, much less the actions the Committee has taken in its oversight role to assess or evaluate the adequacy of Amazon’s efforts in reducing or mitigating health and safety risks from the COVID-19 pandemic. Instead, the Report simply notes that the Committee has *received* “numerous statistical metrics throughout this time, as well as information on confirmed and presumed reported cases of COVID-19 diagnoses among employees and relative to case rates among the general population and in our communities,” and has *focused* on “our implementing guidance from health, epidemiology, and industrial hygiene experts.” *Id.* The Supporting Statement makes clear that the Proposal is calling for the Committee to provide “[i]ndependent and transparent oversight, including scientifically valid data assessments” that can help “ensure that Amazon’s COVID investments produce outcomes beneficial for its employees and shareowners.” Because Section II of the Report fails to identify the concrete actions the Committee has taken to oversee Amazon’s response efforts and the metrics it is using to evaluate the adequacy of those efforts, the Report does not substantially implement the second essential objective of the Proposal: that the Committee report on its own oversight (*i.e.*, how it is overseeing and evaluating the adequacy of Amazon’s efforts to reduce or mitigate the health and safety risk of the COVID-19 pandemic).

In sum, the COVID-19 Response Disclosures and the Report, individually and collectively, fail to substantially implement the Proposal. The Proposal thus cannot be excluded pursuant to Rule 14a-8(i)(10).

### **AMAZON CANNOT EXCLUDE THE PROPOSAL AS ORDINARY BUSINESS**

Amazon proffers two bases for excluding the Proposal under Rule 14a-8(i)(7): (1) the Proposal necessarily implicates Amazon’s legal compliance program; and (2) the Proposal relates to the Amazon’s litigation strategy and pending legal and investigative proceedings. Amazon has failed to establish either basis. Regardless though, the Proposal focuses on significant policy issues that are sufficient to transcend Amazon’s day-to-day business matters, rendering the Proposal appropriate for a shareholder vote. Accordingly, the Proposal cannot be excluded under Rule 14a-8(i)(7).

#### **A. The Ordinary Business Standard under Rule 14a-8(i)(7)**

The “ordinary business” exception permits a company to exclude a proposal that “deals with a matter relating to the company’s ordinary business operations.” Rule 14a-8(i)(7). The applicability of this exception rests on two central considerations: (1) the “proposal’s subject matter,” and (2) “the degree to which the proposal ‘micromanages’ the company.” Staff Legal Bulletin 14K (Oct. 16, 2019) (“SLB 14K”).<sup>23</sup>

With respect to subject matter, shareholder proposals are excludable if they “raise matters ‘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.’” *Id.* (quoting Exchange Act Release No. 34-40018 (May 21, 1998) (the “1998 Release”). However, “[t]he fact that a proposal relates to ordinary business matters does not conclusively establish that a company may exclude

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<sup>23</sup> Amazon does not contend that the Proposal seeks to micromanage the company. Accordingly, we do not address micromanagement in this response.

the proposal from its proxy materials.” Staff Legal Bulletin 14A (July 12, 2002) (“SLB 14A”). Proposals that relate to ordinary business matters, but which nevertheless “focus[] on a significant policy issue,” are not excludable “because the proposals would transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote.” SLB 14K (quoting the 1998 Release).

In deciding whether a policy issue has become “sufficiently significant,” the Staff examines “the proposal and the supporting statement as a whole” (Staff Legal Bulletin 14C (June 28, 2005)) and determines whether there is “widespread public debate regarding [the] issue.” SLB 14A. A policy issue can become significant in a span of months. *Id.* Additionally, whether a proposal satisfies the significant policy exception “depends, in part, on the connection between the significant policy issue and the company’s business operations.” SLB 14K. The Staff thus “takes a company-specific approach in evaluating significance,” where the focus is “on whether the proposal deals with a matter relating to that company’s ordinary business operations or raises a policy issue that transcends that company’s ordinary business operations.” *Id.* If a proposal “raises a policy issue that appears to be significant, a company’s no-action request should focus on the significance of the issue to that company. If the company does not meet that burden, the staff believes the matter may not be excluded under Rule 14a-8(i)(7).” *Id.* Consistent with this guidance, the Staff has denied no-action requests where a company fails to provide a board or other analysis addressing the significance of the proposal to the company’s business operations. See *The TJX Companies, Inc.* (avail. Apr. 9, 2020); *General Motors Co.*, (avail. Apr. 18, 2018); *Walgreens Boots Alliance, Inc. (Mercy Invest. Servs. Inc.)* (avail. Nov. 20, 2018).

### **B. The Proposal Focuses on Significant Policy Issues that Transcend Amazon’s Ordinary Business**

As we argue below, Amazon has not carried its burden of demonstrating that the Proposal is excludable as a matter related to the Company’s ordinary business operations. The only two “ordinary business” exclusions that Amazon proffers—that the Proposal relates to Amazon’s general legal compliance program and its litigation strategy in pending legal and investigative matters—are not applicable to the Proposal for the various reasons we provide. Thus, there is no requirement that the Systems further demonstrate that the Proposal focuses on a significant policy issue that transcends Amazon’s day-to-day business operations. Nevertheless, if the Staff finds it necessary to reach this issue, the Staff should decide the issue in the proponents’ favor.

There can be no dispute that addressing the multitude of public health issues created by the COVID-19 pandemic presents significant policy issues and risks for companies such as Amazon. The COVID-19 pandemic is the most significant public health emergency of the past century and the challenges presented to public companies by the pandemic are unlike any seen before. COVID-19 has now killed over 500,000 people in the United States and approximately 2.5 million people worldwide.<sup>24</sup> The pandemic has also devastated many parts of the U.S. and global economy. However, companies such as Amazon that provide timely and efficient home delivery of essential products have thrived during the pandemic as more and more consumers have elected to protect their own and others’ safety by staying at home and shopping online. In the fourth quarter of 2020, Amazon’s sales topped \$100 billion for the first time and the

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<sup>24</sup> See <https://coronavirus.jhu.edu/map.html>.

company's earnings per share almost doubled Wall Street expectations (\$14.09 vs. \$7.34 expected).<sup>25</sup> As noted in the Supporting Statement, as of October 2020, Amazon's workforce had grown by 427,000, bringing its total global workforce to 1.2 million. Many of these employees work in close proximity to each other in Amazon warehouses and fulfillment centers, and are thus at substantial risk of being infected if they come into contact with an infected co-worker, as demonstrated by the multiple COVID-19 outbreaks that have been reported at Amazon facilities.<sup>26</sup> To address these significant public health risks—which extend well beyond the walls of Amazon's facilities and warehouses<sup>27</sup>—Amazon has reportedly invested \$10 billion in 2020 for COVID-related workplace initiatives. Nevertheless, reports continue to emerge that raise concerns about safety issues at Amazon facilities and the overall adequacy of Amazon's efforts to reduce or mitigate the health and safety risks from the COVID-19 pandemic, giving rise to the concerns that Amazon has struck the balance in favor of profits over the safety and health of its employees and their communities.<sup>28</sup> The unprecedented demand for Amazon's services and the high transmissibility and lethality of the COVID-19 virus have thus placed Amazon in the precarious position of trying to protect the health and safety of its rapidly expanding workforce (and, given the high transmissibility of the virus, the communities in which they live), while at the same time trying to continue to provide timely and efficient home delivery as demand for Amazon's products and services skyrockets during the pandemic. The Committee's independent oversight of the company's evaluation and treatment of the significant public health risks to employees and the communities in which they live—risks that are only compounded by the interaction of Amazon's high-speed business model with a highly transmissible virus—and the adequacy of Amazon's \$10 billion effort to reduce or mitigate those health and safety risks, are significant policy issues for Amazon that transcend its ordinary business operations. Accordingly, a shareholder vote on the Proposal is warranted.

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<sup>25</sup> Emily McCormick, "Amazon earnings: Q4 sales topped \$100 billion for the first time, Bezos to step down as CEO," *Yahoo! Finance* (Feb. 2, 2021), available at [https://finance.yahoo.com/news/amazon-reports-4q-2020-earnings-results-152012181.html?guccounter=1&guce\\_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce\\_referrer\\_sig=AQAAAM7oUqjaQS-282d2md\\_D439mSIer82T04X29jUpy6KjnJ9I\\_U6AeKs-ddPq7XuhuXVrkgVaUmSliz3Uhrvdzbf2fSaEo8BvXqTJ5jkZYd2SWqpVVGWkUsNyfW1jVHFAuY-lCnKt59mpJbCwZSvHbzEXR5y\\_sh91fE48AxNSsLL0](https://finance.yahoo.com/news/amazon-reports-4q-2020-earnings-results-152012181.html?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce_referrer_sig=AQAAAM7oUqjaQS-282d2md_D439mSIer82T04X29jUpy6KjnJ9I_U6AeKs-ddPq7XuhuXVrkgVaUmSliz3Uhrvdzbf2fSaEo8BvXqTJ5jkZYd2SWqpVVGWkUsNyfW1jVHFAuY-lCnKt59mpJbCwZSvHbzEXR5y_sh91fE48AxNSsLL0)

<sup>26</sup> See, e.g., Karen Weise, "'Way Too Late': Inside Amazon's Biggest Outbreak," *N.Y. Times* (May 19, 2020), available at <https://www.nytimes.com/2020/05/19/technology/amazon-coronavirus-workers.html>; April Glaser, *et al.*, "Lack of oversight and transparency leave Amazon employees in the dark on COVID-19," *NBC News* (Sept. 30, 2020), available at <https://www.nbcnews.com/tech/tech-news/lack-oversight-transparency-leave-amazon-employees-dark-covid-19-n1241549>; Michael Sainato, "'Jeff Bezos values profits above safety': Amazon workers voice pandemic concern," *The Guardian* (Apr. 7, 2020), available at <https://www.theguardian.com/technology/2020/apr/07/amazon-warehouse-workers-coronavirus-safety>; Ximena Conde, "After spike in asymptomatic cases, N.J. Amazon warehouse serving Philly shuts down through Christmas," *WHYY*, (Dec. 22, 2020) available at <https://whyy.org/articles/after-spike-in-asymptomatic-cases-n-j-amazon-warehouse-serving-philly-shuts-down-through-christmas/>.

<sup>27</sup> There are substantial risks that persons infected in the workplace will then infect those that they live with. Accordingly, risks encountered by Amazon employees in the workplace are not limited to those workers. See Alyssa LaFaro, "Household Deemed Most Common Place for COVID-19 Transmission," *UNC Research* (Apr. 24, 2020), available at <https://research.unc.edu/2020/04/24/household-deemed-most-common-place-for-covid-19-transmission/>.

<sup>28</sup> See n. 26, above.

Although Amazon suggests that the Proposal “just seek[s] information on how the Company is managing the operation of its facilities” (No-Action Request at 18), Amazon’s opinion is not shared by the SEC.<sup>29</sup> Far from treating the impact of COVID-19 on a company’s workforce as a matter of “ordinary business,” the SEC has encouraged companies to enhance their public disclosures concerning efforts taken to address various risks, including public health risks, presented by the COVID-19 pandemic. In an April 8, 2020 public statement, then-Chairman Jay Clayton and then-Director of the Division of Corporation Finance William Hinman, urged companies to disclose information concerning “how the company’s COVID-19 response, including its efforts to protect the health and well-being of its workforce, is progressing.”<sup>30</sup> The statement noted that there was “intense investor interest” in how companies planned to address the effects of COVID-19 on their operations. In particular, “[i]nvestors and analysts are thirsting to know where companies stand today and, importantly, how they have adjusted, and expect to adjust in the future, their operational and financial affairs to most effectively work through the COVID-19 health crisis.”<sup>31</sup> The statement further recognized that “COVID-19 may significantly impact operations, including as a result of company efforts to protect worker health and well-being and customer safety. The impact of company actions and policies in this area may be of material interest to investors, and we encourage disclosures that address that interest.”<sup>32</sup>

On June 23, 2020, the Division of Corporation Finance issued guidance that noted that companies had “undertaken and are generally in the process of making a diverse range of operational adjustments in response to the effects of COVID-19,” including adjustments directed at the health and safety of workers, and that such adjustments “may have an effect on a company that would be material to an investment or voting decision, and affected companies should carefully consider their obligations to disclose this information to investors.”<sup>33</sup>

Amazon’s “ordinary business” objection to the Proposal is further belied by its own statements. When Amazon released its October 2020 report on the infection rate of its employees, it made clear that the information it was disclosing had significance well beyond the four walls of its workplace: “We all have a vested interest in returning to some version of normal and safely helping *our communities* and *the economy*. We hope sharing this data and our learnings will encourage others to follow, and will prove *useful as states make decisions about reopening public facilities and employers consider whether and how to bring people back to*

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<sup>29</sup> We note that the Staff recently denied a no-action request by Walmart, Inc. (“Walmart”). The proposal at issue asked Walmart’s board of directors to create an advisory council composed of employees to provide advice to the board “on pandemic-related workforce issues, including health and safety measures, whistleblower protection, and paid sick leave.” Walmart argued that the proposal could be excluded because it focused on ordinary business (workforce management) and did present any policy issue that transcended the company’s ordinary business operations. The Staff was unable to concur with Walmart that the proposal was excludable under Rule 14a-8(i)(7). See <https://www.sec.gov/divisions/corpfin/cf-noaction/14a-8/shareholder-proposal-no-action-responses.htm>.

<sup>30</sup> Jay Clayton & William Hinman, *The Importance of Disclosure – For Investors, Markets and Our Fight Against COVID-19* (Apr. 8, 2020), available at <https://www.sec.gov/news/public-statement/statement-clayton-hinman>.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> CF Disclosure Guidance: Topic No. 9A, “Coronavirus (COVID-19) – Disclosure Considerations Regarding Operations, Liquidity, and Capital Resources,” (June 23, 2020), available at <https://www.sec.gov/corpfin/covid-19-disclosure-considerations>.

*work*” (emphasis added).<sup>34</sup> Thus, Amazon itself has recognized the broader public health and economic importance that attaches when companies report on the adequacy of their efforts to reduce or mitigate the health and safety risks presented by the COVID-19 pandemic.

In light of the foregoing, it is clear that the Proposal presents significant policy issues concerning the health and safety of Amazon’s workers and the communities in which they live, the risks that these matters pose to Amazon’s business model, and the Committee’s oversight and management of these unique risks. Recognizing the importance of these issues and the desire of investors to obtain more detailed disclosures on these matters, the SEC has actively encouraged companies to provide the type of report requested in the Proposal. Amazon itself has recognized that corporate reporting on how companies are addressing the COVID-19 pandemic in their workforces has importance for the larger economy and public health more generally. In short, the Proposal raises significant policy issues that transcend Amazon’s ordinary business operations and a vote on the Proposal is warranted.<sup>35</sup>

### **C. The Proposal Does Not Implicate Amazon’s Legal Compliance with Workplace Health and Safety Rules**

Although we have demonstrated that the Proposal presents significant policy issues that transcend ordinary business, there is no need for the Staff to even reach that issue if Amazon cannot first show that the Proposal focuses on an ordinary business issue. Amazon has not made the required showing here.

Amazon asserts, without further argument or explication, that the Proposal can be excluded as dealing with a matter of ordinary business because it necessarily implicates “the company’s compliance with workplace health and safety rules,” and “whether the Company’s efforts to reduce or mitigate the health and safety risks from the coronavirus pandemic satisfy applicable legal standards.” No-Action Request at 13, 14. Neither the Proposal nor the Supporting Statement implies, much less requires, that the Committee address Amazon’s legal compliance with workplace health and safety rules. The Proposal simply urges the Committee to report on the “adequacy” of Amazon’s efforts to reduce or mitigate health and safety risks from the COVID-19 pandemic. The particular standard for assessing the adequacy of Amazon’s response is not mandated and there is nothing in the Proposal or the Supporting Statement that implies that an assessment of the *legal adequacy* of Amazon’s response is sought. To the contrary, when the Proposal and Supporting Statement are read together, the objectives of the Proposal are clear: to obtain (1) a scientifically-valid assessment of the effectiveness of Amazon’s multibillion dollar effort to reduce or mitigate the health and safety risks presented by the COVID-19 pandemic; and (2) an understanding of how the Committee has overseen and evaluated the adequacy of those efforts. Thus, what the requested report should answer are questions concerning the *factual adequacy* of Amazon’s response efforts (*i.e.*, How effective

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<sup>34</sup> Amazon Staff, “Update on COVID-19 Testing,” (Oct. 1, 2020), *available at* <https://www.aboutamazon.com/news/operations/update-on-covid-19-testing>.

<sup>35</sup> The Staff has recently denied no-action requests where a company does not provide a board or other analysis addressing the significance of the proposal to the company’s business operations. *See The TJX Companies, Inc.* (avail. Apr. 9, 2020); *General Motors Co.*, (avail. Apr. 18, 2018); *Walgreens Boots Alliance, Inc. (Mercy Invest. Servs. Inc.)* (avail. Nov. 20, 2018). We note that Amazon has not presented any such analysis as part of its No-Action Request.

have Amazon's efforts been in actually reducing or mitigating health and safety risks? How has the Committee overseen and evaluated the effectiveness of Amazon's response efforts?), not the *legal adequacy* of that response (*i.e.*, Has Amazon taken actions sufficient to comply with applicable law?). Amazon has not demonstrated that it would be impossible to report on these factual matters without addressing legal issues concerning its compliance with specific workplace health and safety rules. Accordingly, Amazon has not carried its burden of demonstrating that the Proposal relates to the ordinary business concern of legal compliance.

Amazon relies on a string of prior Staff determinations to support its position, but these actually demonstrate the weakness of Amazon's argument. The proposals at issue in these no-action requests were all directed at matters expressly dealing with legal compliance issues. None required the Staff to make the inferential leap that Amazon asks it to make here. The proposal in *Navient Corp.* (avail Mar. 26, 2015, *recon. denied* Apr. 8, 2015) requested "a discussion of actions taken to ensure compliance with applicable federal and state laws." The proposal in *Raytheon Co.* (avail. Mar. 25, 2013) requested a report on the company's effort to implement various provisions of federal employment law. The proposal in *Sprint Nextel Corp.* (avail. Mar. 16, 2010, *recon. denied* Apr. 20, 2010) asked the board to explain its failure to adopt an ethics code designed, among other things, to promote "securities law compliance." The proposal in *FedEx Corp. (Trowel Trades S&P 500 Index Fund)* (avail. July 14, 2009) requested a report discussing compliance "with state and federal laws governing proper classification of employees and independent contractors." The proposal in *The AES Corporation* (avail. Mar. 13, 2008) requested an investigation of management's involvement in the illegal falsification of reports that had been submitted to federal and state regulatory agencies. The proposal in *The Coca-Cola Co.* (avail. Jan. 9, 2008) sought a report that would compare laboratory test results of product quality "against the applicable national laws." Finally, the proposal in *Halliburton Co. (Global Exchange and John C. Harrington)* (avail. Mar. 10, 2006) sought a report concerning the policies and procedures adopted and implemented by the company to reduce or eliminate the reoccurrence of violations of United States pension law. On their face, these proposals all raised issues directly and expressly related to the general conduct of the companies' legal compliance programs. In contrast, the Proposal here does not require Amazon to report on its legal compliance with workplace health and safety rules. Accordingly, these determinations do not support Amazon's assertion that the Proposal can be excluded as related to the ordinary business concern of legal compliance.

#### **D. The Proposal Does Not Relate to Amazon's Litigation Strategy or Pending Legal and Investigative Proceedings**

Amazon's argument that the Proposal can be excluded on ordinary business grounds because it relates to its litigation strategy and addresses the same subjects as pending legal and investigative proceedings (No-Action Request at 14-17) is no more persuasive than its argument that the Proposal implicates Amazon's legal compliance with workplace health and safety rules. Amazon identifies three pending matters that focus on its compliance with applicable law and regulatory guidance. A New York lawsuit alleges that health and safety practices at a specific fulfillment center did not comply with state and federal COVID-19-related public-health guidance. *Id.* at 16. A California lawsuit alleges that Amazon violated California and OSHA guidelines related to COVID-19. *Id.* Finally, a California Attorney General investigation seeks to

determine whether Amazon’s COVID-19 response has complied with applicable California law. *Id.* Amazon argues that in each matter “one of the principal legal issues ... is the adequacy of the Company’s health and safety measures implemented in response to COVID-19,” and concludes that the “preparation of a report with more extensive detail than the Report would implicate, and may prejudice, the Company’s conduct of litigation and response strategy in connection with these pending legal and investigative proceedings.” *Id.* at 17. Amazon’s argument fails for two reasons.

*First*, the argument turns on the same conflation of legal and factual adequacy discussed above. Whether Amazon’s actions at particular facilities have been adequate or sufficient to satisfy or comply with the requirements of applicable law or regulatory guidance—which is what is at issue in the three matters Amazon identified—is a question of *legal adequacy*. But whether Amazon’s efforts, as a factual matter, have been adequate or effective in reducing or mitigating health and safety risks presented by the COVID-19 pandemic is a question of *factual adequacy*. Nothing in the Proposal requires the Committee to examine or opine on the legal adequacy of Amazon’s COVID-19 response efforts, much less the legal adequacy of Amazon’s specific response efforts at specific facilities in specific states or localities. Accordingly, the report requested by the Proposal does not implicate or prejudice any specific litigation or legal position that Amazon may ultimately take in the three identified matters.

*Second*, the Proposal seeks a global assessment of the factual adequacy of Amazon’s efforts to reduce or mitigate health and safety risks from the COVID-19 pandemic. It does not request or require the Committee to parse out and separately evaluate the adequacy—factual or legal—of each of the various actions and policies that Amazon has taken or implemented as part of its response efforts, let alone the adequacy of specific actions or policies at specific facilities in specific states or localities during discrete time periods. In contrast, the three matters identified by Amazon all concern specific and discrete factual and legal issues. The two litigations concern whether Amazon violated specific state and federal guidelines at particular Amazon facilities during particular time periods, while the California Attorney General investigation examines whether Amazon has complied with applicable California law. None of these three matters is concerned with the factual adequacy of Amazon’s aggregate, company-wide efforts to reduce or mitigate health and safety risks from the COVID-19 pandemic. Thus, contrary to Amazon’s claim, the report requested by the Proposal and the three pending matters do not “deal[]with the same subject matter,” and the adoption of the Proposal would not “intrude on management’s exercise of its day-to-day business judgment with respect to pending litigation and an ongoing investigation in the ordinary course of its business operations.” No-Action Request at 17.<sup>36</sup>

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<sup>36</sup>The various no-action determinations that Amazon relies upon are readily distinguishable. In *Walmart Inc.* (avail. Apr. 13, 2018), the proposal requested a report on the risks associated with public policies on the gender pay gap. Walmart was embroiled in lawsuits throughout the nation that alleged it had engaged in a pattern or practice of discriminating against women in pay. Thus, whether a gender pay gap existed at Walmart could provide evidence of such a pattern or practice. Walmart successfully argued that the proposal would have required it to take action that could be considered an admission in those pending litigations. Based on Walmart’s representations, the Staff concluded that the proposal could affect the conduct of ongoing litigation and found the proposal excludable. A nearly identical situation was presented in *Wal-Mart Stores, Inc.* (avail. Apr. 14, 2015). In contrast, Amazon has not shown that a report globally assessing whether the company’s efforts, as a matter of fact, have reduced or mitigated health and safety risks from the COVID-19 pandemic would have any bearing on whether Amazon complied with the specific legal and regulatory rules at issue the three identified matters. In *AT&T Inc.* (avail. Feb. 9, 2007), the

Based on the foregoing, Amazon has not established that the Proposal can be excluded under Rule 14a-8(i)(7) on the ground that it relates to Amazon's litigation strategy or pending legal and investigative proceedings.

**CONCLUSION**

For the reasons set forth above, Amazon 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). Accordingly, the Systems respectfully request that Amazon's No-Action Request be denied.

The Systems appreciate the opportunity to be of assistance in this matter. If you have any questions or need additional information, please contact me at (212) 669-1172.

Respectfully submitted,



Neysa Alsina

cc: shareholderproposals@gibsondunn.com

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proposal requested a report on legal issues surrounding the disclosure of customer communications to various agencies, including the NSA. The report requested here does not request a report on legal issues. In *Benihana National Corp.* (avail. Sept. 13, 1991) the proposal requested a report analyzing legal claims asserted in a pending litigation, while in *Baxter International Inc.* (avail. Feb. 20, 1992) and *Exxon Mobil Corp.* (avail. Mar. 21, 2000) the proposals specifically sought to direct aspects of the companies' litigation. Nothing remotely comparable is present here. Finally, in *Johnson & Johnson* (avail. Feb. 14, 2012) and *Reynolds American Inc.* (avail. Mar. 7, 2007) the proposals requested reporting on contested factual issues that were the subject of pending litigation. Amazon has not shown any specific contested factual issues from the three identified matters that would also have to be addressed in the requested report.

January 25, 2021

VIA E-MAIL

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

Re: *Amazon.com, Inc.*  
*Shareholder Proposal of the New York City Teachers' Retirement System, the*  
*New York City Employees Retirement System, the Board of Education*  
*Retirement System and APG Asset Management N.V.*  
*Securities Exchange Act of 1934—Rule 14a-8*

Ladies and Gentlemen:

This letter is to inform you that our client, Amazon.com, Inc. (the “Company”), intends to omit from its proxy statement and form of proxy for its 2021 Annual Meeting of Shareholders (collectively, the “2021 Proxy Materials”) a shareholder proposal (the “Proposal”) and statement in support thereof (the “Supporting Statement”) received from the New York City Teachers’ Retirement System, New York City Employees Retirement System, the Board of Education Retirement System, and APG Asset Management N.V. (collectively, the “Proponents”).

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

- filed this letter with the Securities and Exchange Commission (the “Commission”) no later than eighty (80) calendar days before the Company intends to file its definitive 2021 Proxy Materials with the Commission; and
- concurrently sent copies of this correspondence to the Proponents.

Rule 14a-8(k) and Staff Legal Bulletin No. 14D (Nov. 7, 2008) (“SLB 14D”) provide that shareholder proponents are required to send companies a copy of any correspondence that the proponents elect to submit to the Commission or the staff of the Division of Corporation Finance (the “Staff”). Accordingly, we are taking this opportunity to inform the Proponents

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that if the Proponents elect to submit additional correspondence to the Commission or the Staff with respect to the Proposal, a copy of such correspondence should be furnished concurrently to the undersigned on behalf of the Company pursuant to Rule 14a-8(k) and SLB 14D.

## THE PROPOSAL

The Proposal states:

RESOLVED: Shareholders urge the Leadership Development and Compensation Committee (“Committee”) of the Amazon.com Board of Directors to prepare a report, prior to the 2022 annual meeting, at a reasonable cost and excluding proprietary and personal information, on the adequacy of Amazon’s efforts to reduce or mitigate health and safety risks from the coronavirus pandemic, including the Committee’s oversight thereof.

A copy of the Proposal and the Supporting Statement, as well as related correspondence with the Proponents, is attached to this letter as Exhibit A.

## BASES FOR EXCLUSION

We hereby respectfully request that the Staff concur in our view that the Proposal may be excluded from the 2021 Proxy Materials pursuant to:

- Rule 14a-8(i)(10) because the Company has substantially implemented the Proposal; and
- Rule 14a-8(i)(7) because the Proposal relates to the Company’s ordinary business operations.

## ANALYSIS

### **I. The Proposal May Be Excluded Under Rule 14a-8(i)(10) Because The Company Has Substantially Implemented The Proposal.**

#### *A. The Substantial Implementation Standard.*

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

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shareholders having to consider matters which already have been favorably acted upon by the management.” Exchange Act Release No. 12598 (July 7, 1976) (“1976 Release”). Originally, the Staff narrowly interpreted this predecessor rule and concurred with the exclusion of a proposal only when proposals were “‘fully’ effected” by the company. *See* Exchange Act Release No. 19135 (Oct. 14, 1982). By 1983, the SEC recognized that the “previous formalistic application of [the Rule] defeated its purpose” because proponents were successfully avoiding exclusion by submitting proposals that differed from existing company policy in minor respects. Exchange Act Release No. 20091, at § II.E.6. (Aug. 16, 1983) (“1983 Release”). Therefore, in the 1983 Release, the SEC adopted a revised interpretation of the rule to permit the omission of proposals that had been “substantially implemented,” and the SEC codified this revised interpretation in Exchange Act Release No. 40018, at n.30 (May 21, 1998) (the “1998 Release”).

Applying this standard, when a company can demonstrate that it already has taken actions to address the underlying concerns and essential objectives of a shareholder proposal, the Staff has concurred that the shareholder proposal has been “substantially implemented” and may be excluded as moot. 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.” *Walgreen Co.* (avail. Sept. 26, 2013); *Texaco, Inc.* (avail. Mar. 6, 1991, *recon. granted* Mar. 28, 1991).

At the same time, a company need not implement a proposal in exactly the same manner set forth by the proponent. In *General Motors Corp.* (avail. Mar. 4, 1996), the company observed that the Staff has not required that a company implement the action requested in a proposal exactly in all details but has been willing to issue no-action letters under the predecessor of Rule 14a-8(i)(10) in situations where the “essential objective” of the proposal had been satisfied. The company further argued, “[i]f the mootness requirement [under the predecessor rule] were applied too strictly, the intention of [the rule]—permitting exclusion of ‘substantially implemented’ proposals—could be evaded merely by including some element in the proposal that differs from the registrant’s policy or practice.” Therefore, if a company has satisfactorily addressed both the proposal’s underlying concerns and its “essential objective,” the proposal will be deemed “substantially implemented” and, therefore, may be excluded. *See, e.g., Quest Diagnostics, Inc.* (avail. Mar. 17, 2016); *Exelon Corp.* (avail. Feb. 26, 2010); *Anheuser-Busch Companies, Inc.* (avail. Jan. 17, 2007); *ConAgra Foods, Inc.* (avail. July 3, 2006); *Johnson & Johnson* (avail. Feb. 17, 2006); *Talbots* (avail. Apr. 5, 2002); *Masco Corp.* (avail. Mar. 29, 1999); *The Gap, Inc.* (avail. Mar. 8, 1996).

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The Staff has concurred that, when substantially implementing a shareholder proposal, companies can address aspects of implementation in ways that may differ from the manner in which the shareholder proponent would implement the proposal. For example, the Staff has previously taken the position that a shareholder proposal requesting that a company's board of directors prepare a report pertaining to environmental, social, or governance issues may be excluded when the company has provided information about the initiative in various public disclosures. *See PPG Industries Inc.* (avail. Jan. 16, 2020) (concurring with the exclusion of a proposal requesting that the board of directors prepare a report on the company's processes for "implementing human rights commitments within company-owned operations and through business relationships" where the requested information was already disclosed in the company's global code of ethics, global supplier code of conduct, supplier sustainability policy, and sustainability report, and other disclosures that addressed the requested information); *The Wendy's Company* (avail. Apr. 10, 2019) (concurring with exclusion of a proposal requesting that the board of directors prepare a report on the company's process for identifying and analyzing potential and actual human rights risks of operations and supply chain where the company already had a code of conduct for suppliers, a code of business conduct and ethics, and other policies and public disclosures concerning supply chain practices and other human rights issues that achieved the proposal's essential objective); *The Dow Chemical Co.* (avail. Mar. 18, 2014, *recon. denied* Mar. 25, 2014) (concurring with the exclusion of a proposal requesting that the company prepare a report assessing short- and long-term financial, reputational and operational impacts that the legacy Bhopal disaster may reasonably have on the company's Indian and global business opportunities and reporting on any actions the company intends to take to reduce such impacts, where the company had published a "Q and A" regarding Bhopal and disclosed other actions it had taken and would continue to take).

## *B. Overview Of The Report.*

The Company has a number of communications channels in which it makes available information regarding its response to the COVID-19 pandemic (the "COVID-19 Response Disclosures"). The Company maintains a blog providing updates on how it is responding to COVID-19,<sup>1</sup> has published a sustainability report addressing its efforts to keep its workers

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<sup>1</sup> See Amazon's COVID-19 blog, available at <https://www.aboutamazon.com/news/company-news/amazons-covid-19-blog-updates-on-how-were-responding-to-the-crisis>.

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safe,<sup>2</sup> regularly makes disclosures regarding the effects of COVID-19 on the Company's business in its periodic filings with the SEC, and has published other reports that provide additional information on its COVID-19 response and workplace safety.<sup>3</sup> In October 2020, the Company reported on the COVID-19 infection rates among its frontline employees.<sup>4</sup>

The Leadership Development and Compensation Committee (the "Committee") of the Company's Board of Directors (the "Board") is specifically responsible for overseeing the Company's strategies and policies related to human capital management, including workplace safety and the Company's response to the COVID-19 pandemic. On May 14 and August 25, 2020, the Proponents made similar requests to management for information on the Company's efforts to mitigate health and safety risks from the COVID-19 pandemic, including the Committee's oversight, which the Company responded to in two letters. In response to the Proposal, the Company has prepared a report addressing the topics requested in the Proposal, which was prepared under the auspices of and reviewed and affirmed by the Committee (the "Report"). A copy of the Report, which is attached hereto as Exhibit B, is available to any interested party upon request.

Section I of the Report outlines actions the Company has taken to reduce or mitigate health and safety risks to employees from the COVID-19 pandemic. The Company has invested more than \$10 billion in 2020 on COVID-related initiatives to keep employees safe and get products to customers. This includes implementing more than 150 significant process changes as COVID-19 safety measures. The Report discloses that, among other actions, the Company has provided over 283 million masks, added 2,298 handwashing stations, added 5,755 janitorial staffers to the Company's typical teams, deployed an additional 287 million gloves, provided 513 million ounces of hand sanitizer, provided 450 million ounces of sanitizing spray and 1.5 trillion wipes, deployed more than 351,000 thermometers and 16,500 thermal cameras, invested \$85 million to redeploy more than 3,500 team members from their typical roles to become "social distancing ambassadors," and built out its own COVID-19 testing labs with capacity to conduct tens of thousands of tests a day across hundreds of sites. Section I of the Report also acknowledges certain of the Company's benefits and leave policies that are designed to keep the Company's workforce safe by encouraging employees to stay home if they feel unwell, such as up to 14 days of pay when they are unable to work because they have been diagnosed with or are presumed to have COVID-19. Moreover, the

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<sup>2</sup> See All In: Staying the Course on Our Commitment to Sustainability, available at <https://sustainability.aboutamazon.com/pdfBuilderDownload?name=sustainability-all-in-september-2020>.

<sup>3</sup> See, e.g., Workplace Safety, available at <https://www.aboutamazon.com/workplace/safety>.

<sup>4</sup> See <https://www.aboutamazon.com/news/operations/update-on-covid-19-testing>.

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Company's full-time employees are provided with world-class health benefits, including comprehensive medical benefits, from day one of their employment.

As requested by the Proposal, Section II of the Report highlights the Committee's oversight of the Company's "efforts to reduce or mitigate health and safety risks from the coronavirus pandemic." As discussed in the Report, the Committee held seven formal meetings during 2020, and workplace safety and the Company's response to the COVID-19 pandemic has been a significant topic of discussion and oversight at those meetings since the onset of the pandemic. In addition, throughout 2020, the full Board, including the Committee, participated in regularly scheduled teleconference discussions (generally on a biweekly basis), which addressed and provided on-going updates on the Company's overall response to the COVID-19 pandemic. Through December 31, 2020, the Board has participated in 17 such discussions.

In addition, Section II of the Report states that the Board and the Committee received numerous statistical metrics to assist its assessment on the progress and impact of the Company's programs and investments to combat the pandemic. For example, the Report provides an analysis of COVID-19 infection rates among the Company's employees within its U.S. operations relative to the general population over the first six months of the pandemic. Section I and II of the Report also address "adequacy of [the Company's] efforts to reduce or mitigate health and safety risks from the coronavirus pandemic," as requested by the Proposal.

Finally, Exhibit A to the Report provides additional detail regarding the policies and practices the Company has implemented to mitigate the health and safety risks from the pandemic.

*C. The Company's Report And Public Disclosures Substantially Implement The Proposal.*

The Proposal requests that the Committee prepare a report, excluding proprietary and personal information, on "the adequacy of [the Company]'s efforts to reduce or mitigate health and safety risks from the coronavirus pandemic, including the Committee's oversight thereof." As discussed below, the Report together with the Company's other COVID-19 Response Disclosures substantially implement the Proposal for purposes of Rule 14a-8(i)(10).

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## 1. Report On Adequacy Of The Company's COVID-19 Response.

As the Company reaffirmed in its Amazon Global Human Rights Principles, the Company strives to be the most safety-centric organization in the world.<sup>5</sup> This includes providing a clean, safe, and healthy work environment as the Company continues to prioritize the health, wellness, and safety of its workers. From the beginning of the COVID-19 pandemic, the Company has taken extraordinary measures to promote safety and health as its employees continue to provide essential services around the globe during the pandemic. Exhibit A of the Report and the other COVID-19 Response Disclosures discuss steps taken by the Company to provide its associates with a safe and healthy workplace during the COVID-19 pandemic, with appropriate rules and practices for reporting and proactively preventing accidents, injuries, and unsafe conditions, procedures, or behaviors. Throughout the Report, the adequacy of these steps is discussed. For example:

- The introduction states that the Company has “taken extraordinary measures to promote safety and health as our employees continue to provide essential services around the globe during the COVID-19 pandemic.”
- Section I.B. states: “we have growing confidence that our employees are safe at work.”
- Section II states: “[a]lthough case rates are an imperfect measure, when [the Company] reviewed the rate of employees with confirmed COVID-19 diagnoses within our U.S. operations over the first six months of the pandemic, [the Company] found that those rates were lower than the rates for the U.S. general population.”

These statements and others in the Report clearly address the adequacy of the Company's efforts to reduce and mitigate health and safety risks to its workers from the COVID-19 pandemic.

## 2. Disclosures About The Committee's Oversight.

In addition to discussing the adequacy of the Company's efforts to reduce and mitigate health and safety risks to its workers from the COVID-19 pandemic, the Report describes the Committee's oversight of these efforts, as requested by the Proposal. Section II of the Report explains that the Committee “is specifically responsible for overseeing [the Company's] strategies and policies related to human capital management, including workplace safety and

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<sup>5</sup> See <https://sustainability.aboutamazon.com/governance/amazon-global-human-rights-principles>.

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[the Company's] response to the COVID-19 pandemic." It goes on to discuss what actions the Committee has taken to carry out its oversight responsibilities, including discussing the Company's response in meetings and on teleconferences, as well as reviewing various metrics.

### 3. The Company Has Substantially Implemented The Proposal

The Report substantially implements the Proposal's request that the Committee prepare a report, excluding proprietary and personal information, "on the adequacy of [the Company]'s efforts to reduce or mitigate health and safety risks from the coronavirus pandemic, including the Committee's oversight thereof." As a result, the Company's actions implementing the Proposal present precisely the scenario contemplated by the SEC when it adopted the predecessor to Rule 14a-8(i)(10) "to avoid the possibility of shareholders having to consider matters which already have been favorably acted upon by the management." 1976 Release.

When a company has already acted favorably on an issue addressed in a shareholder proposal, Rule 14a-8(i)(10) does not require the company and its shareholders to reconsider the issue. In this regard, the Staff has on numerous occasions concurred with the exclusion of shareholder proposals under Rule 14a-8(i)(10) that requested reports when the company had already prepared a report or other disclosures addressing the subject matter of the requested report. *See, e.g., Mondelēz International, Inc.* (avail. Mar. 7, 2014) (concurring with the exclusion of a shareholder proposal requesting a report on the human rights risks of the company's operations and supply chain where the company had achieved the essential objective of the shareholder proposal by publicly disclosing its risk management processes); *The Boeing Co.* (avail. Feb. 17, 2011) (concurring with the exclusion of a shareholder proposal requesting the company assess and report on human rights standards where the company's publicly available reports, risk management processes, and code of conduct "compare[d] favorably with the guidelines of the proposal"); *Caterpillar, Inc.* (avail. Mar. 11, 2008) (concurring with the company's exclusion of a shareholder proposal requesting that the company prepare a global warming report where the company had already published a report that contained information relating to its environmental initiatives); *Wal-Mart Stores, Inc.* (avail. Mar. 10, 2008) (same); *PG&E Corp.* (avail. Mar. 6, 2008) (same); *The Dow Chemical Co.* (avail. Mar. 5, 2008) (same); *Johnson & Johnson* (avail. Feb. 22, 2008) (same). Consistent with these precedents, as described in Section I.C.1 above, the Proposal has been substantially implemented by the Committee's Report and the Company's other extensive COVID-19 Response Disclosures, which document how the Board and the Committee have overseen and continue to oversee the Company's "efforts to reduce or

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mitigate health and safety risks from the coronavirus pandemic” and the “adequacy” of those efforts.

Moreover, the Proposal does not request that specific detail be included in the Report, but instead just sets forth the general topic to be addressed: the adequacy of the Company’s efforts, including the Committee’s oversight thereof, but excluding proprietary and personal information. Between the Report and the other COVID-19 Response Disclosures, the Company believes that it has provided as much information and specifics on the Company’s efforts to reduce or mitigate health and safety risks from COVID-19 as any of its retail peers have provided, or more, and that this information addresses and demonstrates the adequacy of the Company’s efforts. However, noting that the Proposal does not give any context to its reference to “the adequacy of [the Company’s] efforts,” even if the Proponent might prefer more or different details on this topic,<sup>6</sup> the Staff consistently has concurred with the exclusion of similar shareholder proposals where companies’ public disclosures provided information that compared favorably to the proposal’s request notwithstanding that the proponent would have preferred more information or that information be presented in a format that differed from that used by a company. For example, in *Amazon.com, Inc. (Sisters of the Order of St. Dominic of Grand Rapids et al.)* (avail. Mar. 27, 2020), the Staff concurred with the exclusion of a shareholder proposal asking that the Board’s compensation committee “prepare a report assessing the feasibility of integrating sustainability metrics ... into performance measures or vesting conditions that may apply to senior executives under the Company’s compensation plans or arrangements.” As substantial implementation of the proposal, the Company pointed to disclosure that had been provided in the Company’s Compensation Discussion and Analysis the prior year, explaining why the Company’s Leadership Development and Compensation Committee was of the view that performance conditions on the Company’s stock awards were neither necessary nor, given the nature of the Company’s business, appropriate. Because that report thus satisfied the essential objective of the proposal by reporting on the Company’s views on the specified topic, the Staff concurred that the proposal had been substantially implemented. Similarly, in *The Dow Chemical Co.* (avail. Mar. 18, 2014, *recon. denied* Mar. 25, 2014), the Staff concurred with the exclusion of a shareholder proposal requesting that the company prepare a report “assessing the short and long term financial, reputational and operational impacts” of an environmental incident in Bhopal, India. The company argued that statements in a document included on its website providing “Q and A” with respect to the Bhopal incident substantially implemented the proposal. In making its determination, the Staff noted that “it appears that

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<sup>6</sup> As discussed in Part II of this request below, the issue of whether the Company’s efforts are adequate under certain legal standards is the subject of litigation.

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[the company's] public disclosures compare favorably with the guidelines of the proposal and that [the company] has, therefore, substantially implemented the proposal." *See also Target Corp. (Johnson and Thompson)* (avail. Mar. 26, 2013) (concurring with the exclusion of a proposal asking the board to study the feasibility of adopting a policy prohibiting the use of treasury funds for direct and indirect political contributions where the company had addressed company reviews of the use of company funds for political purposes in a statement in opposition set forth in a previous proxy statement and five pages excerpted from a company report).

Similarly, just as the Report and the other COVID-19 Response Disclosures substantially implement the Proposal, in *AutoZone, Inc.* (avail. Oct. 9, 2019) the company argued that it had substantially implemented a proposal through previously its disclosed policies, procedures, and annual report, together with a recently completed sustainability report approved by its board "that consolidate[d] existing disclosure and provide[d] additional sustainability data." The Staff concurred with the exclusion of the proposal under Rule 14a-8(i)(10) noting that the company's public disclosures compare favorably with the guidelines of the proposal and that the company had, therefore, substantially implemented the proposal. Here as well, the Report consolidated, updated, and supplemented information previously prepared by the Company, and together with the other COVID-19 Response Disclosures, provide statistics and details on the Company's efforts to reduce or mitigate health and safety risks from the coronavirus pandemic, including the Company's oversight of such efforts. *See also, Duke Energy Corp.* (avail. Feb. 21, 2012) (concurring with exclusion of a shareholder proposal requesting that a committee of independent directors assess actions the company is taking or could take to "reduce greenhouse gas and other air emissions by providing comprehensive energy efficiency and renewable energy programs to its customers" where the requested information was already available in the company's sustainability reports).

Accordingly, consistent with the precedents discussed above, there is no further action required of the Committee to address the essential objective of the Proposal. The Report demonstrates that the Company's actions and disclosures compare favorably with those requested by the Proposal. Accordingly, the Proposal may be excluded from the Company's 2021 Proxy Materials under Rule 14a-8(i)(10).

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**II. The Proposal May Be Excluded Under Rule 14a-8(i)(7) Because The Proposal Relates To The Company's Ordinary Business Operations.**

*A. Background On The Ordinary Business Standard.*

Rule 14a-8(i)(7) permits a company to omit from its proxy materials a shareholder proposal that relates to the company's "ordinary business" operations. According to the Commission's release accompanying the 1998 amendments to Rule 14a-8, the term "ordinary business" "refers to matters that are not necessarily 'ordinary' in the common meaning of the word," but instead the term "is rooted in the corporate law concept providing management with flexibility in directing certain core matters involving the company's business and operations." 1998 Release. In the 1998 Release, the Commission stated that the underlying policy of the ordinary business exclusion is "to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting," and identified two central considerations that underlie this policy. The first 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 is related 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.* (citing Exchange Act Release No. 12999 (Nov. 22, 1976)).

A shareholder proposal being 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 proposed report is within the ordinary business of the issuer. *See* Exchange Act Release No. 20091 (Aug. 16, 1983).

A proposal's request for a review of certain risks also does not preclude exclusion if the underlying subject matter of the proposal is ordinary business. In Staff Legal Bulletin No. 14E (Oct. 27, 2009) ("SLB 14E"), the Staff explained how it evaluates shareholder proposals relating to risk:

[R]ather than focusing on whether a proposal and supporting statement relate to the company engaging in an evaluation of risk, we will instead focus on the subject matter to which the risk pertains or that gives rise to the risk . . . .  
[S]imilar to the way in which we analyze proposals asking for the preparation

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of a report, the formation of a committee or the inclusion of disclosure in a Commission-prescribed document—where we look to the underlying subject matter of the report, committee or disclosure to determine whether the proposal relates to ordinary business—we will consider whether the underlying subject matter of the risk evaluation involves a matter of ordinary business to the company.

Consistent with its positions in SLB 14E, the Staff has repeatedly concurred in the exclusion of shareholder proposals seeking risk assessments when the subject matter concerns ordinary business operations. *See, e.g., The TJX Companies, Inc.* (avail. Mar. 29, 2011) (concurring in exclusion under Rule 14a-8(i)(7) of a proposal requesting an annual assessment of the risks created by the actions the company takes to avoid or minimize U.S. federal, state and local taxes and provide a report to shareholders on the assessment); *Amazon.com, Inc.* (avail. Mar. 21, 2011) (same); *Wal-Mart Stores, Inc.* (avail. Mar. 21, 2011) (same); *Lazard Ltd.* (avail. Feb. 16, 2011) (same); *Pfizer Inc.* (avail. Feb. 16, 2011) (same).

SLB 14E also gives specific guidance applicable to proposals that implicate a board's role in risk oversight. It states:

[T]here is widespread recognition that the board's role in the oversight of a company's management of risk is a significant policy matter regarding the governance of the corporation. In light of this recognition, a proposal that focuses on the board's role in the oversight of a company's management of risk may transcend the day-to-day business matters of a company and raise policy issues so significant that it would be appropriate for a shareholder vote.

Consistent with its positions in SLB 14E, the Staff has repeatedly concurred in the exclusion of proposals addressing the board's role in the oversight of a company's management of risk when the underlying subject matter of the risk review involves ordinary business. *See, e.g., Amazon.com, Inc. (W. Andrew Mims Trust)* (avail. Mar. 28, 2019) (concurring with exclusion of a proposal requesting the Company to “establish a Societal Risk Oversight Committee” for “review of corporate policies and procedures . . . to assess the potential societal consequences of the [c]ompany's products and services” as relating to the company's ordinary business operations and not focusing on an issue that transcends ordinary business matters); *Sempra Energy* (avail. Jan. 12, 2012, *recon. denied* Jan. 23, 2012) (concurring with the exclusion of a proposal requesting that the audit committee or any other independent committee of the company's board review and report on the company's management of certain “risks posed by Sempra operations in any country that may pose an elevated risk of corrupt practices,” where

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“the underlying subject matter of these risks appears to involve ordinary business matters”); *The Western Union Co.* (avail. Mar. 14, 2011) (concurring in the exclusion of a proposal requesting the establishment of a board risk committee and a report by the committee on how the company was monitoring and controlling particular risks, where the subject matters of the risks involved ordinary business matters).

*B. The Proposal Is Excludable Because It Relates To The Company’s General Legal Compliance.*

The Proposal requests that the Committee report on the adequacy of the Company’s efforts to reduce or mitigate health and safety risks from the coronavirus pandemic. Of necessity, this implicates the company’s compliance with workplace health and safety rules.

The Staff has consistently concurred with the exclusion of proposals concerning a company’s legal compliance program as relating to matters of ordinary business pursuant to Rule 14a-8(i)(7). *See, e.g., Navient Corp.* (avail. Mar. 26, 2015, *recon. denied* Apr. 8, 2015) (concurring with the exclusion of a proposal requesting “a report on the company’s internal controls over student loan servicing operations, including a discussion of the actions taken to ensure compliance with applicable federal and state laws” as “concern[ing] a company’s legal compliance program”); *Raytheon Co.* (avail. Mar. 25, 2013) (concurring in the exclusion of a proposal requesting a report on “the board’s oversight of the company’s efforts to implement the provisions of the Americans with Disabilities Act, the Fair Labor Standards Act, and the Age Discrimination in Employment Act” with the Staff noting that proposals concerning “a company’s legal compliance program are generally excludable under Rule 14a-8(i)(7)”); *Sprint Nextel Corp.* (avail. Mar. 16, 2010, *recon. denied* Apr. 20, 2010) (concurring with the exclusion of a proposal requesting that the board explain why it has failed to adopt an ethics code designed to, among other things, promote securities law compliance since proposals relating to “adherence to ethical business practices and the conduct of legal compliance programs are generally excludable under [R]ule 14a-8(i)(7)”); *FedEx Corp. (Trowel Trades S&P 500 Index Fund)* (avail. July 14, 2009) (concurring in the exclusion of a proposal requesting a report discussing “the compliance of the company and its contractors with state and federal laws governing proper classification of employees and independent contractors” on the grounds that proposals concerning a legal compliance program are generally excludable under Rule 14a-8(i)(7)); *The AES Corporation* (avail. March 13, 2008) (concurring with the exclusions of a proposal seeking “an independent investigation of management’s involvement in the falsification of environmental reports” as relating to the company’s “general conduct of a legal compliance program”); *The Coca-Cola Co.* (avail. Jan. 9, 2008) (concurring with the exclusion of a proposal seeking an annual

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report comparing independent laboratory tests of the company's product quality against applicable national laws and the company's global quality standards because the proposal related to the ordinary business matter of the "general conduct of a legal compliance program"); *Halliburton Co. (Global Exchange and John C. Harrington)* (avail Mar. 10, 2006) (concurring with exclusion of a proposal requesting a report on policies and procedures to reduce or eliminate the reoccurrence of certain violations and investigations as relating to ordinary business operations "(i.e., general conduct of a legal compliance program)").

While the Proposal also addresses the Committee's oversight of the Company's efforts, the underlying subject matter still implicates the issue of whether the Company's efforts to reduce or mitigate the health and safety risks from the coronavirus pandemic satisfy applicable legal standards, which relates to the Company's ordinary business operations. Consistent with the cited precedent, the analyses, judgments, and determinations that would be addressed in the report requested by the Proposal therefore are part of the Company's ordinary business operations relating to its legal compliance program and properly excludable under Rule 14a-8(i)(7).

*C. The Proposal Is Excludable Because It Relates To The Company's Litigation Strategy And Pending Legal And Investigative Proceedings.*

Every company's management has a responsibility to protect the company's and its shareholders' interests in responding to legal and investigative proceedings involving the company. A shareholder proposal that interferes with this obligation is inappropriate, particularly when the company is subject to pending litigation and government investigations on the very issues that form the basis for the proposal. For that reason, the Staff consistently has concurred in the exclusion under Rule 14a-8(i)(7) of shareholder proposals that implicate a company's litigation strategy or conduct of litigation in pending proceedings involving the company. For example, in *Walmart Inc.* (avail. Apr. 13, 2018) ("*Walmart 2018*"), the proposal requested "a report on the risks to the [c]ompany associated with emerging public policies on the gender pay gap." The company argued that the proposal was targeted at a number of the company's pending litigation matters and that the requested report would interfere with its litigation strategy. The Staff concurred with exclusion of the proposal under Rule 14a-8(i)(7) noting that "the [p]roposal would affect the conduct of ongoing litigation relating to the subject matter of the [p]roposal to which the [c]ompany is a party." *See also Wal-Mart Stores, Inc.* (avail. Apr. 14, 2015) (concurring with the exclusion under Rule 14a-8(i)(7) of a proposal urging the board to report annually on "actions taken and progress made toward [the] goal" of eliminating gender-based pay inequality as relating to ordinary

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business because the proposal's subject matter related to current litigation involving the company and the proposal "would affect the conduct of ongoing litigation to which the company is a party"); *AT&T Inc.* (avail. Feb. 9, 2007) (concurring with the exclusion as relating to litigation strategy of a proposal requesting that the company issue a report containing specified information regarding the alleged disclosure of customer records to governmental agencies, while the company was a defendant in pending lawsuits alleging unlawful acts by the company in relation to such disclosures); *Benihana National Corp.* (avail. Sept. 13, 1991) (permitting exclusion under Rule 14a-8(c)(7) of a proposal requesting the company to publish a report prepared by a board committee analyzing claims asserted in a pending lawsuit).

In addition, the Staff consistently has concurred with the exclusion under Rule 14a-8(i)(7) of shareholder proposals when the subject matter of the proposal is the same as or similar to a proceeding in which the company is then involved and when the implementation of the proposal might prejudice the company during an ongoing investigation. For example, in *Baxter International Inc.* (avail. Feb. 20, 1992), the proposal requested the company's employees to cooperate fully with a certain criminal investigation and specifically requested that the attorney-client privilege be waived with respect to any related matter under investigation by the U.S. Attorney involving the company. In concurring with exclusion under Rule 14a-8(i)(7), the Staff particularly noted that "the [c]ompany is presently involved in litigation relating to the subject matter of the proposal and also that implementation of the proposal might prejudice the [c]ompany in an on-going government investigation of the matter." See also *Johnson & Johnson* (avail. Feb. 14, 2012) (concurring in the exclusion of a proposal where implementation would have required the company to report on any new initiatives instituted to address the health and social welfare concerns of people harmed by one of its pharmaceutical products for which the company was litigating cases involving claims that individuals had been injured by such products, thereby taking a position contrary to the company's litigation strategy); *Reynolds American Inc.* (avail. Mar. 7, 2007) (concurring with the exclusion as relating to litigation strategy of a proposal requesting that the company provide information on the health hazards of secondhand smoke, including legal options available to minors to ensure their environments are smoke-free, where the company was currently litigating cases alleging injury as a result of exposure to secondhand smoke); *Exxon Mobil Corp.* (avail. Mar. 21, 2000) (concurring with the exclusion of a proposal requesting immediate payment of settlements associated with the Exxon Valdez oil spill as relating to litigation strategy and related decisions).

The Proposal similarly may be excluded from the 2021 Proxy Materials pursuant to Rule 14a-8(i)(7) because the Proposal involves the same subject matter as pending legal and

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investigative proceedings, and implementation of the Proposal may prejudice the Company in those matters; therefore, the Proposal relates to the Company's ordinary business operations.

The Company is currently defending itself against a number of lawsuits alleging, among other things, inadequate health and safety measures implemented in response to the COVID-19 pandemic (the "Lawsuits"). In each case, the Company is, and intends to continue, vigorously contesting any allegations of misconduct or unlawful activity. The Lawsuits include, for example, *Palmer v. Amazon.com, Inc.*, filed in the Eastern District of New York, in which the plaintiffs include a number of employees working at one of the Company's fulfillment centers who challenged the Company's health and safety practices, alleging that such practices do not comply with state and federal COVID-19-related public-health guidance. In granting the Company's motion to dismiss this case, the District Court stated, "The central issue in this case is whether [the Company]'s workplace policies at [a particular fulfillment center] adequately protect the safety of its workers during the COVID-19 pandemic."<sup>7</sup> The plaintiffs have appealed the judge's ruling, so this remains an active case. Similarly, in *Stuart v. Amazon.com, Inc.*, a former contract delivery driver filed a claim under California's Private Attorney General Act in Los Angeles County Superior Court alleging that the Company violated California and OSHA guidelines related to COVID-19. The first paragraph of this complaint asserts, "This is a putative law enforcement action under the Private Attorneys General Act of the California Labor Code, arising from Defendants' pattern and practice of maintaining unsafe working conditions that exposed workers at their California facilities to a high risk of contracting COVID-19." A subsequent paragraph alleges, "[the Company] failed to implement adequate safety protocols and failed to provide a safe work environment to its employees from the beginning of the pandemic."<sup>8</sup>

In addition, the Company is the subject of an investigation by, and has received an investigative subpoena and investigative interrogatories from, the California Attorney General (the "California Investigation"). In this investigation, the California Attorney General has claimed that it requested Company documents and information "that would assist the Attorney General in determining whether [the Company] was complying with applicable California law."<sup>9</sup> The information requested in the California Investigation includes, "inter alia, information regarding [the Company]'s policies, procedures, and

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<sup>7</sup> See *Palmer v. Amazon.com, Inc.*, No. 20-cv-2468 (BMC), 10 (E.D.N.Y. Nov. 1, 2020) (emphasis added).

<sup>8</sup> See *Stuart v. Amazon.com, Inc.*, Los Angeles Cty. Sup. Ct. No. 20STVC48214, ROA 1, ¶ 59 (Dec. 18, 2020) (emphasis added).

<sup>9</sup> *People of the State of California ex rel Becerra v. Amazon.com, Inc.*, Sacramento Cty. Sup. Ct. No. 34-2020-00290396, ROA 1, ¶ 6 (Dec. 13, 2020) (emphasis added).

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practices with respect to its: Injury and Illness Prevention Programs (IIPPs); COVID-19 related cleaning protocols; notification of local health officials of COVID-19 exposure by individuals employed by [the Company] in its California facilities, and sub-contractors and individuals working within the facilities; provision of supplemental paid sick leave and hazard pay; updates to employees regarding exposure to COVID-19; and COVID-19 case counts.”<sup>10</sup>

As reflected by the foregoing allegations and claims, one of the principal legal issues in each of the Lawsuits and the California Investigation is the adequacy of the Company’s health and safety measures implemented in response to COVID-19. This matches squarely with the subject matter of the Proposal, which is, as stated in the Resolved clause, “the adequacy of [the Company]’s efforts to reduce or mitigate health and safety risks from the coronavirus pandemic.” As a result, preparation of a report with more extensive detail than the Report would implicate, and may prejudice, the Company’s conduct of litigation and response strategy in connection with these pending legal and investigative proceedings. To the extent that the Proposal requires the disclosure of more detailed information than what the Company has already provided, the disclosure of such information regarding the “adequacy of [the Company]’s efforts to reduce or mitigate health and safety risks from the coronavirus pandemic” would require the Company to publicly address the subject of the litigation and investigations, outside the context of pending litigation and the discovery process, which would put the Company in a position of responding to the pleadings outside of the context of the courts and otherwise interfere with the Company’s litigation and response strategy in these proceedings.

In summary, as in *Walmart 2018*, *Baxter*, and the other precedent cited above, the report requested by the Proposal deals with the same subject matter as pending litigation and an ongoing government investigation involving the Company. In this regard, the Proposal seeks to substitute the judgment of shareholders for that of the Company by requiring the Company to take action that may prejudice the Company in those proceedings by implicating and interfering with the Company’s litigation and response strategy related thereto. Thus, implementation of the Proposal would intrude upon management’s exercise of its day-to-day business judgment with respect to pending litigation and an ongoing investigation in the ordinary course of its business operations. Accordingly, we believe that the Proposal may be properly excluded from the Company’s 2021 Proxy Materials under Rule 14a-8(i)(7) as relating to the Company’s ordinary business operations.

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<sup>10</sup> *Id.* ¶ 18.

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*D. The Proposal's Subject Matter Does Not Transcend Ordinary Business Matters.*

The Staff has recognized that “proposals relating to [ordinary business] matters but focusing on sufficiently significant social policy issues (e.g., significant discrimination matters) generally would not be considered to be excludable, because the proposals would transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote.” 1998 Release. Here, however, the Proposal does not rise to the level of a significant policy issue that transcends day-to-day business matters, and therefore may be excluded under Rule 14a-8(i)(7).

Here, the Proposal is not requesting that the Company take any particular policy action, but instead merely seeks a report on actions the Company has taken in its efforts to reduce or mitigate health and safety risks from the coronavirus pandemic. In essence, therefore, the Proposal is just seeking information on how the Company is managing the operation of its facilities. Even if the Staff were to take the view that, due to the impact of the coronavirus pandemic, such matters touch upon a significant policy issue, the fact that a proposal touches upon a significant policy issue does not automatically preclude a proposal from exclusion under Rule 14a-8(i)(7). The Staff consistently has concurred in the exclusion of proposals that touch upon a significant policy matter but that also encompass ordinary business matters. This position prevents proponents from circumventing the standards of Rule 14a-8(i)(7) by combining ordinary business matters with a significant policy issue.

For example, in *Mattel, Inc.* (avail. Feb. 10, 2012) the proposal requested the company require its suppliers to publish a report detailing their compliance with the International Council of Toy Industries Code of Business Practices. The Staff granted no-action relief under Rule 14a-8(i)(7), noting the company’s view that the ICTI Code encompasses “several topics that relate to . . . ordinary business operations and are not significant policy issues.” See also *PetSmart, Inc.* (avail. Mar. 24, 2011) (concurring in the exclusion of a proposal requesting the board require its suppliers to certify they had not violated “the Animal Welfare Act, the Lacey Act, or any state law equivalents” because “[a]lthough the humane treatment of animals is a significant policy issue . . . the scope of the laws covered by the proposal is ‘fairly broad in nature from serious violations such as animal abuse to violations of administrative matters such as record keeping’”); *Philip Morris Cos. Inc.* (avail. Feb. 4, 1997) (noting that although the Staff “has taken the position that proposals directed at the manufacture and distribution of tobacco-related products by companies involved in making such products raise issues of significance that do not constitute matters of ordinary business,” the company could exclude a proposal that “primarily addresses the litigation strategy of the [c]ompany, which is viewed as inherently the ordinary business of management to direct”).

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Here, as discussed above, the Proposal directly implicates the Company's response to pending litigation and investigative proceedings which is part of the Company's day-to-day business operations and management's exercise of its business judgment in the ordinary course of its operations. Therefore, even if the Proposal arguably touches upon significant policy issues, the Proposal unequivocally implicates the ordinary business decisions of the Company. As in *Mattel* and *PetSmart* and the other precedent cited above, where companies were permitted to exclude proposals that implicated ordinary business matters even if they also touched upon significant policy issues, the Proposal encompasses many aspects of the Company's ordinary business decisions that do not implicate a significant policy issue.

In addition, the Proposal's request that the Report address "the Committee's oversight" of the Company's efforts does not introduce a significant policy issue. While SLB 14E observes that "a proposal that focuses on the board's role in the oversight of a company's management of risk *may* transcend the day-to-day business matters of a company" (emphasis added), merely framing a proposal as requesting a report on risk oversight does not automatically preclude exclusion of the proposal. For example, in *The Western Union Co.* (avail. March 14, 2011) the proposal requested the company establish a committee that periodically reports on "the company's approach to monitoring and control of potentially material risk exposures." The Staff concurred with the exclusion because, among other things, the proposal "request[ed] a report that describes how [the company] monitors and controls particular risks" where "the underlying subject matters of these risks appear to involve ordinary business matters."

Here as well, reporting on the Committee's oversight of "adequacy of [the Company]'s efforts to reduce or mitigate health and safety risks from the coronavirus pandemic" necessarily implicates the Company's conduct of litigation and response strategy in connection with the Lawsuits and the California Investigation. In this regard, preparation of the report would require the Company to take a public position and disclose information relating to issues at the heart of these proceedings (i.e., the adequacy of its health and safety measures in response to COVID-19), outside the context of pending litigation and the discovery process, which could potentially be deemed an admission or otherwise interfere with the Company's litigation and response strategy. For these reasons, the Proposal is not focused on a significant policy issue and therefore may be excluded under Rule 14a-8(i)(7).

# GIBSON DUNN

Office of Chief Counsel  
Division of Corporation Finance  
January 25, 2021  
Page 20

## CONCLUSION

Based upon the foregoing analysis, the Company intends to exclude the Proposal from its 2021 Proxy Materials, and we respectfully request that the Staff concur that the Proposal may be excluded under Rule 14a-8.

We would be happy to provide you with any additional information and answer any questions that you may have regarding this subject. Correspondence regarding this letter should be sent to [shareholderproposals@gibsondunn.com](mailto:shareholderproposals@gibsondunn.com). If we can be of any further assistance in this matter, please do not hesitate to call me at (202) 955-8671, or Mark Hoffman, the Company's Vice President & Associate General Counsel, Corporate and Securities, and Legal Operations, and Assistant Secretary, at (206) 266-2132.

Sincerely,



Ronald O. Mueller

Enclosures

cc: Mark Hoffman, Amazon.com, Inc.  
Michael Garland, Office of the Comptroller of the City of New York  
Anna Pot, APG Asset Management N.V.

**EXHIBIT A**

**From:** Sologub, Jenny <[jsologu@comptroller.nyc.gov](mailto:jsologu@comptroller.nyc.gov)> **On Behalf Of** Garland, Michael  
**Sent:** Tuesday, December 15, 2020 2:28 PM  
**To:** Zapolsky, David <[davidz@amazon.com](mailto:davidz@amazon.com)>  
**Cc:** Garland, Michael <[mgarlan@comptroller.nyc.gov](mailto:mgarlan@comptroller.nyc.gov)>; Narita, Yumi <[ynarita@comptroller.nyc.gov](mailto:ynarita@comptroller.nyc.gov)>; 'Anna.Pot@apg-am.com' <[Anna.Pot@apg-am.com](mailto:Anna.Pot@apg-am.com)>  
**Subject:** [EXTERNAL] NYCERS & APG-Amazon Shareholder Proposal 12.15.2020

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you can confirm the sender and know the content is safe.

Mr. Zapolsky,

Please see attached shareholder proposal on behalf of the New York City Retirement Systems. We are also sending a hard copy via FedEx mail.

We look forward to the opportunity to discuss it with you.

Thank you,  
Mike



**MICHAEL GARLAND**

Assistant Comptroller - Corporate Governance and Responsible Investment  
Office of New York City Comptroller Scott M. Stringer, Bureau of Asset Management  
1 Centre Street, 8th Floor North, New York, NY 10007  
Office: 212-669-2517 | Fax: 212-669-4072 | Email: [mgarlan@comptroller.nyc.gov](mailto:mgarlan@comptroller.nyc.gov)



CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER  
SCOTT M. STRINGER

---

MUNICIPAL BUILDING  
ONE CENTRE STREET, 8<sup>TH</sup> FLOOR NORTH  
NEW YORK, N.Y. 10007-2341

TEL: (212) 669-2517  
FAX: (212) 669-4072

[MGARLAN@COMPTROLLER.NYC.GOV](mailto:MGARLAN@COMPTROLLER.NYC.GOV)

Michael Garland  
ASSISTANT COMPTROLLER  
CORPORATE GOVERNANCE AND  
RESPONSIBLE INVESTMENT

December 15, 2020

David A. Zapolsky  
Secretary  
Amazon.com, Inc.  
410 Terry Avenue North  
Seattle, Washington 98109

Dear Mr. Zapolsky:

I write to you on behalf of the Comptroller of the City of New York, Scott M. Stringer. The Comptroller is the custodian and a trustee of the New York City Teachers' Retirement System, New York City Employees Retirement System, and the Board of Education Retirement System (the "Systems"). The Systems' boards of trustees have authorized the Comptroller to file this resolution and to inform you of their intention to present the enclosed proposal for the consideration and vote of stockholders at the Company's next annual meeting.

Therefore, we offer the enclosed proposal for the consideration and vote of shareholders at the Company's next annual meeting. It is submitted to you in accordance with Rule 14a-8 of the Securities Exchange Act of 1934, and I ask that it be included in the Company's proxy statement.

The Systems are beneficial owners of more than \$2,000 in market value of the Company's stock and have held such stock continuously for over one year. Furthermore, each System intends to continue to hold at least \$2,000 worth of these securities through the date of the Company's next annual meeting. Proof of ownership will be sent by the Systems' custodian, State Street Bank and Trust Company, under separate cover.

APG Asset Management N.V. ("APG Asset Management") is co-lead filing this proposal with the Systems. Please recognize the Systems and APG Asset Management as co-lead filers of this proposal. If you require more information or have any further questions on this matter please contact both parties. We would welcome the opportunity to discuss the proposal with you. Should the Board of Directors commit to disclose a COVID-19 Health and Safety Report that we consider responsive to the proposal, we will withdraw the proposal from consideration at the annual meeting.

Please feel free to contact me at [mgarlan@comptroller.nyc.gov](mailto:mgarlan@comptroller.nyc.gov) or Anna Pot, APG's Head of Responsible Investments Americas, if you would like to discuss this matter.

Sincerely,

Michael Garland  
Enclosure

**RESOLVED:** Shareholders urge the Leadership Development and Compensation Committee (“Committee”) of the Amazon.com Board of Directors to prepare a report, prior to the 2022 annual meeting, at a reasonable cost and excluding proprietary and personal information, on the adequacy of Amazon’s efforts to reduce or mitigate health and safety risks from the coronavirus pandemic, including the Committee’s oversight thereof.

## **SUPPORTING STATEMENT**

Amazon guarantees fast delivery. Even before the pandemic, this created a high-speed, high-stress work environment for Amazon’s warehouse and Whole Foods employees, and for contracted delivery drivers.

2020 shelter-in-place restrictions prompted online orders to surge, as consumers relied on companies offering convenient delivery options. The number of Amazon employees skyrocketed, and pressure to fill orders intensified.

Amazon’s global workforce reportedly increased by 427,300 to more than 1.2 million employees through October 2020, excluding 100,000 temporary workers hired for the holidays and approximately 500,000 contracted drivers worldwide.

Even pre-pandemic, long-term investors questioned the sustainability of Amazon’s business model, which emphasizes productivity, notwithstanding its reportedly negative effects on worker health and safety. A 2019 Center for Investigative Reporting (“CIR”) study analyzed Amazon’s OSHA reporting from 22 fulfillment centers and found extremely high injury rates — *more than twice the national warehouse rate*.

In 2020, CIR published new data indicating Amazon was understating the impact of its practices on worker health and safety. Other reports revealed:

- some warehouses were COVID-19 hotspots, raising concerns of sick workers spreading the virus, and
- the front-line employee turnover rate was double the industry average.

In addition, according to research in the *New England Journal of Medicine*, COVID-19 can stay on cardboard for up to 24 hours, raising questions about the risks if a sick driver delivers packages to multiple residences.

We were encouraged by Amazon’s announcements this year of their planned \$10 billion investment in 2020 for COVID-related workplace initiatives, but concerned about numerous media reports indicating that employees feared coming to work and worried for the safety of their community.

Investors, noting the disconnect between these media reports and management’s announced COVID-related initiatives, called on the Committee, fruitlessly, to report at the 2020 annual meeting on the performance metrics it used to oversee the effectiveness of Amazon’s COVID response.

We appreciated Amazon’s eventual disclosure that 19,816 U.S. employees had tested positive as an initial step, though the report provided limited insight into the effectiveness of Amazon’s COVID response. Independent scientists criticized it for not disclosing overall trends and for comparing infection rates for workers to the general population, which has proportionately more vulnerable individuals. The report also failed to identify hotspots, trends by job or facility category, or to discuss rates for delivery driver contractors.

The independent Committee is responsible for overseeing and monitoring human capital management, including workplace environment and safety. Independent and transparent oversight, including

scientifically valid data assessments, can help to ensure that Amazon's COVID investments produce outcomes beneficial for its employees and shareowners, and serve as a standard in the industry.

Please vote FOR this proposal



STATE STREET

Kimberly A. MacDonald  
Officer, Client Services

State Street Bank and Trust Company  
One Heritage Drive  
3<sup>rd</sup> Floor  
Quincy, MA 02171

Telephone: 617-985-3709  
[Kamacdonald2@statesstreet.com](mailto:Kamacdonald2@statesstreet.com)

David A. Zapolsky  
Secretary  
Amazon.com, Inc.  
410 Terry Avenue North  
Seattle, Washington 98109

RECEIVED

DEC 17 2020

AMAZON.COM, INC  
LEGAL DEPARTMENT

December 15th, 2020

**Re: New York City Retirement Systems**

To whom it may concern,

Enclosed please find Ownership Letters attesting to the minimum share positions held by each of the NYC Retirement Systems for at least the past twelve months.

These letters are to support the Shareholder Proposal resolution sent to you directly by the NYC Office of the Comptroller

Sincerely,

Kimberly A. MacDonald  
Officer



STATE STREET

Kimberly A MacDonald  
Officer, Client Services  
State Street Bank and Trust Company  
One Heritage Drive, 3rd floor  
Quincy, MA 02171  
Telephone: 617 985 3709  
KAMacDonald2@statestreet.com

December 15, 2020

Re: New York City Board of Education Retirement System

To whom it may concern,

Please be advised that State Street Bank and Trust Company, under DTC number 997, held in custody continuously, on behalf of the New York City Board of Education Retirement System, the below position from November 30, 2019 through today as noted below:

**Security:** AMAZON.COM INC

**Cusip:** 23135106

**Shares:** 31,080

Please don't hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Kimberly MacDonald".

Kimberly A MacDonald  
Officer



**STATE STREET.**

Kimberly A MacDonald  
Officer, Client Services  
State Street Bank and Trust Company  
One Heritage Drive, 3rd floor  
Quincy, MA 02171  
Telephone: 617 985 3709  
KAMacDonald2@statestreet.com

December 15, 2020

**Re: New York City Employee's Retirement System**

To whom It may concern,

Please be advised that State Street Bank and Trust Company, under DTC number 997, held in custody continuously, on behalf of the New York City Employee's Retirement System, the below position from November 30, 2019 through today as noted below:

**Security:** AMAZON.COM INC

**Cusip:** 23135106

**Shares:** 222,584

Please don't hesitate to contact me if you have any questions.

Sincerely,

Kimberly A MacDonald  
Officer



STATE STREET.

Kimberly A MacDonald  
Officer, Client Services  
State Street Bank and Trust Company  
One Heritage Drive, 3rd floor  
Quincy, MA 02171  
Telephone: 617 985 3709  
KAMacDonald2@statestreet.com

December 15, 2020

**Re: New York City Teachers' Retirement System**

To whom it may concern,

Please be advised that State Street Bank and Trust Company, under DTC number 997, held in custody continuously, on behalf of the New York City Teachers' Retirement System, the below position from November 30, 2019 through today as noted below:

**Security:** AMAZON.COM INC  
**Cusip:** 23135106  
**Shares:** 308,016

Please don't hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Kimberly MacDonald".

Kimberly A MacDonald  
Officer

**From:** Pot, Anna  
**Sent:** Tuesday, December 15, 2020 5:52 PM  
**To:** 'davidz@amazon.com' <[davidz@amazon.com](mailto:davidz@amazon.com)>  
**Cc:** Slabbekoorn, J (Joost) <[joost.slabbekoorn@apg-am.nl](mailto:joost.slabbekoorn@apg-am.nl)>; Michael Garland ([mgarlan@comptroller.nyc.gov](mailto:mgarlan@comptroller.nyc.gov)) <[mgarlan@comptroller.nyc.gov](mailto:mgarlan@comptroller.nyc.gov)>; 'Narita, Yumi' <[ynarita@comptroller.nyc.gov](mailto:ynarita@comptroller.nyc.gov)>  
**Subject:** Shareholder Proposal \_ Covid 19 Health and Safety Report

Dear Mr Zapolsky,  
Please find attached letter from APG Asset Management.  
We are looking forward continuing the dialogue with Amazon.

Could you please confirm receipt? Thank You.

Best regards  
Anna  
Anna Pot  
Head of Responsible Investment Americas  
Responsible Investments

APG | Asset Management US Inc.  
666 Third Avenue | Second Floor  
New York | NY 10017 | USA  
T. +1 917 368 3585 | M. +1 917 702 2344  
[Anna.Pot@apg-am.com](mailto:Anna.Pot@apg-am.com) | [www.apggroup.nl](http://www.apggroup.nl)

APG Asset Management US, Inc. is an adviser to APG, a pension services provider in the Netherlands.  
APG provides pension administration, asset management, communication, management support, and income insurance.

\*\*\*\*\*

The information contained in this e-mail may contain confidential or privileged information. It may be read, copied and used only by the intended recipient. If you have received it in error, please contact the sender immediately by reply e-mail, delete this message and any attachments without retaining a copy, and do not disclose its contents to any person. We do not accept liability for any errors, omissions, delays of receipt or viruses in the contents of this message which arise as a result of e-mail transmission.

\*\*\*\*\*



**APG Asset Management**

David A. Zapolsky  
Secretary  
Amazon.com, Inc.  
410 Terry Avenue North  
Seattle, Washington 98109

**Amsterdam,**  
December 15, 2020

**Visiting Address**  
Gustav Mahlerplein 3  
1082 MS Amsterdam  
The Netherlands

**Phone**  
+1 917 702 2344

**Attachment(s)**  
Power of Attorney  
Authority to Sign

**E-mail**  
Anna.pot@apg-am.com

**Subject: Co-leading of shareholder proposal for consideration of stockholders at next AGM**

Dear Mr. Zapolsky,

I write as a representative of APG Asset Management N.V. ("APG Asset Management"). I am authorized to inform you of our intention to offer the enclosed shareholder proposal for consideration of stockholders at the next annual meeting.

I submit the enclosed proposal to you in accordance with rule 14a-8 of the Securities Exchange Act of 1934 and ask that it be included in your proxy statement.

The beneficial owner of AMAZON.COM Inc shares is Stichting Depository APG Developed Markets Equity Pool (the "Pool"). Please find a Power of Attorney attached that APG Asset Management is entitled and authorized to act on behalf of the Pool. A letter from The Bank of New York Mellon, the Pool's custodial bank verifying the Pool's ownership of Amazon shares, continually for over one year, will be send separately. The Pool intends to hold at least USD 2,000 worth of these securities through the date of the annual meeting.

APG Asset Management is co-lead filing this proposal with the Comptroller of the City of New York, Scott M. Stringer, on behalf the New York City Teachers' Retirement System, New York City Employees Retirement System, and the Board of Education Retirement System. Please recognize APG Asset Management and the Comptroller of the City of New York as co-lead filers of this proposal. If you require more information or have any further questions on this matter, please contact both parties. We would welcome the opportunity to discuss the proposal with you. Should the Board of Directors commit to disclose a COVID-19 Health and Safety Report that we consider responsive to the proposal, we will withdraw the proposal from consideration at the annual meeting.

Please do not hesitate to contact APG Asset Management, Anna Pot, at [anna.pot@apg-am.com](mailto:anna.pot@apg-am.com) or direct line +1 917 702 2344 in case of any questions about this filing.

With kind regards,

Ronald van Dijk

Managing Director, Deputy CIO

Claudia Kruse

Managing Director, Global Responsible Investment & Governance

(Note, all text below this sentence is part of the submitted stock holder resolution.)

**RESOLVED:** Shareholders urge the Leadership Development and Compensation Committee (“Committee”) of the Amazon.com Board of Directors to prepare a report, prior to the 2022 annual meeting, at a reasonable cost and excluding proprietary and personal information, on the adequacy of Amazon’s efforts to reduce or mitigate health and safety risks from the coronavirus pandemic, including the Committee’s oversight thereof.

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- the front-line employee turnover rate was double the industry average.

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We were encouraged by Amazon’s announcements this year of their planned \$10 billion investment in 2020 for COVID-related workplace initiatives, but concerned about numerous media reports indicating that employees feared coming to work and worried for the safety of their community.

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vulnerable individuals. The report also failed to identify hotspots, trends by job or facility category, or to discuss rates for delivery driver contractors.

The independent Committee is responsible for overseeing and monitoring human capital management, including workplace environment and safety. Independent and transparent oversight, including scientifically valid data assessments, can help to ensure that Amazon's COVID investments produce outcomes beneficial for its employees and shareowners, and serve as a standard in the industry.

Please vote FOR this proposal.

## POWER OF ATTORNEY

**Stichting Depositary APG Developed Markets Equity Pool**, having its registered address at Oude Lindestraat 70 in Heerlen, the Netherlands (hereinafter referred to as the "**Grantor**") for these acting in its capacity as depositary (*bewaarder*) of the APG Developed Markets Equity Pool (hereinafter referred to as the "**Pool**") duly represented by its board of directors;

Whereas:

**APG Asset Management N.V.**, having its registered address at Gustav Mahlerplein 3 in Amsterdam, the Netherlands and registered with the Chamber of Commerce of Amsterdam with registration number 58.476.369 in its capacity as manager (*beheerder*) of the Pool (hereinafter referred to as the "**Manager**"), as appointed in accordance with the Terms and Conditions of the Pool.

The Manager is charged with the management and administration of the Pool in accordance with the Pool's Terms and Conditions;

The Manager is entitled and authorized in the name of the Grantor

- (i) to acquire and to dispose of the assets of the Pool and to enter into and assume obligations of the Pool in the Pool's terms and conditions for the account and risk of the Pool's participants which are reasonably necessary for or conducive to the Investment Objectives;
- (ii) to perform any and all other acts in its own name or in the name of the Depositary for the account and risk of the Participants which are reasonably necessary for or conducive to the Investment Objectives, including without limitation, to exercise all (governance) rights granted to the Pool and to fulfil all obligations assumed by the Pool under the governing documentation of the relevant investment;
- (iii) to place Pool Assets in custody with a reputable custodian, and;
- (iv) to perform any and all other acts, receive and confirm receipt of any and all documents, notifications and registered mail in its own name or in the name of the Grantor for the account and risk of the Pool's participants including without limitation to exercise in our sole discretion all rights granted to the Pool and to fulfil all obligations assumed by the Pool under the governing documentation of the relevant investment(s).

For the purpose as referred to in (i), (ii), (iii) and (iv) the Grantor hereby formally and irrevocably grants the Manager the authority to act in the name of the Grantor.

The Grantor declares that this power of attorney expressly includes (and for avoidance of any doubt is not limited to) where appropriate as attorney-in-fact of and in the name of the Grantor:



- a. the authority to (cancel or postpone) entering into, delivery, signing or performance of any document, deed, instrument, agreement, notice, letter, acknowledgement, memorandum, statement and certificate as may be ancillary, necessary, required or useful in connection with the actions as referred to above;
- b. to employ, retain, replace or otherwise secure or enter into agreements or other undertakings with persons or firms in connection with the management and operation of the Pool, all on such terms and for such consideration as the Grantor deems advisable;
- c. to (a) enter into, perform and carry out a guarantee agreement, between the Depositary as guarantor and one or more of APG Treasury Center B.V.'s counterparties under -amongst others- its 1992/2002 ISDA Master Agreements, Global Master Repurchase Agreement and/or clearing, custody and credit agreements as beneficiaries and/or (b) to enter into, perform and carry out a recourse agreement among the Depositary, APG Treasury Center B.V. and each of the internal counterparties as a recourse party, pursuant to which recourse can be taken on the recourse party, following a due payment under the guarantee agreement as referred to under (a) above;
- d. the Manager is explicitly authorized with the power of substitution and the Manager can in its turn authorize such persons and firms as attorney-in-fact of and in the name of the Grantor;
- e. to exercise the statutory and contractual rights attached to or concerning the Pool Assets, such as voting rights and distribution rights;

The Grantor undertakes, when so requested, that it will ratify and confirm whatever the Manager shall lawfully do or cause to be done pursuant to the powers conferred to such Manager under this power of attorney.

The Grantor declares that the power of attorney has also been granted for the benefit of other persons which are a party to any document and shall be irrevocable. This power of attorney shall remain effective for an indefinite period of time until it will be withdrawn in writing by the Grantor. Such withdrawal will not affect the validity of (legal) acts performed while this power of attorney was in force.

This power of attorney shall be governed by and construed in accordance with the laws of the Netherlands.

[SIGNATURE PAGE TO FOLLOW]



IN WITNESS WHEREOF, the undersigned has executed this power of attorney effective as per January 2, 2014.

**Grantor (Stichting Depositary APG Developed Markets Equity Pool)**



J.N. van Lunteren



L.J.C.M. Le Blanc



C.A.M. Michielse



A.A. Rolvink

As Acknowledged:

**Manager (APG Asset Management N.V.)**



Name: **A.G.Z. Kemna**  
Title: **Authorized Signatory**



Name: **E. van Gelderen**  
Title: **Authorized signatory**

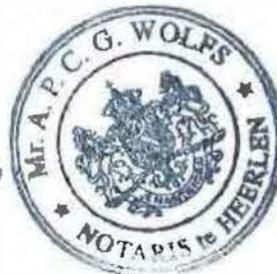
# APG ASSET MANAGEMENT NV

TEKENBEVOEGDHEDEN

AUTHORITY TO SIGN

01/09/2020

In original gezien en uitgegeven voor gewaarmerkte kopie op  
Seen in original copy and issued for the true photocopy on  
Im Original abgezeichnet und ausgegeben für beglaubigte Fotokopie dem  
Vu en original et délivré pour photocopie certifiée de



APOSTILLE

(Convention de La Haye du 5 octobre 1961)

- 1 Country: THE NETHERLANDS  
This public document
- 2 has been signed by **mr. A.P.C.G. Wolfs**
- 3 acting in the capacity of notary at Heerlen
- 4 bears the seal/stamp of aforesaid notary

Certified

- 5 in Maastricht
- 6 on 02-09-2020
- 7 by the registrar of the district court of Limburg
- 8 no. 20/1410
- 9 Seal/stamp:
- 10 Signature:

J.J.M. Brands-var  
Mulleem



L.S.,

U ontvangt hierbij een opgave van functionarissen van APG Asset Management N.V. die gezamenlijk bevoegd zijn om, binnen de limiet van de aan hen verleende volmacht, APG Asset Management N.V. te vertegenwoordigen.

In overeenstemming met eIDAS (de Europese verordening inzake elektronische identificatie en vertrouwensdiensten) en het Burgerlijk Wetboek kan APG Asset Management N.V. digitale handtekeningen gebruiken om documenten, contracten en instructies op geldige wijze te ondertekenen. De bevoegdheden en beperkingen in dit document zijn ongewijzigd van toepassing wanneer een Directeur of een gevolmachtigde een digitale handtekening gebruikt.

Uitzonderingen zijn alleen van toepassing voor documenten die moeten worden voorzien van een apostille of gelegaliseerd door een notaris.

To whom it may concern,

Please find attached a statement related to those officers of APG Asset Management N.V. who are jointly authorized, within the limits of the power of attorney granted, to represent APG Asset Management N.V.

In accordance with eIDAS (the European Regulation on Electronic Identification and Trust Services) and the Dutch Civil Code, APG Asset Management N.V. may validly use digital signatures to sign documents, contracts and instructions. Authorizations and limitations in this authorized signatories list similarly apply where an authorized signatory uses a digital signature.

Exceptions only apply to documents that require to be apostilled or notarized.

APG Asset Management N.V. is ingeschreven in het Handelsregister bij de Kamer van Koophandel en Fabrieken te Amsterdam onder registratienummer: 58476369.

APG Asset Management N.V. is registered in the commercial register of the Chamber of Commerce and Factories at Amsterdam, the Netherlands, registration number: 58476369.

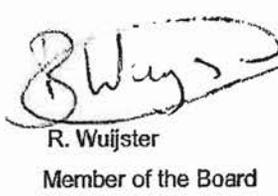
APG Asset Management N.V.,

Hierbij rechtsgeldig vertegenwoordigd door de voltallige directie,

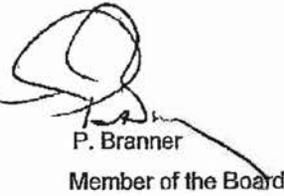
Hereby duly represented by all members of the board,



C.S.M. van Asselt  
Member of the Board



R. Wuijster  
Member of the Board



P. Branner  
Member of the Board



M. Prins  
Member of the Board



H.A.A. Rademaker  
Member of the Board

(REST OF THE PAGE LEFT BLANC INTENTIONALLY)



(Voor een lijst met vertegenwoordigingsbevoegden zie blz. 10 en verder)

**Vertegenwoordigingsbevoegdheid APG Asset Management N.V. ("APG AM")**

Statutaire directie

- APG AM wordt ingevolge artikel 10.1 van de statuten vertegenwoordigd door het bestuur. Behalve aan het bestuur komt de bevoegdheid tot vertegenwoordiging slechts toe aan twee gezamenlijk handelende bestuurders;
- het bestuur is ingevolge artikel 10.3 van de statuten van APG AM bevoegd functionarissen met vertegenwoordigingsbevoegdheid aan te stellen en door verlening van volmacht zodanige titulatuur en bevoegdheden toe te kennen als door het bestuur te bepalen.

(For representatives see page 10 and further)

**Power to represent APG Asset Management N.V. ("APG AM"):**

Statutory Board of Director(s)

- in accordance with article 10.1 of APG AM's articles of association APG AM shall be represented by the management board. Except for the management board, the authority to represent the company is only vested in two managing directors acting jointly;
- in accordance with article 10.3 of APG AM's articles of association the management board is authorized to appoint persons with such authority to represent the company, and by granting of a power of attorney, conferring such titles and powers as shall be determined by the management board.

**Categorie A: Statutaire directie leden en gevolmachtigden met de titel Directeur ("Directeur")**

- Iedere Directeur is bevoegd om, samen met een andere Directeur uit de categorie A, APG AM te vertegenwoordigen in alle aangelegenheden;
- iedere Directeur is bevoegd om, samen met een gevolmachtigde uit de categorie B, APG AM te vertegenwoordigen in alle aangelegenheden;
- iedere Directeur is bevoegd om, samen met een gevolmachtigde uit de categorie C, APG AM te vertegenwoordigen in aangelegenheden tot een maximum van € 100 miljoen (honderd miljoen euro) of het equivalent daarvan in buitenlandse valuta;
- iedere Directeur is bevoegd om, samen met een gevolmachtigde uit de categorie D, APG AM te vertegenwoordigen in aangelegenheden tot een maximum van € 100 miljoen (honderd miljoen euro) of het equivalent daarvan in buitenlandse valuta;
- iedere Directeur is bevoegd om, samen met een gevolmachtigde uit de categorie E, APG AM te vertegenwoordigen in aangelegenheden tot een maximum van € 100.000,- (honderd duizend euro) of het equivalent daarvan in buitenlandse valuta.

**Category A: Statutory director(s) and attorney in fact with the title Managing Director ("Managing Director")**

- each Managing Director, acting jointly with another Managing Director from Category A, is authorized to represent APG AM in all matters;
- each Managing Director, acting jointly with a representative from Category B, is authorized to represent APG AM in all matters;
- each Managing Director, acting jointly with a representative from Category C, is authorized to represent APG AM up to a maximum of € 100 million (one hundred million Euro) or any equivalent thereof in a foreign currency;
- each Managing Director, acting jointly with a representative from Category D, is authorized to represent APG AM up to a maximum of € 100 million (one hundred million Euro) or any equivalent thereof in a foreign currency;
- each Managing Director, acting jointly with a representative from Category E, is authorized to represent APG AM up to a maximum of € 100.000, - (one hundred thousand Euro) or any equivalent thereof in a foreign currency.

### **Gevolmachtigde uit Categorie B**

- Iedere gevolmachtigde uit Categorie B is bevoegd om, tezamen met een gevolmachtigde uit Categorie A, APG AM te vertegenwoordigen in alle aangelegenheden;
- Iedere gevolmachtigde uit Categorie B is bevoegd om, samen met een andere gevolmachtigde uit Categorie B, APG AM te vertegenwoordigen tot een maximum van € 250 miljoen (tweehonderdvijftig miljoen euro) of het equivalent daarvan in buitenlandse valuta;
- Iedere gevolmachtigde uit Categorie B is bevoegd om, samen met een gevolmachtigde uit Categorie C, APG AM te vertegenwoordigen tot een maximum van € 100 miljoen (honderd miljoen euro) of het equivalent daarvan in buitenlandse valuta;
- Iedere gevolmachtigde uit Categorie B is bevoegd om, samen met een gevolmachtigde uit Categorie D, APG AM te vertegenwoordigen tot een maximum van € 50 miljoen (vijftig miljoen euro) of het equivalent daarvan in buitenlandse valuta;
- Iedere gevolmachtigde uit Categorie B is bevoegd om, samen met een gevolmachtigde uit Categorie E, APG AM te vertegenwoordigen tot een maximum van € 100.000,-- (honderd duizend euro) of het equivalent daarvan in buitenlandse valuta.

### **Representative from Category B**

- Each Representative B, acting jointly with a Representative A, is authorized to represent APG AM in all matters;
- each Representative B, acting jointly with another Representative B, is authorized to represent APG AM up to a maximum of € 250 million (two hundred and fifty million Euro) or any equivalent thereof in a foreign currency;
- each Representative B, acting jointly with a Representative C, is authorized to represent APG AM up to a maximum of € 100 million (one hundred million Euro) or any equivalent thereof in a foreign currency;
- each Representative B, acting jointly with a Representative D, is authorized to represent APG AM up to a maximum of € 50 million (fifty million Euro) or any equivalent thereof in a foreign currency;
- each Representative B, acting jointly with a Representative E, is authorized to represent APG AM up to a maximum of € 100.000, - (one hundred thousand Euro) or any equivalent thereof in a foreign currency.

### **Gevolmachtigde uit Categorie C**

- Iedere gevolmachtigde uit Categorie C is bevoegd om, samen met een gevolmachtigde uit Categorie A of samen met een gevolmachtigde uit Categorie B, APG AM te vertegenwoordigen tot een maximum van € 100 miljoen (honderd miljoen euro) of het equivalent daarvan in buitenlandse valuta;
- iedere gevolmachtigde uit Categorie C is bevoegd om, samen met een andere gevolmachtigde uit Categorie C, APG AM te vertegenwoordigen tot een maximum van € 50 miljoen (vijftig miljoen euro) of het equivalent daarvan in buitenlandse valuta;
- iedere gevolmachtigde uit Categorie C is bevoegd om, samen met een gevolmachtigde uit Categorie D, APG AM te vertegenwoordigen tot een maximum van € 25 miljoen (vijfentwintig miljoen euro) of het equivalent daarvan in buitenlandse valuta;
- iedere gevolmachtigde uit Categorie C is bevoegd om, samen met een gevolmachtigde uit Categorie E, APG AM te vertegenwoordigen tot een maximum van € 100.000,-- (honderdduizend euro) of het equivalent daarvan in buitenlandsevaluta.

### **Representative from Category C**

- Each Representative C, acting jointly with a Representative A or acting jointly with a Representative B, is authorized to represent APG AM up to a maximum of € 100 million (one hundred million Euro) or any equivalent thereof in a foreign currency;
- each Representative C, acting jointly with another Representative C, is authorized to represent APG AM up to a maximum of € 50 million (fifty million Euro) or any equivalent thereof in a foreign currency;
- each Representative C, acting jointly with a Representative D, is authorized to represent APG AM up to a maximum of € 25 million (twenty five million Euro) or any equivalent thereof in a foreign currency;
- each Representative C, acting jointly with a Representative E, is authorized to represent APG AM up to a maximum of € 100.000, - (one hundred thousand Euro) or any equivalent thereof in a foreign currency.

### **Gevolmachtigde uit de Categorie D**

- iedere gevolmachtigde uit Categorie D is bevoegd om, samen met een gevolmachtigde uit Categorie A, APG AM te vertegenwoordigen tot een maximum van € 100 miljoen (honderd miljoen euro) of het equivalent daarvan in buitenlandse valuta;
- iedere gevolmachtigde uit Categorie D is bevoegd om, samen met een gevolmachtigde uit Categorie B, APG AM te vertegenwoordigen tot een maximum van € 50 miljoen (vijftig miljoen euro) of het equivalent daarvan in buitenlandse valuta;
- iedere gevolmachtigde uit Categorie D is bevoegd om samen met een gevolmachtigde uit Categorie C, APG AM te vertegenwoordigen tot een maximum van € 25 miljoen (vijfentwintig miljoen euro) of het equivalent daarvan in buitenlandse valuta;
- iedere gevolmachtigde uit Categorie D is bevoegd om, samen met een andere gevolmachtigde uit Categorie D, APG AM te vertegenwoordigen tot een maximum van € 10 miljoen (tien miljoen euro) of het equivalent daarvan in buitenlandse valuta;
- iedere gevolmachtigde uit Categorie D is bevoegd om, samen met een gevolmachtigde uit Categorie E, APG AM te vertegenwoordigen tot een maximum van € 100.000,- (honderdduizend euro) of het equivalent daarvan in buitenlandse valuta.

### **Representative from Category D**

- each Representative D, acting jointly with a Representative A, is authorized to represent APG AM up to a maximum of € 100 million (one hundred million Euro) or any equivalent thereof in a foreign currency;
- each Representative D, acting jointly with another Representative B, is authorized to represent APG AM up to a maximum of € 50 million (fifty million Euro) or any equivalent thereof in a foreign currency;
- each Representative D, acting jointly with Representative C, is authorized to represent APG AM up to a maximum of € 25 million (twenty five million Euro) or any equivalent thereof in a foreign currency;
- each Representative D, acting jointly with another Representative D, is authorized to represent APG AM up to a maximum of € 10 million (ten million Euro) or any equivalent thereof in a foreign currency;
- each Representative D, acting jointly with a Representative E, is authorized to represent APG AM up to a maximum of € 100.000, - (one hundred thousand Euro) or any equivalent thereof in a foreign currency.

### **Gevolmachtigde uit de Categorie E**

- Iedere gevolmachtigde uit Categorie E is bevoegd om, samen met een gevolmachtigde uit Categorie A, of B, of C, of D, of E, APG AM te vertegenwoordigen tot een maximum van € 100.000,- (honderdduizend euro) of het equivalent daarvan in buitenlandse valuta.

### **Representative from Category E**

- Each Representative E, acting jointly with either a Representative A, B, C, D or E, is authorized to represent APG AM up to a maximum of € 100.000,- (one hundred thousand Euro) or any equivalent thereof in a foreign currency.

**Managing Directors / Directeuren / Managing Director / Directeur**

Branner, Peter  
Kanters, Patrick Michaël  
Prins, Marcel  
Rademaker, Hans Albertus Andreas  
van Asselt, Celine Susanna Maria  
van Dijk, Ronaldo  
Wuijster, Ronald

**Representatives / Functionarissen B / Representative / Functionaris B**

Boots, Ronaldus Theodorus Joannes Gertruda  
Bouwmeister, Marc  
Coenen, Matheus Jacobus Marie  
de Zwart, Gerben Jacobus  
Dijkstra, Gerrit Johan  
Douma, Reitze Jippe  
Extra, Davy Gerard Harry Maria Adrianus  
Footse, Robert-Jan Anton  
Frens, Jeroen  
Ghijssen, Pascal Gerardus Maria  
Hermans, Jan Willem Bernhard  
Lustermans, Lars Alexander  
Reinders, Arjan  
Renkens, Nicole Cornelia Josepha  
Ruisbroek, Johannes Wilhelmus  
Sangers, Eveliene Hubertina Anna Maria  
Schaik, Marco van  
Slooijer, Herman Christiaan  
Tali, Zöhre  
Tibboel, Niko Egon  
van de Kamp, Sylvia Huberta Cornelia Maria  
van der Lubbe, Rutger Wilhelmus  
van der Zeeuw, Rene  
van Dijk, Andreas Marinus  
van Doorn, Axel Franciscus Willem  
van Mill, Jan-Mark  
Wijn, Petrus Nivardus  
Willemsen, Eduard Melle Adriaan  
Zebregs, Bas Josephus Arnoldus

**Representatives / Functionarissen C / Representative / Functionaris C**

Bajema, Petrus Frederik  
Beris, Johannes Gertruda Helena Christiaan Maria  
Bots, Herman Frederik Willem  
de Lange, Gijsbertus Richardus Christinus

**Representatives / Functionarissen C / Representative / Functionaris C**

de Zeeuw, Adrianus  
Fennema, Rik  
Frijns, Lennart Jan Willem  
Hendriks, Onno  
Houben, Olav Hendrik Jozef  
Jansen, Oscar Nathan Pascal  
Jetten, Godfried Anna Christoffel  
Kleeven, Herman Gertrude Johannes Jacobus  
Niño, Ana Cristina  
Reedijk, Klaas  
Renkema, Johnny  
Schouten, Jacobus Gerardus Jozef  
Slütter, Tim Diederik  
Smudde, Frank Edward  
Soethoudt, Gerardus Petrus  
Stevens, Coenraad Hubertus Maria  
Steverink, Sandor Martinus  
van den Elsaker, Menno Robert  
van Roekel, Jan Cornelis  
van Sundert, Ingrid Petra  
Verkoeijen, Guido Franciscus Helena

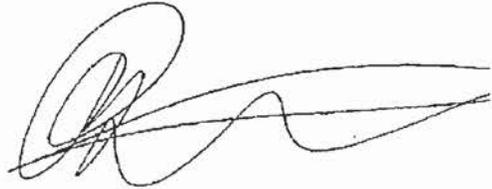
**Representatives / Functionarissen D / Representative / Functionaris D**

Cancian, Vittorio Armando  
Hovers, Dirk  
Hulleman, Erik Richard Michel  
Rodionova, Svetlana Mikhailovna  
Untersalmberger, Kaj Jan Arthur  
Voragen-Kokkelkoren, Josine Jozefina Maria

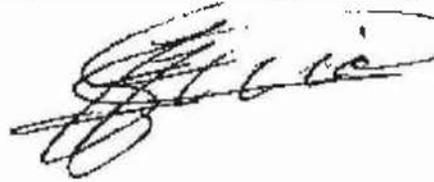
**Representatives / Functionarissen E / Representative / Functionaris E**

Kooistra, Hjalmar  
Kruse, Claudia  
Lenoire, Marcus Adriaan  
Scholts, Berend Christiaan Thomas Alexander  
Steenbeek, Onno Wieger  
Stolk, Lucas Bastiaan  
Strikwerda, Peter Ulbo Lambertus  
van den Goorbergh, Rob Willem Jean

Bajema, Petrus Frederik  
Representative / Functionaris C

A handwritten signature in black ink, appearing to be 'P. Bajema', written in a cursive style.

Beris, Johannes Gertruda Helena Christiaan Maria  
Representative / Functionaris C

A handwritten signature in black ink, appearing to be 'J. Beris', written in a cursive style.

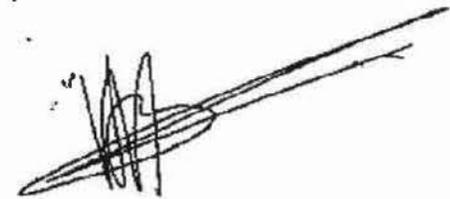
Boots, Ronaldus Theodorus Joannes Gertruda  
Representative / Functionaris B

A handwritten signature in black ink, appearing to be 'R. Boots', written in a cursive style.

Bots, Herman Frederik Willem  
Representative / Functionaris C

A handwritten signature in black ink, appearing to be 'H. Bots', written in a cursive style.

Bouwmeister, Marc  
Representative / Functionaris B

A handwritten signature in black ink, appearing to be 'M. Bouwmeister', written in a cursive style.

Branner, Peter  
Managing Director / Directeur

A handwritten signature in black ink, appearing to be 'P. Branner', written in a cursive style.

Cancian, Vittorio Armando  
Representative / Functionaris D

A handwritten signature in black ink, appearing to be 'V. Cancian', written in a cursive style.

Coenen, Matheus Jacobus Marie  
Representative / Functionaris B

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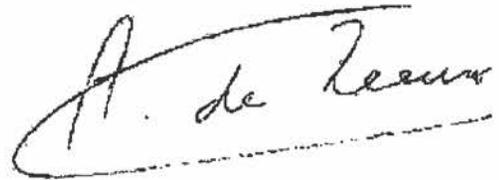
de Lange, Gijsbertus Richardus Christinus  
Representative / Functionaris C

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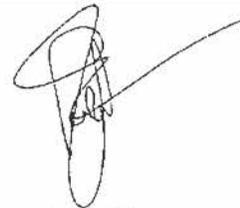
de Zeeuw, Adrianus  
Representative / Functionaris C

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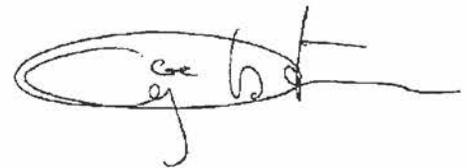
de Zwart, Gerben Jacobus  
Representative / Functionaris B

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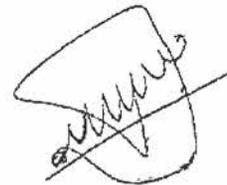
Dijkstra, Gerrit Johan  
Representative / Functionaris B

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Douma, Reitze Jippe  
Representative / Functionaris B

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Extra, Davy Gerard Harry Maria Adrianus  
Representative / Functionaris B

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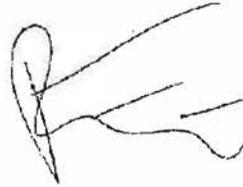
Fennema, Rik  
Representative / Functionaris C

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Foortse, Robert-Jan Anton  
Representative / Functionaris B

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Frens, Jeroen  
Representative / Functionaris B

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Frijns, Lennart Jan Willem  
Representative / Functionaris C

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Ghijzen, Pascal Gerardus Maria  
Representative / Functionaris B

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Hendriks, Onno  
Representative / Functionaris C

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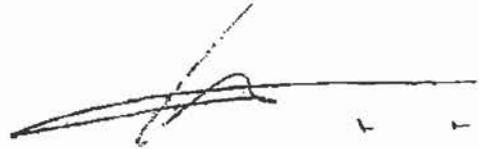


Hermans, Jan Willem Bernhard  
Representative / Functionaris B

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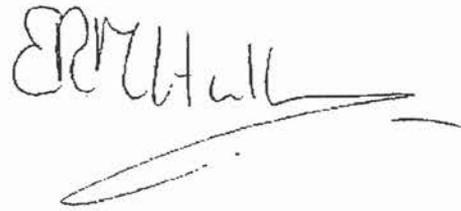
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Representative / Functionaris C



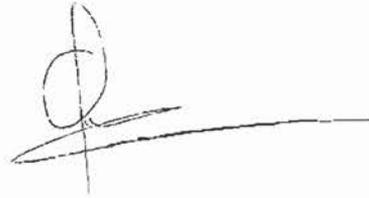
Hovers, Dirk  
Representative / Functionaris D



Hulleman, Erik Richard Michel  
Representative / Functionaris D



Jansen, Oscar Nathan Pascal  
Representative / Functionaris C



Jetten, Godfried Anna Christoffel  
Representative / Functionaris C



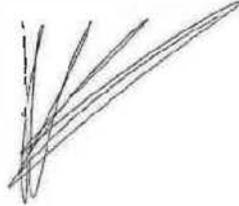
Kanters, Patrick Michaël  
Managing Director / Directeur



Kleeven, Herman Gertrude Johannes Jacobus  
Representative / Functionaris C



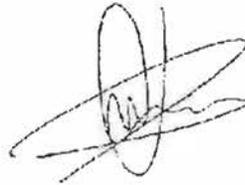
Kooistra, Hjalmar  
Representative / Functionaris E



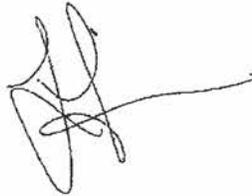
Kruse, Claudia  
Representative / Functionaris E



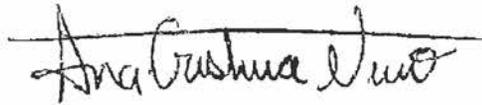
Lenoire, Marcus Adriaan  
Representative / Functionaris E



Lustermans, Lars Alexander  
Representative / Functionaris B



Niño, Ana Cristina  
Representative / Functionaris C



Prins, Marcel  
Managing Director / Directeur



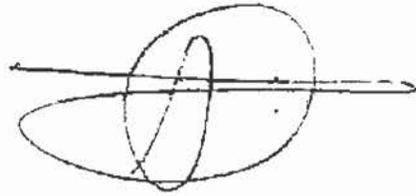
Rademaker, Hans Albertus Andreas  
Managing Director / Directeur



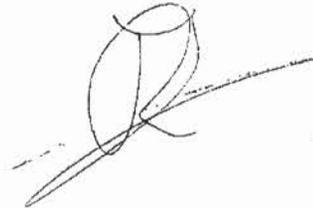
Reedijk, Klaas  
Representative / Functionaris C



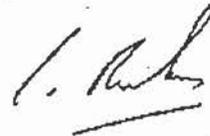
Reinders, Arjan  
Representative / Functionaris B



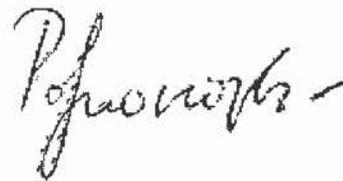
Renkema, Johnny  
Representative / Functionaris C



Renkens, Nicole Cornelia Josepha  
Representative / Functionaris B



Rodionova, Svetlana Mikhailovna  
Representative / Functionaris D



Ruisbroek, Johannes Wilhelmus  
Representative / Functionaris B



Sangers, Eveliene Hubertina Anna Maria  
Representative / Functionaris B



Schaik, Marco van  
Representative / Functionaris B



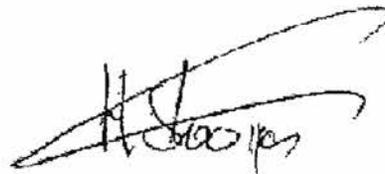
Scholts, Berend Christiaan Thomas Alexander  
Representative / Functionaris E



Schouten, Jacobus Gerardus Jozef  
Representative / Functionaris C



Slooijer, Herman Christiaan  
Representative / Functionaris B



Slütter, Tim Diederik  
Representative / Functionaris C



Smudde, Frank Edward  
Representative / Functionaris C



Soethoudt, Gerardus Petrus  
Representative / Functionaris C





Steenbeek, Onno Wieger  
Representative / Functionaris E

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Stevens, Coenraad Hubertus Maria  
Representative / Functionaris C

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Steverink, Sandor Martinus  
Representative / Functionaris C

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Stolk, Lucas Bastiaan  
Representative / Functionaris E

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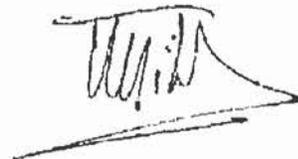
Strikwerda, Peter Ulbo Lambertus  
Representative / Functionaris E

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Tali, Zöhre  
Representative / Functionaris B

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Tibboel, Niko Egon  
Representative / Functionaris B

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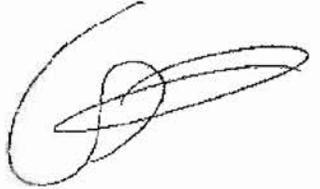
Untersalmberger, Kaj Jan Arthur  
Representative / Functionaris D

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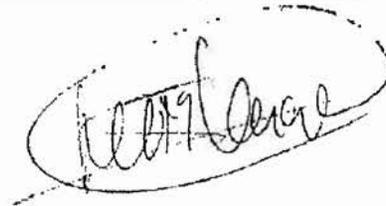
van Asselt, Celine Susanna Maria  
Managing Director / Directeur

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van de Kamp, Sylvia Huberta Cornelia Maria  
Representative / Functionaris B

---



van den Elsaker, Menno Robert  
Representative / Functionaris C

---



van den Goorbergh, Rob Willem Jean  
Representative / Functionaris E

---



van der Lubbe, Rutger Wilhelmus  
Representative / Functionaris B

---



van der Zeeuw, Rene  
Representative / Functionaris B

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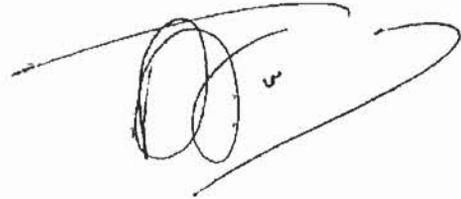
van Dijk, Andreas Marinus  
Representative / Functionaris B



van Dijk, Ronaldo  
Managing Director / Directeur



van Doorn, Axel Franciscus Willem  
Representative / Functionaris B



van Mill, Jan-Mark  
Representative / Functionaris B



van Roekel, Jan Cornelis  
Representative / Functionaris C

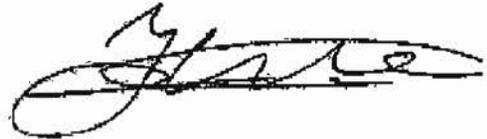


van Sundert, Ingrid Petra  
Representative / Functionaris C



Verkoeijen, Guido Franciscus Helena  
Representative / Functionaris C





Voragen-Kokkelkoren, Josine Jozefina Maria  
Representative / Functionaris D

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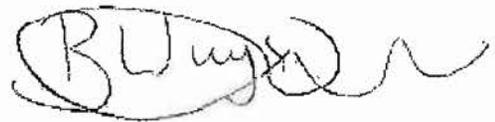
Wijn, Petrus Nivardus  
Representative / Functionaris B

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Willemsen, Eduard Melle Adriaan  
Representative / Functionaris B

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Wuijster, Ronald  
Managing Director / Directeur

---



Zebregs, Bas Josephus Arnoldus  
Representative / Functionaris B

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December 22, 2020

**VIA OVERNIGHT MAIL**

Anna Pot  
APG Asset Management N.V.  
666 Third Avenue, Second Floor  
New York, NY 10017

Dear Ms. Pot:

I am writing on behalf of Amazon.com, Inc. (the “Company”), which received on December 15, 2020, the shareholder proposal you submitted on behalf of APG Asset Management N.V. on behalf of the Stichting Depository APG Developed Markets Equity Pool (the “Proponent”) regarding health and safety pursuant to Securities and Exchange Commission (“SEC”) Rule 14a-8 for inclusion in the proxy statement for the Company’s 2021 Annual Meeting of Shareholders (the “Proposal”).

The Proposal contains certain procedural deficiencies, which SEC regulations require us to bring to your attention. Rule 14a-8(b) under the Securities Exchange Act of 1934, as amended, provides that shareholder proponents must submit sufficient proof of their continuous ownership of at least \$2,000 in market value, or 1%, of a company’s shares entitled to vote on the proposal for at least one year as of the date the shareholder proposal was submitted. The Company’s stock records do not indicate that the Proponent is the record owner of sufficient shares to satisfy this requirement. In addition, to date we have not received proof that the Proponent has satisfied Rule 14a-8’s ownership requirements as of the date that the Proposal was submitted to the Company.

To remedy this defect, the Proponent must submit sufficient proof of the Proponent’s continuous ownership of the required number or amount of Company shares for the one-year period preceding and including December 15, 2020, the date the Proposal was submitted to the Company. As explained in Rule 14a-8(b) and in SEC staff guidance, sufficient proof must be in the form of:

- (1) a written statement from the “record” holder of the Proponent’s shares (usually a broker or a bank) verifying that the Proponent continuously held the required number or amount of Company shares for the one-year period preceding and including December 15, 2020; or

Anna Pot  
December 22, 2020  
Page 2

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

If the Proponent intends to demonstrate ownership by submitting a written statement from the "record" holder of the Proponent's shares as set forth in (1) above, please note that most large U.S. brokers and banks deposit their customers' securities with, and hold those securities through, the Depository Trust Company ("DTC"), a registered clearing agency that acts as a securities depository (DTC is also known through the account name of Cede & Co.). Under SEC Staff Legal Bulletin No. 14F, only DTC participants are viewed as record holders of securities that are deposited at DTC. You can confirm whether the Proponent's broker or bank is a DTC participant by asking the Proponent's broker or bank or by checking DTC's participant list, which is available at <http://www.dtcc.com/~media/Files/Downloads/client-center/DTC/alpha.ashx>. In these situations, shareholders need to obtain proof of ownership from the DTC participant through which the securities are held, as follows:

- (1) If the Proponent's broker or bank is a DTC participant, then the Proponent needs to submit a written statement from the Proponent's broker or bank verifying that the Proponent continuously held the required number or amount of Company shares for the one-year period preceding and including December 15, 2020.
- (2) If the Proponent's broker or bank is not a DTC participant, then the Proponent needs to submit proof of ownership from the DTC participant through which the shares are held verifying that the Proponent continuously held the required number or amount of Company shares for the one-year period preceding and including December 15, 2020. You should be able to find out the identity of the DTC participant by asking the Proponent's broker or bank. If the Proponent's broker is an introducing broker, you may also be able to learn the identity and telephone number of the DTC participant through the Proponent's account statements, because the clearing broker identified on the account statements will generally be a DTC participant. If the DTC participant that holds the Proponent's shares is not able to confirm the Proponent's individual holdings but is able to confirm the holdings of the Proponent's broker or bank, then the Proponent needs to satisfy the proof of ownership requirements by obtaining and submitting two proof of ownership statements verifying that, for the one-year period preceding and including December 15, 2020, the required number or amount of Company shares were continuously held: (i) one from the Proponent's broker or

Anna Pot  
December 22, 2020  
Page 3

bank confirming the Proponent's ownership, and (ii) the other from the DTC participant confirming the broker or bank's ownership.

The SEC's rules require that any response to this letter be postmarked or transmitted electronically no later than 14 calendar days from the date you receive this letter. Please address any response to me at Gibson, Dunn & Crutcher LLP, 1050 Connecticut Avenue, N.W., Washington, DC 20036. Alternatively, you may transmit any response by email to me at [RMueller@gibsondunn.com](mailto:RMueller@gibsondunn.com).

If you have any questions with respect to the foregoing, please contact me at (202) 955-8671. For your reference, I enclose a copy of Rule 14a-8 and Staff Legal Bulletin No. 14F.

Sincerely,



Ronald O. Mueller

Enclosures

**From:** ECRM EMEA Client Services - Breda - APG Queries <[bnym.emea.apg.queries@bnymellon.com](mailto:bnym.emea.apg.queries@bnymellon.com)>  
**Date:** December 30, 2020 at 1:51:24 AM PST  
**To:** "Slabbekoorn, J (Joost)" <[joost.slabbekoorn@apg-am.nl](mailto:joost.slabbekoorn@apg-am.nl)>, "Pot, Anna" <[Anna.Pot@apg-am.com](mailto:Anna.Pot@apg-am.com)>, "Zapolsky, David" <[davidz@amazon.com](mailto:davidz@amazon.com)>  
**Cc:** ECRM EMEA Client Services - Breda - APG Queries <[bnym.emea.apg.queries@bnymellon.com](mailto:bnym.emea.apg.queries@bnymellon.com)>  
**Subject:** [EXTERNAL] Certificate of Holding - Stichting Depository APG Developed Markets Equity Pool  
**CRM:0001054**

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you can confirm the sender and know the content is safe.

Dear all,

Please find attached a duly signed Certificate of Ownership with regards to the common stock of Amazon Inc - ISIN US0231351067, beneficially owned by Stichting Depository APG Developed Markets Equity Pool.

The shares held by BNYMellon are held in the Depository Trust Company, in the participant code 901.

We trust to have informed you sufficiently.

Kind regards,

**Stefan Janssen**  
**BNY Mellon**

Analyst, Custody Client Services NL

The Bank of New York Mellon SA/NV, Amsterdam Branch

Verlengde Poolseweg 6, 4818 CL Breda, The Netherlands

T +31 76 760 2360

[Stefan.Janssen@bnymellon.com](mailto:Stefan.Janssen@bnymellon.com)

[www.bnymellon.com](http://www.bnymellon.com)

The information contained in this e-mail, and any attachment, is confidential and is intended solely for the use of the intended recipient. Access, copying or re-use of the e-mail or any attachment, or any information contained therein, by any other person is not authorized. If you are not the intended recipient please return the e-mail to the sender and delete it from your computer. Although we attempt to sweep e-mail and attachments for viruses, we do not guarantee that either are virus-free and accept no liability for any damage sustained as a result of viruses.

Please refer to <https://disclaimer.bnymellon.com/eu.htm> for certain disclosures relating to European legal entities. We take our data protection and privacy responsibilities seriously and our privacy notice

explains how we collect, use and share personal information in the course of our business activities. It can be accessed at the privacy section of [www.bnymellon.com](http://www.bnymellon.com).



**BNY MELLON**  
ASSET SERVICING

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www.bnymellon.com

Date	Our ref.	Department
30 December 2020	S.Janssen	CSG Breda
Telephone	Telefax	E-mail
+31 76 760 2360		bnym.emea.apg.queries@bnymellon.com

David A. Zapolsky  
Corporate Secretary  
Amazon.com, Inc.  
410 Terry Avenue North  
Seattle, WA 98109 Amazon.com Inc  
United States of America

Dear Mr. David A. Zapolsky,

Re: Stichting Depositary APG Developed Markets Equity Pool

Custodian Confirmation of Holding on **US0231351067 - AMAZON COM INC.**

BNY Mellon is the record owner of common stock ("Shares") of Amazon Inc., beneficially owned by Stichting Depositary APG Developed Markets Equity Pool.

The shares held by BNY Mellon are held in the Depositary Trust Company, in the participant code 901.

The Client has held shares of Amazon Inc, (ISIN US0231351067 – Cusip # 023135106) with a market value greater than USD 2,000.00 continuously for more than a one year period as of December 30, 2019.

Please do not hesitate to contact us should you have any specific concerns or questions.

Kind regards,

Stefan Janssen  
BNYM Client Service Representative

**Authorised signature:**

Name: Marnix Zwartbol  
Title: Branch Manager  
The Bank of New York Mellon SA/NV Amsterdam Branch

Email: BNYM.EMEA.APG.Queiries@bnymellon.com

EXHIBIT B

Amazon.com, Inc. COVID-19 Health and Safety Report

*A Report on Our Actions to Mitigate Health and Safety Risks from the Coronavirus Pandemic*

At Amazon, we care deeply for our employees and the communities in which we live and serve. From the beginning of the pandemic, we have taken extraordinary measures to promote safety and health as our employees continue to provide essential services around the globe during the COVID-19 pandemic. This report has been affirmed by the Leadership Development and Compensation Committee of the Company's Board of Directors.

I. Actions to Reduce or Mitigate Health and Safety Risks to Employees  
From the Coronavirus Pandemic

A. *Process Improvements*

We invested more than \$10 billion in 2020 on COVID-related initiatives to keep employees safe and get products to customers. This includes implementing more than 150 significant process changes to make sure we are keeping our teams safe throughout each day, including new social distancing measures and enhanced cleaning and sanitizing across every site. Among our actions, as of December 2020, we have:

- provided teams more than 283 million masks;
- added 2,298 handwashing stations;
- added more than 5,755 janitorial staffers to our typical teams;
- deployed an additional 287 million gloves;
- added 513 million ounces of hand sanitizer;
- provided more than 450 million ounces of sanitizing spray and 1.5 trillion wipes;
- deployed more than 351,000 thermometers and more than 16,500 thermal cameras;
- invested \$85 million to redeploy more than 3,500 team members from their typical roles to become "social distancing ambassadors"; and
- built out our own COVID-19 testing labs and now have the capacity to conduct tens of thousands of tests a day across hundreds of sites as part of our effort to keep our front-line employees safe.

Additional detail on the policies and practices we have implemented to mitigate the health and safety risks from the pandemic are described in Exhibit A.

B. *Benefits and Leave*

As we have aggressively invested in workplace improvements to better protect the health of our employees in the face of this pandemic, we have growing confidence that our employees are safe at work. Moreover, our benefit and leave policies are designed to keep our workforce safe by encouraging employees to stay home if they feel unwell. Amazon continues to offer full- and part-time employees up to 14 days of pay when they are unable to work because they have been diagnosed with or are presumed to have COVID-19. This benefit is over and above paid time off that employees accrue under Amazon's standard paid time off policies. Amazon also allows employees to use accrued sick leave to care for a child or dependent whose school or care provider is not open. The Amazon Relief Fund provides grants of \$1,200 to independent contractors and other contingent personnel who are quarantined or diagnosed with COVID-19.

In addition, our world-class health benefits include comprehensive medical benefits from day one for full-time Amazon employees, and prescription drug, dental, and vision plans that are offered to Amazonians and eligible family members, including domestic partners and their children.

Additional information regarding how we are responding to the COVID-19 pandemic is provided on our blog, which is available at: <https://www.aboutamazon.com/news/company-news/amazons-covid-19-blog-updates-on-how-were-responding-to-the-crisis>.

## II. Board Oversight of Our COVID-19 Response

The Leadership Development and Compensation Committee (the "Committee") of the Board of Directors (the "Board") is specifically responsible for overseeing our strategies and policies related to human capital management, including workplace safety and our response to the COVID-19 pandemic.

The Committee held seven formal meetings during 2020, and workplace safety and our response to the COVID-19 pandemic has been a significant topic of discussion and oversight at those meetings since the onset of the pandemic. In addition, the full Board, including the Committee, participated in regularly scheduled teleconference discussions, generally on a bi-weekly basis, throughout 2020, which addressed and provided on-going updates on Amazon's overall response to the COVID-19 pandemic. Through December 31, 2020, the Board has participated in 17 such discussions.

The Board and the Committee have received numerous statistical metrics throughout this time, as well as information on confirmed and presumed reported cases of COVID-19 diagnoses among employees and relative to case rates among the general population and in our communities. For our U.S. sites, the Committee also has focused on our implementing guidance from health, epidemiology, and industrial hygiene experts,<sup>1</sup> the Centers for Disease Control and Prevention (CDC), and the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA).

Although case rates are an imperfect measure, when Amazon reviewed the rate of employees with confirmed COVID-19 diagnoses within our U.S. operations over the first six months of the pandemic, Amazon found that those rates were lower than the rates for the U.S. general population. As Governor Cuomo explained when comparing infection rates of New York's essential governmental workers to the infection rate of the general New York state population, data showing that essential workers have lower rates of infection than the general population "should give us all some peace of mind . . . . We've made sure that they were protected in doing the work that they're doing."

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<sup>1</sup> This includes Dr. Ian Lipkin, Professor of Epidemiology and Director of the Center for Infection and Immunity at Columbia University, and other medical professionals who have been consulted by the Company.

## Exhibit A: Policies and Practices to Mitigate Health and Safety Risks

In consultation with leading health experts, and based on the best available science, we have adopted policies and practices that comply with—and in many cases go far beyond—guidelines from the CDC and OSHA: the *CDC Interim Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease 2019 (COVID-19)* (“CDC Business & Employer Guidance”) and the *OSHA Guidance on Preparing Workplaces for COVID-19* (“OSHA Guidance”).

### i. Social Distancing

Both Amazon and Whole Foods Market have implemented structural changes to allow for appropriate distancing in accordance with the CDC Business & Employer Guidance and OSHA Guidance. At Amazon, we rearranged facilities so that associates in our fulfillment network can maintain appropriate distance when working. For example, this includes reducing active workstations, cancelling in-person “stand up” meetings during shifts, spreading out tables and chairs in break rooms, and providing technology so that associates can clock in and out, and attend training, via applications on their phones rather than in person. Similarly, at Whole Foods Market, we have added aisle markers creating one-way traffic flow and social distancing markers to aid in proper spacing, and we limited the number of customers allowed in the store during a given period to ensure appropriate distancing can be maintained. These customer limits set by stores are typically set below the limits imposed by any state or local executive order. Both Amazon and Whole Foods Market also staggered shifts as recommended by the CDC.

We have also undertaken an extensive campaign to educate employees regarding social distancing. This includes providing educational materials in over 20 languages, posting signs throughout stores and facilities instructing employees to socially distance, and adding directional and spatial signage and floor markings throughout stores and facilities to further provide guidance and ensure adherence to social distancing requirements. At Amazon facilities, we have also designated site leaders to promote social distancing throughout the site in order to convey the importance of, and Amazon’s commitment to, social distancing.

Finally, our Distance Assistant provides employees with live feedback on social distancing via a 50-inch monitor, a camera, and a local computing device. As people walk past the camera, a monitor displays live video with on-screen indicators to show if associates are within 6 feet of one another.

### ii. Hand Washing and Hand Sanitizer

In line with the CDC Business & Employer Guidance and OSHA Guidance, all Amazon and Whole Foods Market employees are instructed to wash their hands frequently with soap and water for at least twenty seconds, especially after going to the bathroom, before eating, and after blowing their nose, coughing, or sneezing. Both companies allow employees to have longer regular breaks to ensure the employees have time to wash their hands. At Amazon, we allow associates to log out of their system to wash their hands whenever they choose with no resulting impact on evaluation of their productivity. We have also provided portable wash stations across many of our larger Amazon fulfillment centers.

In addition, we provide hand sanitizer—containing more than 60% alcohol, per CDC and OSHA guidance—at locations throughout our facilities and instruct employees to use it frequently. At Whole Foods Market, all Team Members are required to use hand sanitizer throughout the day, especially after they touch a high-touch area such as a time clock or after customer transactions. At Amazon, we have distributed nearly 515 million ounces of hand sanitizer to our teams. Moreover, our procurement teams regularly create new sources of supply to ensure that we maintain adequate stock. Amazon has added more than 450 million ounces of sanitizing spray and 1.5 trillion disinfectant wipes to our sites.

### iii. Temperature Checks

Amazon and Whole Foods Market have followed the CDC Business & Employer Guidance and implemented routine, mandatory temperature checks for *all* employees entering their facilities.

The temperature-check program complements other measures encouraging associates to stay home if they are not feeling well, such as signs posted at entrances directing employees to go home if, among other things, they are

displaying symptoms like coughing or shortness of breath. Under the temperature-check program, anyone registering a temperature over 100.4°F (or lower where required by state or local authorities) is directed to return home and only come back to work after they have gone three days without a fever, in line with the CDC's recommendation.

iv. PPE and Other Source Controls

In accordance with OSHA Guidance, we provide masks and work gloves to all employees (and, at Amazon, masks are also distributed to delivery service partners, Amazon Flex participants, and seasonal employees). We have distributed more than 287 million gloves and 283 million masks to our teams. At Whole Foods Market, Team Members are provided with face shields; cashiers are expected to change their gloves every time they go on a break, if the gloves rip, or at a minimum every two hours; and customers are asked to wear a mask and offered a mask free of charge if they do not have one. At Whole Foods Market, we have also installed plexiglass screens at all checkout stands where cashiers work.

We also provide additional appropriate PPE depending on an employee's role and task. For example, we provide first aid teams and those conducting temperature checks with nitrile medical gloves and masks. Finally, we replenish PPE supplies on a regular basis and instruct all employees to immediately notify management if PPE is unavailable or supplies are close to running out.

v. Regular Cleanings

As recommended by the CDC Business & Employer Guidance, Amazon has dramatically expanded its cleaning practices at all sites, including regular sanitization of door handles, handrails, touch screens, scanners, and other frequently touched areas. Employees and delivery service partners are required to clean and disinfect their work stations. We have also increased janitorial teams threefold throughout our fulfillment system, and we continue to explore additional cleaning measures that may further promote the health and safety of our associates. For example, we have adapted disinfectant spraying cleaning for use in all facilities in our operations fulfillment network to supplement the enhanced cleaning measures that are already in place.

At Whole Foods Market, we regularly clean and sanitize all common touch points in stores throughout the day, including door handles, counter tops, register belts, credit card machines, touch pads, and bathroom contact surfaces. We also make contactless payment options available. Food production areas are cleaned and sanitized throughout the day and disinfected every night. And we clean and sanitize all shopping carts and basket handles prior to every customer use.

vi. Additional Screening, Isolation/Quarantine Requirements, and Testing

In accordance with CDC Business & Employer Guidance and OSHA Guidance, in addition to implementing our temperature screening programs, we encourage all employees feeling sick to stay home, self-monitor, seek assistance from a medical care provider, and report any symptoms or diagnosis to appropriate leadership. Further, if an employee is confirmed or presumptively diagnosed with COVID-19, we perform a wellness check to ensure the employee is receiving appropriate care, and they are provided with paid time off and not permitted to return to work until they satisfy the following requirements, which are derived from CDC guidance: (1) at least ten days have passed since the first appearance of the associate's first symptoms, (2) the associate has not had a fever for at least 72 hours (*i.e.*, three full days of no fever without the use of fever-reducing medicine), and (3) the associate's other symptoms have improved (*e.g.*, when cough or shortness of breath has improved).

Following confirmation of a positive COVID-19 diagnosis, we notify employees at the site of the diagnosis—either through small-group, in-person discussions with management that comply with social distancing guidelines or text notifications. We also conduct “contact tracing” to identify anyone who may have been in close contact with the diagnosed associate while at the site. Employees identified through contact tracing are informed that they were potentially exposed to someone diagnosed with COVID-19 (but not the identity of the individual diagnosed, per guidance from the CDC and the U.S. Equal Employment Opportunity Commission) and placed on leave for 14 days after their last contact with the diagnosed individual. We require these employees to stay away from their work site, to watch for symptoms, and to seek medical attention if they experience any symptoms. All of our employees placed into quarantine or diagnosed with COVID-19 receive up to two weeks of additional paid time off so they can focus on their health and not lost income. Importantly, this COVID-19-related paid time off does not count against the employees' paid and unpaid time off accruals.

We have also built our own COVID-19 testing labs and have the capacity to conduct tens of thousands of tests a day across hundreds of sites as part of our effort to keep our front-line employees safe.

vii. Enhanced Cleanings After Confirmed Cases

Amazon and Whole Foods Market follow the CDC Cleaning and Disinfection for Community Facilities: Interim Recommendations for U.S. Community Facilities with Suspected/Confirmed Coronavirus Disease 2019 (COVID-19), on top of and in addition to extensive regular cleaning protocols that call for cleaning and disinfecting common surfaces, such as door handles and hand rails, six to eight times per shift. When we learn that an employee has been diagnosed with COVID-19, we first confirm when the employee was last onsite to determine appropriate next steps. When we determine that an enhanced cleaning procedure is necessary, we ensure that the products and procedures used by enhanced cleaning teams follow CDC guidance and that cleaning teams are provided with appropriate PPE.