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January 18, 2021

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

Re: *McDonald's Corporation*
Shareholder Proposal of the New York State Common Retirement Fund
Securities Exchange Act of 1934—Rule 14a-8

Ladies and Gentlemen:

This letter is to inform you that our client, McDonald's Corporation (the "Company"), intends to omit from its proxy statement and form of proxy for its 2021 Annual Shareholders' Meeting (collectively, the "2021 Proxy Materials") a shareholder proposal (the "Proposal") and statements in support thereof received from the Comptroller of the State of New York on behalf of the New York State Common Retirement Fund (the "Proponent").

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 Proponent.

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

THE PROPOSAL

The Proposal states:

> **Resolved:** Shareholders of McDonald's Corporation ("McDonald's") urge the Board of Directors to examine and report to shareholders, at reasonable cost and omitting proprietary information, describing if, and how, it plans to integrate ESG metrics into the performance measures of named executive officers under the McDonald's incentive compensation plans. "ESG metrics" is defined as how environmental, social, and governance considerations, and related financial impacts, are integrated into corporate strategy over the long term.

A copy of the Proposal and supporting statements, as well as related correspondence with the Proponent, is attached to this letter as Exhibit A.

BASIS FOR EXCLUSION

We hereby respectfully request that the Staff concur in our view that the Proposal may properly be excluded from the 2021 Proxy Materials pursuant to Rule 14a-8(i)(10) upon confirmation, no later than February 18, 2021, that (i) the Compensation Committee of the Board of Directors (the "Committee") approved certain new performance metrics responsive to the Proposal for the Company's 2021 Target Incentive Plan (the "2021 TIP") awards for the Company's named executive officers (the "Committee Action") and (ii) the report describing such new metrics included in 2021 TIP awards (collectively, the "Report") has been published.

ANALYSIS

The Proposal May Be Excluded Under Rule 14a-8(i)(10) As Substantially Implemented.

A. Background.

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 Commission stated in 1976 that the predecessor to Rule 14a-8(i)(10) was "designed to avoid the possibility of shareholders having to consider matters which already have been favorably acted upon by the management." Exchange Act Release No. 12598 (July 7, 1976). 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 Commission 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 1983, the

Commission adopted a revised interpretation to the rule to permit the omission of stockholder proposals that had been "substantially implemented." 1983 Release. The 1998 amendments to the proxy rules codified this position. Exchange Act Release No. 40018, at n. 30 (May 21, 1998) ("1998 Release").

Under 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." *Texaco, Inc. (Recon.)* (avail. Mar. 28, 1991).

In applying this standard, a company need not implement a proposal in exactly the same manner that a shareholder may prefer. *See* 1998 Release at n.30 and accompanying text. Differences between a company's actions and a shareholder proposal are permitted as long as the company's actions satisfactorily address the shareholder proposal's essential objectives. For example, the Staff has concurred that companies, when substantially implementing a shareholder proposal that touches upon executive compensation matters, can address aspects of implementation that may differ from the manner in which the shareholder proponent would implement the proposal. For example, in *Wal-Mart Stores, Inc.* (avail. Mar. 25, 2015), the Staff concurred with the exclusion of a proposal that requested the company to include at least one metric related to the company's employee engagement as a metric in determining senior executives' incentive compensation where the company had previously adopted a similar metric and disclosed that fact in the proxy statement. The Staff's response noted "that [the company's] policies, practices and procedures compare favorably with the guidelines of the proposal and that [the company] has, therefore, substantially implemented the proposal." Likewise, in *Nike, Inc. (Recon.)* (avail. July 16, 2019), the Staff ultimately concurred that the company had substantially implemented a proposal seeking a director skills matrix that discloses "[e]ach nominee's skills, ideological perspectives, and experience presented in a chart or matrix form" where the company committed to providing such a matrix in its proxy materials, even though it stated it would not be disclosing the "ideological perspectives" of the nominees. *See also, Amazon.com* (avail. Mar. 27, 2020) (concurring with the exclusion of a proposal requesting a report assessing the feasibility of integrating sustainability metrics into performance measures or vesting conditions that apply to senior executives under the company's compensation plans, where the company relied on the prior year's proxy disclosure addressing why the company does not integrate special performance measures or vesting conditions into its compensation arrangements); *General Electric Co.* (avail Jan. 23, 2010) (concurring with the exclusion of a proposal requesting that the board explore with certain executive officers the renunciation of certain stock option grants where the company's board already discussed the request in the proposal with the specified executives, who declined to renounce the awards). 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 as moot. *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); and *Johnson & Johnson* (avail. Feb. 17, 2006).

B. Anticipated Committee Action And The Report, When Published, Will Substantially Implement The Proposal.

The Company expects that the Committee Action and the Report, when published, will substantially implement the Proposal because the Report will: (i) be made publicly available in February 2021; and (ii) describe how the Company has integrated such new metrics into the 2021 TIP awards for the Company's named executive officers. Accordingly, the anticipated Committee Action and publication of the Report will substantially implement the Proposal's underlying concerns and essential objectives within the meaning of Rule 14a-8(i)(10).

C. Supplemental Notification.

We submit this no-action request now to address the timing requirements of Rule 14a-8(j). The Company expects to supplement this letter to report on the Committee Action and the publication of the Report no later than February 18, 2021. The Staff has consistently granted no-action relief under Rule 14a-8(i)(10) where a company has notified the Staff that it expects to take certain actions that will substantially implement the proposal and then supplements its request for no-action relief by notifying the Staff after those actions have been taken. *See, e.g.*, *Walgreens Boots Alliance, Inc.* (avail. Nov. 25, 2020, *recon. denied* Dec. 10, 2020)*; United Continental Holdings, Inc.* (avail. Apr. 13, 2018); *United Technologies Corp.* (avail. Feb. 14, 2018); *The Southern Co.* (avail. Feb. 24, 2017); *Mattel, Inc.* (avail. Feb. 3, 2017); *The Wendy's Co.* (avail. Mar. 2, 2016); *The Southern Co.* (avail. Feb. 26, 2016); *The Southern Co.* (avail. Mar. 6, 2015); *Visa Inc.* (avail. Nov. 14, 2014); *Hewlett-Packard Co.* (avail. Dec. 19, 2013); *Starbucks Corp.* (avail. Nov. 27, 2012); *DIRECTV* (avail. Feb. 22, 2011); *NiSource Inc.* (avail. Mar. 10, 2008); *Johnson & Johnson* (avail. Feb. 19, 2008) (each granting no-action relief where the company notified the Staff of its intention to omit a shareholder proposal under Rule 14a-8(i)(10) because the board of directors was expected to take action that would substantially implement the proposal, and the company supplementally notified the Staff of the board action).

CONCLUSION

Based upon the foregoing analysis, we respectfully request that the Staff concur that it will take no action if the Company excludes the Proposal from its 2021 Proxy Materials.

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. If we can be of any further assistance in this matter, please do not hesitate to call me at (202) 955-8287 or Jeffrey Pochowicz, Senior Director – Corporate Governance and Assistant Secretary, at (312) 442-2930.

Sincerely,

Elizabeth A. Ising

Enclosures

cc: Jeffrey Pochowicz, McDonald's Corporation
Kyle Seeley, Corporate Governance Officer, Office of the Comptroller of the State of New York

EXHIBIT A

THOMAS P. DINAPOLI
STATE COMPTROLLER

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

November 23, 2020

Mr. Jeromne N. Krulewitch
Corporate Secretary
McDonald`s Corporation
110 North Carpenter Street
Chicago, Illinois 60607
via email: corporatesecretary@us.mcd.com

Dear Mr. Krulewitch,

The Comptroller of the State of New York, Thomas P. DiNapoli, is the Trustee of the New York State Common Retirement Fund (the "Fund") and the Administrative Head of the New York State and Local Retirement System. The Comptroller has authorized me to inform you of his 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.

A letter from J.P. Morgan Chase, the Fund's custodial bank, verifying the Fund's ownership of McDonald`s Corporation shares, continually for over one year, is enclosed. The Fund intends to continue to hold at least $2,000 worth of these securities through the date of the annual meeting.

We would be happy to discuss this initiative with you. Should McDonald`s Corporation decide to endorse its provisions as company policy, the Comptroller will ask that the proposal be withdrawn from consideration at the annual meeting. Please feel free to contact me at kseeley@osc.ny.gov should you have any further questions on this matter. Additionally, please direct any mail correspondence related to this proposal to "New York State Common Retirement Fund" at 110 State Street, 14th Floor, Albany, NY 12236.

Sincerely,

Kyle R. Seeley
Corporate Governance Officer

Enclosures

Integrating ESG Metrics into Executive Compensation

Resolved

Shareholders of McDonald's Corporation ("McDonald's") urge the Board of Directors to examine and report to shareholders, at reasonable cost and omitting proprietary information, describing if, and how, it plans to integrate ESG metrics into the performance measures of named executive officers under the McDonald's incentive compensation plans. "ESG metrics" is defined as how environmental, social, and governance considerations, and related financial impacts, are integrated into corporate strategy over the long term.

Supporting Statement

Strong management of ESG risks has a positive effect on long-term shareholder value, value creation, and sustainability. Conversely, failure to adequately manage and disclose performance on ESG issues can pose regulatory, legal, reputational, and financial risks to a company.

Investors are increasingly calling for improved corporate disclosure of performance on material ESG issues. According to the 2019 UN Global Compact CEO Study, 84% of executives from the world's largest companies cited a clear link between sustainability and business value.

Additionally, that study found 66% of CEOs would agree to have their compensation linked to sustainability performance. A recent Mercer survey of 135 U.S. and Canadian companies found 30% of respondents use ESG metrics in their incentive compensation plans and 21% are considering incorporating metrics.

Effectively managing ESG issues offers positive opportunities for companies. By integrating ESG metrics into executive compensation, companies can reduce risks related to ESG underperformance by incentivizing executives to meet sustainability goals, thereby achieving greater long-term value for shareholders.

The Sustainability Accounting Standards Board identifies various material ESG issues at McDonald's, including energy management, water management, food and packaging waste management, food safety, nutritional content, labor practices, and supply chain management and food sourcing. While McDonald's has taken various steps to address some of these issues, significant problems remain, including:

- Problematic workplace culture that contributed to the termination of its former CEO.[1]
- Criticized response to the COVID-19 pandemic, leading to complaints and employee protests.[2]
- Legal complaints over alleged sexual harassment, and alleged gender and racial discrimination at both corporate and franchise levels.[3]

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[1] https://www.wsj.com/articles/mcdonalds-looks-beyond-party-culture-11578243600

[2] https://www.restaurantdive.com/news/mcdonalds-franchisees-face-more-covid-19-osha-complaints/588262/; https://publicintegrity.org/inequality-poverty-opportunity/workers-rights/deny-paid-sick-leave-workers-coronavirus-pandemic-mcdonalds/

[3] https://time.com/5725058/mcdonalds-sexual-harassment-lawsuit; https://www.wsj.com/articles/former-black-franchisees-sue-mcdonalds-alleging-discrimination-11598963169; https://www.barrons.com/articles/mcdonalds-

- Concerning labor management practices, including allegations and lawsuits related to hour and wage violations, and intimidation and/or termination over employee involvement in union organizing.[4]
- Lagging behind its peers in implementing best practices related to animal welfare.[5]

Shareholders have voiced concern regarding compensation practices through its most recent advisory vote on executive compensation, which received considerably lower support than in previous years.

The COVID-19 pandemic and the struggle for racial equity have illustrated the importance of ESG issues and their impact on companies. By integrating ESG metrics into executive compensation incentive plans, McDonald's could incentivize its executives to improve ESG performance, thereby addressing risks and achieving greater long-term value for shareowners.

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sexual-harassment-complaints-labor-unions-oecd-51589819766;
https://www.usatoday.com/story/money/business/2020/05/19/coronavirus-mcdonalds-employees-national-strike-over-safety/5218729002/

[4] https://www.businessinsider.com/mcdonalds-worker-whistleblower-covid-safety-protest-2020-10;
https://news.bloomberglaw.com/daily-labor-report/mcdonalds-settles-wage-and-hour-class-action-for-26-million

[5] https://www.bloomberg.com/news/articles/2018-09-21/mcdonald-s-gets-a-warning-from-new-york-s-pension-fund-over-chickens

J.P.Morgan

Miriam G. Awad
Vice President
CIB Client Service Americas

November 23, 2020

Mr. Jeromne N. Krulewitch
Corporate Secretary
McDonald's Corporation
110 North Carpenter Street
Chicago, Illinois 60607

Dear Mr. Krulewitch,

This letter is in response to a request by The Honorable Thomas P. DiNapoli, New York State Comptroller, regarding confirmation from JP Morgan Chase that the New York State Common Retirement Fund has been a beneficial owner of McDonald's Corporation continuously for at least one year as of and including November 23, 2020.

Please note that J.P. Morgan Chase, as custodian for the New York State Common Retirement Fund, held a total of 1,696,181 shares of common stock as of November 23, 2020 and continues to hold shares in the company. The value of the ownership stake continuously held by the New York State Common Retirement Fund had a market value of at least $2,000.00 for at least twelve months prior to, and including, said date.

If there are any questions, please contact me at (212) 623 8481.

Regards,

Miriam Awad

Miriam Awad

cc: Kyle Seeley – NYSCRF
John White - NYSCRF

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JPMorgan Chase Bank, N.A.