



DIVISION OF
CORPORATION FINANCE

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

April 7, 2022

Brian Y. Yamasaki
PayPal Holdings, Inc.

Re: PayPal Holdings, Inc. (the "Company")
Incoming letter dated January 20, 2022

Dear Mr. Yamasaki:

This letter is in response to your correspondence concerning the shareholder proposal (the "Proposal") submitted to the Company by James A. Heagy for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders.

The Proposal requests that the board compare the Company's code of business conduct and ethics with the actual operations of the Company.

There appears to be some basis for your view that the Company may exclude the Proposal under Rule 14a-8(i)(7). In our view, the Proposal relates to, and does not transcend, ordinary business matters. Accordingly, we will not recommend enforcement action to the Commission if the Company omits the Proposal from its proxy materials in reliance on Rule 14a-8(i)(7). In reaching this position, we have not found it necessary to address the alternative basis for omission upon which the Company relies.

Copies of all of the correspondence on which this response is based will be made available on our website at <https://www.sec.gov/corpfin/2021-2022-shareholder-proposals-no-action>.

Sincerely,

Rule 14a-8 Review Team

cc: James A. Heagy



2211 North First Street
San Jose, CA 95131
paypal.com

January 20, 2022

VIA EMAIL (shareholderproposals@sec.gov)

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

Re: *PayPal Holdings, Inc.*
Stockholder Proposal of James A. Heagy

Ladies and Gentlemen:

This letter is submitted by PayPal Holdings, Inc., a Delaware corporation (the “Company”), pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934 (the “Exchange Act”), to notify the Securities and Exchange Commission (the “Commission”) of the Company’s intention to exclude from its proxy materials for its 2022 Annual Meeting of Stockholders (the “2022 Proxy Materials”) a stockholder proposal (the “Proposal”) and statements in support thereof from James A. Heagy (the “Proponent”). The Company requests confirmation that the staff of the Division of Corporation Finance (the “Staff”) will not recommend an enforcement action to the Commission if the Company excludes the Proposal from its 2022 Proxy Materials in reliance on Rule 14a-8.

Pursuant to Rule 14a-8(j) and Staff Legal Bulletin No. 14D (November 7, 2008) (“SLB 14D”), we have (i) submitted this letter and its exhibits to the Commission within the time period required under Rule 14a-8(i) and (ii) concurrently sent copies of this correspondence to the Proponent as notification of the Company’s intention to exclude the Proposal from its 2022 Proxy Materials.

Rule 14a-8(k) and SLB 14D provide that stockholder proponents are required to send companies a copy of any correspondence that the proponents elect to submit to the Commission or 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 Submission

The Company received the Proposal on September 21, 2021. A full copy of the Proposal is attached hereto as Exhibit A. The Proposal is as follows (typographical errors in the text below appeared in the original Proposal):

Shareholders request that the PayPal board of directors compare the PAYPAL CODE OF BUSINESS CONDUCT AND ETHICS (the Code) with the actual operations of the company.

The PayPal Code of Business Conduct and Ethics (the Code”) says “... because we believe that managing and moving money is a right for all citizens, not just the affluent. We believe that full participation in the global economy is a right, not a privilege. We have an obligation to empower people to exercise this right and improve financial health”. And goes on to say “We must be bold and innovative and execute flawlessly...” The “Code” “is at the center of everything we do. It goes beyond policies, rules and laws Behaving ethically and responsibly means doing the right thing in all situations”

To quote CEO Dan Schulman: “We have a noble mission at PayPal, to democratize financial services. Together as one team, we work every day to improve the financial health of individuals and families and create economic opportunity for small businesses and merchants of all sizes”

These high ideals are not currently being practiced by PayPal. PayPal now notifies some users that their account is frozen, their use of PayPal has been terminated and the balance of money in their account frozen, the decision cannot be appealed, they may have done something wrong, and PayPal has no obligation to explain anything more. Who on the PayPal board of directors would accept such an answer as being ethical if it were directed at them?

PayPal is not executing flawlessly and is denying people “their right” to move money and in some cases even remain in business. If people complain they are told that they gave up all rights when they agreed to PayPal’s terms of service. Even people not permanently banned often have a great deal of difficulty restoring their accounts.

PayPal is misusing their fraud modeling system. Currently managers do not seem to understand their algorithms sufficiently to give any specific reasons for termination of service.

Basis for Exclusion

We hereby respectfully request the Staff concur in our view that the Proposal may be excluded from the Company's 2022 Proxy Materials pursuant to Rule 14a-8(i)(7) because the Proposal relates to the Company's ordinary business, and Rule 14a-8(i)(10) because the Company has already substantially implemented the Proposal.

Background

The Proponent's interest in the matters described in the Proposal appear to originate out of a personal claim after a hold was placed on the Proponent's PayPal account in accordance with our policies and practices. The Proponent expressed frustration regarding the suspension of his account and requested additional information and made comments to us in other public forums similar to those set forth in the Proposal's supporting statement. We communicated with the Proponent regarding the Proponent's account status in accordance with our policies. The Proponent submitted a shareholder proposal to the Company for inclusion in the proxy materials for our 2021 Annual Meeting. The Staff permitted exclusion of that proposal as relating to the Company's ordinary business matters. *PayPal Holdings, Inc.* (April 2, 2021). We note that while the Proposal has been broadened compared to last year's proposal to refer to compliance with the Company's Code of Business Conduct and Ethics, the substance of the supporting statement remains substantially unchanged.

Analysis

I. The Proposal May Be Excluded Under Rule 14a-8(i)(7) Because It Relates to the Company's Ordinary Business Matters.

Pursuant to Rule 14a-8(i)(7), a shareholder proposal may be excluded if it "deals with a matter relating to the company's ordinary business operations." According to the Commission, 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." Exchange Act Release No. 34-40018 (May 21, 1998) (the "1998 Release"). In the 1998 Release, the Commission noted that a central consideration for determining whether the ordinary business exclusion applies is whether the subject matter of the proposal relates to a task "so fundamental to management's ability to run a company on a day-to-day basis that [it] could not, as a practical matter, be subject to direct shareholder oversight." In seeking to determine the Company's compliance with its Code of Business Conduct & Ethics (the "Code") and, specifically, how the Company monitors and applies anti-fraud measures in and related to its customer accounts, the Proposal implicates this central consideration and does not raise a significant policy issue that would transcend the ordinary business of the Company.

- a. *The subject matter of the Proposal is within the ordinary business of the Company because it relates to the Company's compliance with the Code.*

The Proposal requests that the Company's Board of Directors (the "Board") "compare the PAYPAL CODE OF BUSINESS CONDUCT AND ETHICS (the Code) with the actual operations of the company." The Proponent's supporting statement juxtaposes excerpts from the version of the Code published in 2020 (the "2020 Code") with the Proponent's commentary on the Company's perceived failings.¹

As the Proposal fails to specify the form the requested "comparison" would take, this letter addresses the significant precedent for exclusion based on the evaluation of the Company's compliance with Code provisions generally as well as the establishment of a separate compliance group or committee to conduct such evaluation. In both cases, monitoring and reporting compliance with the Code is part of the ordinary business of the Company, as overseen by the Board. As described in detail below, the Company employs multiple mechanisms to ensure such compliance and oversight.

The Staff has consistently determined that proposals that relate to the promulgation and monitoring of, and compliance with, codes of conduct may be excluded pursuant to Rule 14a-8(i)(7) because they relate to matters involving ordinary business operations. *See, e.g., Verizon Communications, Inc.* (Jan. 10, 2011) (concurring with the exclusion of a proposal directing the board to form a Corporate Responsibility Committee charged with monitoring the company's commitment to integrity, trustworthiness, and reliability—and the extent to which it lived up to its Code of Business Conduct, as "relating to [the company's] ordinary business operations" and "concerning adherence to ethical business practices"); *The Walt Disney Company* (Dec. 12, 2011) (concurring in the exclusion of a proposal requesting a report on board compliance with the Walt Disney Company's code of business conduct and ethics for directors, stating that "[p]roposals that concern general adherence to ethical business practices and policies are generally excludable under [R]ule 14a-8(i)(7)"); and *International Business Machines Corp.* (Jan. 7, 2010) (concurring with exclusion of the proposal where the proponent requested IBM restate and enforce its standards of ethical behavior on the basis that "[p]roposals that concern general adherence to ethical business practices are generally excludable under rule 14a-8(i)(7)").

In considering tasks that are fundamental to management's ability to run the company on a day-to-day basis, the fundamental task at issue is that of monitoring the Company's operations to ensure compliance with the Code, and, in particular, as the Code may apply to

¹ The current version of the Code, published in 2021, which includes substantively similar provisions to those cited in the Proposal, is readily accessible through the "Responsible Business Practices" link on the landing page of the Company's website at www.paypal.com or through the "How We Work" link at <https://about.pypl.com/how-we-work>.

decisions involving the freezing of customer accounts. Given the nature of the Company's financial technology business, this issue is of particular importance to the Company's operations. The Company is one of the world's largest financial technology companies, supporting 15.4 billion payment transactions in more than 200 markets, with total payment volume of over \$936 billion, in 2020. The financial technology industry is heavily regulated and concerns relating to the compliant and ethical management of customer accounts is central both to the Company's core competencies as well as its day-to-day operations. In fact, the Company's ability deliver value for its customers and shareholders depends on a strong foundation of customer and public trust in its platform and products. For these reasons, the Company believes that compliance with its Code, including implementing and enforcing rigorous procedures for customer accounts, is "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."

As noted, the Proposal does not state the form to be taken by the requested comparison between the Code and Company operations. However, even when shareholder proposals specify those details, the Staff has consistently declined to recommend enforcement action against companies that omitted shareholder proposals relating to compliance with their codes of conduct. One common request in shareholder proposals dealing with a company's code of conduct is that the company either produce a report related to the code or form a special oversight committee to ensure compliance. In *The Walt Disney Company*, supra, the Staff concurred in the exclusion of a proposal requesting a report on board compliance with the Walt Disney Company's code of business conduct and ethics for directors. *See also, e.g., Verizon Communications, Inc.*, supra; *Sprint Nextel Corp.* (Mar. 16, 2010) (concurring with the exclusion of a proposal where the proponent requested that the board "cause the company to explain in its next annual report why it has failed to adopt an ethics code that is reasonably designed to deter wrongdoing by its CEO," and to promote ethical conduct, securities law compliance, and accountability for adherence to the ethics code by the CEO, noting that the proposal concerned "adherence to ethical business practice and the conduct of legal compliance programs"); and *AES Corp.* (Jan. 9, 2007) (concurring with exclusion of the proposal where the proponent sought to have AES establish an ethics oversight committee). In each of these instances, proposals relating to a company's code of conduct, including oversight of and adherence thereto, were deemed to be excludable as ordinary business.

- b. The subject matter of the Proposal is within the ordinary business of the Company because it deals with procedures for handling customer accounts.*

While the Proposal is drafted with a broad request for the Board to compare the Code with the Company's actual operations, the supporting statement makes clear that the Proposal is specifically focused on concerns about the Company's procedures for handling customers' accounts, which is clearly within the ordinary business of the Company, and is therefore excludable under Rule 14a-8(i)(7). The Staff has consistently recognized that procedures for

handling the accounts of a company's customers fall within the "ordinary business" exception. In fact, the substance of the supporting statement is substantively similar to a proposal submitted to the Company by the same Proponent last year in which the Proponent requested that the Board "take all necessary steps to insure that PayPal users do not have accounts frozen or the use of PayPal services terminated without giving specific, good and substantial reasons to the user for so doing" and that "fraud-modeling software should be used only for picking users to be examined by a human being and not for rejecting customers solely by computer algorithm" (the "2021 Heagy Proposal"). *PayPal Holdings, Inc.* (April 2, 2021). The Staff concurred in the exclusion of the 2021 Heagy Proposal under Rule 14a-8(i)(7) as involving the Company's ordinary business operations. *See also Wells Fargo & Co.* (Jan. 17, 2017) (concurring with the exclusion of a proposal requesting the CEO assume the responsibility to cash checks and manage aspects of its brokerage customer accounts, noting that the proposal "relate[d] to procedures for handling customer accounts"); *Zions Bancorporation* (Feb. 11, 2008) (concurring with the exclusion of a proposal under Rule 14a-8(i)(7) requesting the company's board to ensure that the "termination of any customer account by a subsidiary of the corporation's branch . . . be deferred until the matter can be heard in arbitration or by a civil court, in any event, termination to be deferred for 180 days pending such independent evaluation of the company's position," noting that the proposal related to "[the company's] ordinary business operations (i.e., procedures for handling customer accounts)"); and *Citicorp* (Jan. 8, 1997) (concurring with the exclusion of a proposal relating to the company's monitoring of illegal transfer through company accounts and noting that the proposal "deal[t] with [the company's] regular policies and procedures governing relationships with customers designed to prevent illegal banking transactions, a matter which relates to the conduct of [the company's] ordinary business operations").

In this case, it is clear that the Proposal seeks to manage the Company's procedures for reviewing and handling its customer accounts by stating such procedures are not "ethical," and that they "[deny] people "their right" to move money and in some cases even remain in business." The Proposal also alleges that the Company is "misusing [its] fraud modeling system," and incorrectly states that "managers do not seem to understand their algorithms sufficiently to give any specific reasons for termination of service." In short, the Proposal seeks to dictate the Company's process for addressing activity involving customer accounts.

Customer accounts maintained by the Company are subject to suspension or termination for many reasons as required by law or Company policy. A current version of the Company's User Agreement (the "User Agreement"), which is easily accessible through the "Legal" link on the landing page of the Company's website at www.paypal.com and sets forth various provisions related to suspension and termination of accounts, as well as holds, limitations and restrictions. The User Agreement also clearly states that the Company has "no obligation to disclose the details of our risk management or security procedures to you," when explaining that regulations or governmental authorities may preclude disclosure to customers about certain limitations on accounts. These detailed policies are designed to balance the complex regulations and other considerations that enable the Company to meet both its

obligations under applicable laws and the requirements of its customers. These provisions of the User Agreement put customers on notice of the rights and obligations that may affect the Company's actions and communications regarding customer accounts.

The Proposal's attempt to dictate the Company's procedures related to handling customer accounts is analogous to the proposals cited above because it attempts to dictate the Company's management of its customer accounts, including the design and administration of Company policies and procedures like those set forth in the User Agreement. Specifically, the Proposal addresses communications with customers and the process used to identify and prevent fraud or other suspicious activity related to customer accounts, each of which is fundamental to the Company's day-to-day operations and therefore relates to the conduct of the Company's ordinary business operations. As in *Citicorp*, the Proposal is concerned with the Company's policies and procedures governing relationships with customers designed to prevent illegal or fraudulent transactions, and, as in *Zions Bancorporation*, the Proposal is concerned with processes for suspending or terminating customer accounts.

c. The subject matter of the Proposal is within the ordinary business of the Company because it deals with customer relations.

The Proposal's supporting statement also makes clear that the Proposal is concerned with the Company's customer relations, as was also the case with the 2021 Heagy Proposal. Precedent makes clear that matters relating to customer relations include policies and practices that govern customer relations. For example, in *BellSouth Corp.* (Jan. 9, 2003), the Staff concurred that a proposal requesting that "directors and officers of Bell South [sic] Corporation . . . institute procedures to correct personel [sic] and computer errors and omissions," stemming from the proponent's concern regarding "several uncorrected operating errors" in customer accounts, was excludable under Rule 14a-8(i)(7) because it concerned the company's "customer relations." Similarly, in *Prudential Financial* (Jan. 10, 2013), the Staff concurred that a proposal directing the company to correctly state "the fees and charges and the investment performance" in the quarterly statements provided to the company's annuity participants was excludable because it "concern[ed] customer relations" and "account information provided to customers." See also *Houston Industries, Inc.* (Mar. 3, 1999) (permitting the exclusion of a proposal requiring that the company respond to customer complaints within 10 business days); *AT&T Corp.* (Feb. 8, 1998) (permitting the exclusion of a proposal regarding policies for customer service); *The Bank of New York Co., Inc.* (Mar. 11, 1993) (permitting the exclusion of a proposal to require the company to appoint a special employee to provide customers and stockholders with information concerning their bank accounts when the company argued that the proposal related to day-to-day customer service operations).

Consistent with the precedents above, the Proposal is excludable because it requests that the Company adopt certain procedures for communicating with customers about certain matters involving customer accounts and the processes the Company uses to make decisions

about customer accounts. The Company believes its communications policies and practices are currently designed to meet the needs of its customers. At the same time, the Company is committed to protecting customer accounts and ensuring compliance with applicable laws and regulations. As a result, a fundamental part of the Company's day-to-day operations is adopting and implementing customer communications and account management oversight procedures that balance all of these considerations. The Proposal impermissibly seeks to create stockholder oversight of these areas. Accordingly, the Proposal is excludable under Rule 14a-8(i)(7) because it relates to customer relations well within the purview of the Company's ordinary business operations.

d. The Proposal does not raise a significant social policy issue for purposes of Rule 14a-8(i)(7).

In the past, the Staff has made limited exceptions to the ordinary business exclusion rule for proposals that “focus[ed] on sufficiently significant social policy issues” that “transcend the day-to-day business matters.” *See* 1998 Release; Staff Legal Bulletin No. 14C (June 28, 2005). This exception applies to “issues with a broad societal impact,” rather than specifically to issues “of significance for the company.” *See* Staff Legal Bulletin No. 14L (Nov. 3, 2021). This exclusionary rule does not apply here because the Proposal does not raise, and the Proponent does not suggest that the Proposal is intended to raise, any significant social policy issue. Neither the Proposal's general issue of adherence to a company's code of conduct or ethical practices and policies, nor the Proposal's specific focus on issues with respect to customer accounts and customer relations, are significant enough to “transcend ordinary business operations” in the same way that issues such as global warming, animal cruelty, gun violence, nuclear power and safety, etc. may transcend ordinary business.

Moreover, the Staff's decisions make clear that the mere mention of a social policy issue is not enough for a proposal to avoid exclusion under Rule 14a-8(i)(7) – rather, the social policy issue must be the focus of the proposal. *See, e.g., Papa John's International, Inc.* (Feb. 13, 2015) (permitting exclusion of a proposal encouraging the company to add vegan options to its menu, which touched on significant policy issues such as animal welfare and sustainability, because the proposal related to the company's ordinary business and “[did] *not* focus on a significant policy issue”) (emphasis added); and *McDonald's Corp.* (Mar. 22, 2019) (permitting exclusion of a proposal that touched on concerns about animal cruelty because the proposal was “focuse[d] primarily on” the company's ordinary business operations).

The Proposal does not cite any significant policy issue. Even if the general theme of “ethics” were to be considered a significant policy issue, the Proposal, when read together with the supporting statement, is clearly focused on general adherence to and compliance with the code of conduct and the more narrow issues of customer accounts and customer relations. Accordingly, because the text of the Proposal makes clear that it is focused predominantly on the Company's ordinary business operations, the Proposal may be excluded under Rule 14a-8(i)(7).

II. The Proposal May Be Excluded Under Rule 14a-8(i)(10) Because It Has Been Substantially Implemented By The Company.

Rule 14a-8(i)(10) provides that a company may exclude a shareholder proposal from its proxy materials if the company has substantially implemented the proposal. The Commission adopted the “substantially implemented” standard in 1983 after determining that the “previous formalistic application” of the rule defeated its purpose, which is to “avoid the possibility of shareholders having to consider matters which already have been favorably acted upon by the management.” See Exchange Act Release No. 34-12598 (July 7, 1976) and Exchange Act Release No. 34-20091 (Aug. 16, 1983) (the “1983 Release”). Accordingly, the actions requested by a proposal need not be “fully effected” by the company to be excluded; rather, to be excluded, they need only to have been “substantially implemented” by the company. See the 1983 Release.

Applying this standard, the Staff has noted that “a determination that the company has substantially implemented the proposal depends upon whether [its] particular policies, practices and procedures compare favorably with the guidelines of the proposal.” *Texaco, Inc.* (Mar. 6, 1992, recon. granted Mar. 28, 1991). Thus, in situations where a company can demonstrate that it has already taken actions to address the underlying concerns and essential objective of a shareholder proposal, the Staff has concurred that the proposal has been “substantially implemented,” and therefore may be excluded as moot under Rule 14a-8(i)(10). See, e.g., *Bank of New York Mellon Corp.* (Feb. 15, 2019); *Exelon Corp.* (Feb. 26, 2010); and *Exxon Mobil Corp.* (Burt) (Mar. 23, 2009).

As part of the Company’s ordinary business, the Company already has existing processes in place for the Board to oversee compliance of the Company’s actual operations with the Code. Notably, the Audit, Risk and Compliance Committee of the Board (“ARC Committee”) is charged with the following, among its other responsibilities, as articulated in the ARC Committee’s Charter, which is attached hereto as Exhibit B, and which are described and reported on in the Company’s definitive proxy statement for the 2021 annual meeting of stockholders filed with the Commission on April 13, 2021 (the “2021 Proxy”). The list below identifies relevant obligations of the ARC Committee under its Charter:

- Periodically review and approve the Company’s enterprise-wide Compliance Program and Global Financial Crimes framework policies, as appropriate;
- Receive and discuss reports on the Company’s Annual Risk and Compliance Plans;
- Receive and discuss period reports from the Chief Risk Officer and Chief Compliance Officer, and other members of management as appropriate, regarding ongoing enhancements to, and overall effectiveness of, the Company’s enterprise-wide Compliance Program and the Company’s Global Financial Crimes Program;

- Review and approve the Company’s Code of Business Conduct and Ethics;
- Review and discuss reports from management regarding significant reported ethics violations under the Company’s Code of Business Conduct and Ethics and other corporate governance policies; and
- Review and discuss all requests for waivers of the Code of Business Conduct and Ethics involving directors and executive officers and make recommendations to the Board as to whether it should approve any such request.

This oversight by the ARC Committee on behalf of the Board is coordinated with the actions and responsibilities of the Company’s management to ensure adherence to the Code. For example, the Company “take[s] prompt action regarding any conduct that violates the Code and/or the law.” (Code, page 49) The Code notes that the Company’s policy is to “investigate reports of observed or suspected Code violations promptly, thoroughly and in accordance with our legal obligations.” (Code, page 49) In accordance with the Proposal’s request that the Company “compare” its operations with the Code’s requirements, each year, all Company employees “are required to take an online training course about our Code and certify compliance with the Code.” (Code, page 49) As noted in the Code, responsibility for Code enforcement belongs not only to management but to individual employees: “We are all accountable for our actions and for behaving ethically and responsibly. Employees who breach the Code, Company policies or the law may be subject to disciplinary actions in accordance with the PayPal policies and procedures and local employment laws, up to and including termination of employment.” (Code, page 10) For questions on the Code or Company policies, both employees and managers are encouraged to contact the team of Business Ethics Officers (BEOs) to “help evaluate and resolve ethics and compliance issues.” (Code, page 9) Additional resources include the PayPal Integrity Helpline and the Ombuds/Ethics team. Finally, the Board is committed to promulgating ethical conduct. “Responsible Business Practices,” one of the four pillars of the Company’s environmental, social and governance strategy, includes “establishing policies and practices to safeguard trust, ensuring ethical and compliant business operations and securing and protecting customer information.” (2021 Proxy, page 9)

All of these procedures are overseen by the ARC Committee and the Board, as indicated in the ARC Committee Charter. These procedures for monitoring compliance with the Code are most appropriately and effectively handled by management, as overseen by the ARC Committee and the Board, not by shareholders as a group, through the shareholder proposal process. The collective purpose and effect of the foregoing policies and procedures is to ensure that the Board, acting principally through the ARC Committee, oversees the Company’s adherence to the Code through its actual operations, which is exactly what the Proposal requests.

Conclusion

Based upon the foregoing analysis, we respectfully request that the Staff confirm that it will not recommend any enforcement action to the Commission if the Company excludes the Proposal from its 2022 Proxy Materials pursuant to Rule 14a-8. We would be happy to provide any additional information and answer any questions regarding this matter.

Should you have any questions, please contact me at byamasaki@paypal.com.

Thank you for your consideration.

Sincerely,



Brian Y. Yamasaki
Vice President, Corporate Legal
and Secretary

cc: James A Heagy
P.O. Box 27397
San Francisco, CA 94127
Email: [REDACTED] ^{PII}

EXHIBIT A

Proposal
[See Attached]

REQUEST FOR PAYPAL TO FOLLOW ITS CODE OF BUSINESS CONDUCT AND ETHICS

Shareholders request that the PayPal board of directors compare the PAYPAL CODE OF BUSINESS CONDUCT AND ETHICS (the Code) with the actual operations of the company.

The PayPal Code of Business Conduct and Ethics (the Code”) says “...because we believe that managing and moving money is a right for all citizens, not just the affluent. We believe that full participation in the global economy is a right, not a privilege. We have an obligation to empower people to exercise this right and improve financial health”. And goes on to say “We must be bold and innovative and execute flawlessly...” The “Code” “is at the center of everything we do. It goes beyond policies, rules and laws Behaving ethically and responsibly means doing the right thing in all situations”

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PayPal is not executing flawlessly and is denying people “their right” to move money and in some cases even remain in business. If people complain they are told that they gave up all rights when they agreed to PayPal’s terms of service. Even people not permanently banned often have a great deal of difficulty restoring their accounts.

PayPal is misusing their fraud modeling system. Currently managers do not seem to understand their algorithms sufficiently to give any specific reasons for termination of service.

EXHIBIT B

Audit, Risk and Compliance Committee Charter
[See Attached]



CHARTER OF THE AUDIT, RISK AND COMPLIANCE COMMITTEE

PURPOSES AND POLICY

The Audit, Risk and Compliance Committee (the “Committee”) shall provide assistance and guidance to the Board of Directors (the “Board”) of PayPal Holdings, Inc., a Delaware corporation (the “Company”), in fulfilling its oversight responsibilities to the Company’s stockholders with respect to (i) the Company’s corporate accounting and financial reporting practices and the audit of the Company’s financial statements, (ii) the independent auditors’ qualifications and independence, (iii) the performance of the Company’s internal audit function and independent auditors, (iv) the quality and integrity of the Company’s financial statements and reports, (v) reviewing and approving all audit engagement fees and terms, as well as all non-audit engagements with the independent auditors, (vi) producing the report that the rules of the Securities and Exchange Commission (“SEC”) require to be included in the Company’s annual proxy statement, (vii) overseeing the Company’s overall risk framework and risk appetite framework and (viii) the Company’s compliance with legal and regulatory requirements. In discharging these obligations, the Committee shall maintain and foster an open avenue of communication between the Committee and the independent auditors, the Company’s management and internal auditors.

COMPOSITION AND ORGANIZATION

The Committee shall consist of at least three members of the Board of Directors, each of whom (i) is an “independent director,” as defined under the listing standards of The Nasdaq Stock Market and the applicable rules and regulations of the SEC and (ii) otherwise satisfies the requirements for audit committee service imposed by the Securities Exchange Act of 1934, as amended (together with the rules and regulations promulgated thereunder, the “Exchange Act”). All members of the Committee must be able to read and understand fundamental financial statements, including a company’s balance sheet, income statement, and cash flow statement. The Board shall designate at least one member is an “audit committee financial expert,” as defined by Item 407(d)(5) of SEC Regulation S-K. The determination by the Board that a person is an audit committee financial expert will not impose on such person individually, on the Committee or on the Board as a whole, any greater duties, obligations or liability than would exist in the absence of such determination.

The members of the Committee shall be appointed by the Board based upon recommendations by the Company’s Corporate Governance and Nominating Committee. The members of the Committee shall serve at the discretion of the Board. The Committee may, in its discretion, delegate all or a portion of its duties and responsibilities to a subcommittee consisting of one or more members of the Committee. Each subcommittee shall have the full power and authority of the Committee, as to the matters delegated to it. Without limiting the generality of the foregoing, the Committee may, in its discretion, delegate to one or more of its members the authority to pre-approve any audit or non-audit services to be performed by the independent auditors, provided that any such approvals are presented to the Committee at its next

scheduled meeting. The Board shall designate one member of the Committee as the Committee's chairperson.

No director may serve as a member of the Committee if such director serves on the audit committees of more than two other public companies unless the Board determines that such simultaneous service would not impair the ability of the director to effectively serve on the Committee. No Committee member shall have participated in the preparation of the Company's or any of its subsidiaries' financial statements at any time during the past three years.

MEETINGS

The Committee shall hold such regular or special meetings as its members shall deem necessary or appropriate, it being understood that the Committee will ordinarily meet quarterly in advance of the release of quarterly financial results.

In addition, the Committee will separately meet on a periodic basis with management, the director of the internal audit department and the independent auditors to discuss any matters that the Committee or any of these persons or firms believe should be discussed. The Committee shall also meet periodically in separate executive sessions with the Chief Business Affairs and Legal Officer, the Chief Risk Officer, the Chief Compliance Officer, the Chief Accounting Officer and other members of management as it determines appropriate. The Committee may request any officer or employee of the Company or the Company's outside counsel or independent auditors to attend a meeting of the Committee or to meet with any members of, or consultants to, the Committee.

The operation of the Committee will be subject to the provisions of the Bylaws of the Company, the Delaware General Corporation Law, the rules and regulations of the SEC and the listing standards of The Nasdaq Stock Market, each as in effect from time to time.

OVERSIGHT OF INDEPENDENT AUDITORS

The function of the Committee is oversight of the matters applicable to the Committee. The management of the Company is responsible for the preparation, presentation and integrity of the Company's financial statements. Management is responsible for maintaining appropriate accounting and financial reporting principles and policies and internal controls and procedures that provide for compliance with accounting standards and applicable laws and regulations. The independent auditors are responsible for performing an audit of the Company's financial statements in accordance with the standards of the Public Company Accounting Oversight Board ("PCAOB") and expressing an opinion on the conformity of those financial statements with generally accepted accounting principles in the U.S ("GAAP"). The independent auditor is also responsible for expressing an opinion on the effectiveness of PayPal's internal control over financial reporting. In fulfilling their responsibilities hereunder, it is recognized that members of the Committee are not full-time employees of the Company and are not, and do not represent themselves to be, performing the functions of auditors or accountants. As such, it is not the duty or responsibility of the Committee or its members to conduct "field work" or other types of auditing or accounting reviews or procedures or to set auditor independence standards. The Committee relies on the expertise and knowledge of management, the internal audit department, and the independent auditor in carrying out its oversight responsibilities.

The independent auditors for the Company shall report directly to the Committee. The Committee is directly responsible for the appointment, compensation, retention and oversight of the work of the independent auditors (including resolving disagreements between management and the auditors regarding financial reporting).

The Committee shall obtain and review annually a formal written statement from the independent auditors (the “Auditors’ Statement”) describing (a) the auditors’ internal quality-control procedures; (b) any material issues raised by the most recent internal quality control review or peer review of the auditors, or by any inquiry or investigation by governmental or professional authorities, within the preceding five years, respecting one or more independent audits carried out by the auditors, and any steps taken to deal with any such issues; and (c) (to assess the auditors’ independence) all relationships between the independent auditors and the Company, including each non-audit service provided to the Company, and any other matters required to be disclosed pursuant to the applicable requirements of the PCAOB and the SEC.

The Committee shall obtain and review annually a formal written statement from the independent auditors of the aggregate fees billed for each of the last two fiscal years in each of the following categories: (i) professional services rendered by the independent auditors for the audit of the Company’s annual financial statements and review of financial statements included in the Company’s Form 10-Q, or services that are normally provided by the accountant in connection with statutory and regulatory filings or engagements for those fiscal years; (ii) assurance and related services by the independent auditors that are reasonably related to the performance of the audit or review of the Company’s financial statements; (iii) professional services rendered by the independent auditors for tax compliance, planning and advice; and (iv) products and services provided by the independent auditors, other than services described in clauses (i), (ii), and (iii). The written statement shall describe the nature of the services comprising the fees disclosed under clauses (ii), (iii) and (iv).

DUTIES AND RESPONSIBILITIES

In fulfilling its responsibilities, the Committee believes that its functions and procedures should remain flexible in order to address changing conditions most effectively. To carry out its purposes, the Committee shall have the following responsibilities, duties and powers:

1. *Independent auditors.*

(a) Decide whether to appoint, retain or terminate the Company’s independent auditors, including sole authority to approve all audit engagement fees and terms, including scope, extent and procedures of the audit and the compensation to be paid therefor, and to pre-approve all audit and non-audit services to be provided by the independent auditors and to consider whether the outside auditors’ provision of non-audit services to the Company is compatible with maintaining the independence of the outside auditors. The Committee shall monitor and evaluate the auditors’ qualifications, performance and independence on an ongoing basis, and shall be directly responsible for overseeing the work of the independent auditors (including resolving disagreements between management and the auditor regarding financial reporting). In conducting such evaluations, the Committee shall:

- i. Evaluate, together with the Board, the qualifications, performance, internal quality-control procedures and independence of the independent auditors and the lead audit partner and, if so determined by the Committee, recommend that the Board replace the independent auditors or the lead partner;
- ii. Review the opinions of management and the Company’s internal auditors in assessing the independent auditor’s qualifications, performance and independence;
- iii. Discuss with management the timing and process for implementing the rotation of the lead audit partner and the reviewing partner, which rotation must occur not less

than once every five years, and consider whether there should be a regular rotation of the audit firm itself; and

- iv. Obtain annually from the independent auditors the Auditors' Statement (it being understood that the independent auditors are responsible for the accuracy and completeness of the statement), review such statement, and discuss with the independent auditors any relationships or services disclosed (such as the provision of non-audit related services) in the statement that may impact the quality of the audit services or the objectivity and independence of the Company's independent auditors;

- (b) Review, upon completion of the audit, the financial statements to be included in the Company's Annual Report on Form 10-K;

- (c) Confer with the independent auditors, the internal audit team, and senior management of the Company regarding the scope, adequacy and effectiveness of internal accounting and financial reporting controls;

- (d) Meet with the independent auditor prior to the audit to discuss the planning and staffing of the audit;

- (e) Discuss with the independent auditors the results of the annual audit, including any critical audit matters arising from the current period audit, the auditors' assessment of the quality, not just acceptability, of accounting principles, the reasonableness of significant judgments and estimates, the nature of significant risks and exposures, the clarity and adequacy of the disclosures in the financial statements, and any other matters required to be communicated to the Committee by the independent auditors under GAAP and the PCAOB and the SEC; and

- (f) Obtain from the independent auditors in connection with any audit a timely report relating to the Company's annual audited financial statements describing all critical accounting policies and practices to be used, all alternative treatments of financial information within GAAP that have been discussed with management, ramifications of the use of such alternative disclosures and treatments, and the treatment preferred by the independent auditors, and any material written communications between the independent auditors and management, such as any "management" letter or schedule of unadjusted differences.

2. Internal accounting department.

- (a) As necessary, review the appointment or replacement of the Company's Chief Accounting Officer.

3. Internal audit team.

- (a) Evaluate the cooperation received by (i) the independent auditors during the independent auditors' audit examination and (ii) the internal audit department, including any restrictions on the scope of their activities or access to required records, data and information;

- (b) Review the appointment and replacement of the Vice President, Risk and Internal Audit who shall report to the Committee;

(c) Review, evaluate and approve the compensation and performance of the senior Chief Internal Audit Executive;

(d) Review and approve the Internal Audit Charter on an annual basis;

(e) Review the significant reports to management, or summaries thereof, prepared by the internal audit department, management's responses and the status of associated remediation plans;

(f) Review and approve the annual risk-based audit plan and any significant changes to the annual audit plan; and

(g) Evaluate internal audit department responsibilities, budget and staffing.

4. Financial reporting principles and policies and internal controls and procedures.

(a) Consider and discuss with the independent auditors any reports or communications (and management's and/or the internal audit department's responses thereto) submitted to the Committee by the independent auditors required by applicable accounting standards;

(b) Confer with the independent auditors, the internal audit team and senior management in separate executive sessions to discuss any matters that the Committee, the independent auditors, the internal audit team or senior management believe should be discussed privately with the Committee;

(c) Review with the Company's Chief Business Affairs and Legal Officer, Chief Risk Officer and/or Chief Compliance Officer, as applicable, any significant legal, compliance or regulatory matters that could have a material impact on the Company's financial statements, business or compliance policies, including material notices to or inquiries received from governmental agencies;

(d) Establish procedures for the receipt, retention and treatment of complaints received by the Company regarding accounting, internal accounting controls or auditing matters, and for the confidential, anonymous submission by Company employees of concerns regarding questionable accounting or auditing matters;

(e) Discuss the types of financial information and earnings guidance (including the use of "pro forma," "adjusted" or other non-GAAP financial measures), and the types of presentations made, to analysts and rating agencies;

(f) Discuss generally disclosure of key performance metrics, including how the measures are calculated or determined, whether they are consistently prepared and presented and how the Company's disclosure controls and procedures relate to disclosure of such measures;

(g) Establish hiring policies for employees and former employees of the independent auditors. These policies shall provide that no former employee of the independent auditors may become the Chief Executive Officer, Chief Financial Officer, Vice President, Risk and Internal Audit, Chief Accounting Officer or Controller (or serve in a similar capacity) if such person participated in any capacity in the Company's audit within the one-year period preceding the date of the initiation of the audit;

(h) Discuss with the independent auditors and management the internal audit department responsibilities, budget and staffing and any recommendations regarding the internal audit department;

- (i) Review the significant findings to management prepared by the internal audit department and management's responses;
- (j) Discuss earnings press releases;
- (k) Discuss the Company's treasury activities (including with respect to its capital structure, investments and cash management) and related risks; and
- (l) Discuss the Company's tax strategies and related risks.

5. Reporting and recommendations.

- (a) Prepare the report of the Committee and any other disclosures required by the rules of the SEC to be included in the Company's annual proxy statement and recommend to the Board that the audited financial statements be included in the Company's Annual Report on Form 10-K;
- (b) Report to the Board on a regular basis and from time to time or whenever it shall be called upon to do so, and make recommendations to the Board as described in this charter and with respect to other matters as the Committee may deem necessary or appropriate;
- (c) Consider any reports submitted to the Committee by the independent auditors required by any applicable law or regulation;
- (d) Meet with management, the independent auditors and, if appropriate, the Chief Accounting Officer to discuss: the scope of the annual audit, the audited financial statements and quarterly financial statements including the Company's disclosures under "Management's Discussion and Analysis of Financial Condition and Results of Operations"; any significant matters arising from any audit, including any audit problems or difficulties, whether raised by management, the internal audit department or the independent auditors, relating to the Company's financial statements; any audit problems or difficulties, including any restrictions on the scope of the independent auditors' activities or access to requested information, and any significant disagreements with management; any critical audit matters; any "management letter" or "internal control" letter issued, or proposed to be issued; any major issues regarding accounting principles and financial statement presentations, including any significant changes to the Company's auditing and accounting principles, policies, controls, procedures and practices, and any major issues as to the adequacy of the Company's internal controls and any special audit steps adopted in light of material control deficiencies; analyses prepared by management and/or the independent auditors setting forth significant financial reporting issues and judgments made in connection with the preparation of the financial statements, including analyses of the effects of alternative GAAP methods on the financial statements; and the effect of regulatory and accounting initiatives, as well as off-balance sheet structures, on the financial statements of the Company; and
- (e) Inquire of the Company's Chief Executive Officer and Chief Financial Officer as to the existence of any significant deficiencies in the design or operation of the Company's internal controls that could adversely affect the Company's ability to record, process, summarize and report financial data, any material weaknesses in internal controls, and any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal controls.

6. Compliance Program.

- (a) Periodically review and approve the Company's enterprise-wide Compliance Program and Global Financial Crimes framework policies, as appropriate;

- (b) Receive and discuss reports on the Company's Annual Risk and Compliance Plans;
- (c) Review and discuss periodic reports from the Chief Risk Officer and Chief Compliance Officer, and other members of management as appropriate, regarding ongoing enhancements to, and overall effectiveness of, the Company's enterprise-wide Compliance Program and the Company's Global Financial Crimes Program;
- (d) Review and discuss compliance risks, the level of compliance risk, management actions on significant compliance matters (e.g., actions taken to remediate significant compliance issues, progress of major compliance initiatives, and remediation progress of open regulatory actions) and reports concerning the Company's compliance with applicable law and regulation;
- (e) Review and discuss significant examination reports from regulatory authorities, or summaries of the same;
- (f) Review and discuss reports on any key organizational changes within the Company to ensure the Company's Compliance function has the appropriate size, skills, stature and independence;
- (g) Review and discuss reports from management regarding significant reported ethics violations under the Company's Code of Business Conduct and Ethics and other corporate governance policies;
- (h) Review and discuss reports on selected compliance topics as management or the Committee deems appropriate;
- (i) Periodically review and approve the Company's Code of Business Conduct and Ethics; and
- (j) Review and discuss all requests for waivers of the Code of Business Conduct and Ethics involving directors and executive officers and make recommendations to the Board as to whether it should approve any such request.

7. Risk Program.

- (a) Periodically review and approve the Company's enterprise-wide risk management program framework policy, including the Company's risk appetite framework, and other risk management policies, as appropriate;
- (b) Oversee and assess the Company's overall risk management framework, including policies and practices established by management to identify, assess, measure and manage key current and emerging risks facing the Company, including, but not limited to, financial crimes, regulatory compliance, crime, technology, operational, liquidity, credit, , and strategic risks;
- (c) Review and discuss periodic reports from the Chief Risk Officer and Chief Compliance Officer, and other members of management, regarding ongoing enhancements to, and overall effectiveness of, the Company's risk management program, including corrective actions taken by management to address risk issues (including those identified by management, internal audit or regulatory reviews), the progress of key risk initiatives and the implementation of risk management enhancements;
- (d) Review and discuss reports on any key organizational changes within the Company to ensure the Company's risk function has the appropriate size, skills, stature and independence; and

(e) Obtain and review reports on selected risk topics as management or the Committee deems appropriate.

8. Other.

(a) Review and approve any proposed related party transactions in accordance with the Company's Related-Person Transaction Policy; and

(b) Undertake any other responsibilities expressly delegated to the Committee by the Board from time to time relating to audit, risk or compliance matters.

ANNUAL EVALUATION

The Committee shall produce and provide to the Board on an annual basis an evaluation of the Committee's performance of its duties under this charter. The evaluation shall be conducted in such a manner as the Committee deems appropriate. Any member of the Committee may present the evaluation to the Board either orally or in writing.

The evaluation shall also include an assessment by the Committee of the adequacy of this charter and any recommendations to improve this charter.

RESOURCES AND AUTHORITY OF THE COMMITTEE; RETENTION OF ADVISORS

The Committee shall have the resources and authority appropriate to discharge its duties and responsibilities and shall be empowered to conduct its own investigation into issues related to its duties and responsibilities, including the authority to select, retain, terminate, and approve the fees and other retention terms of special counsel or independent counsel or other experts and advisors, as it deems necessary or appropriate, without seeking approval of the Board or management. The Committee shall receive appropriate funding from the Company, as determined by the Committee, for payment of compensation to the independent auditors and any other advisors retained by the Committee and ordinary administrative expenses of the Committee that are necessary or appropriate in carrying out its duties.

MINUTES AND REPORTS

Minutes of each meeting, and each written consent to take action without a meeting, will be kept and distributed to each member of the Committee, members of the Board who are not members of the Committee, and the Secretary of the Company. The Committee shall produce a summary of the actions taken at each Committee meeting, or pursuant to each written consent to take action without a meeting, which shall be presented to the Board at the next Board meeting.

Last Approved: January 21, 2021

February 4, 2022

VIA EMAIL (shareholderproposals@sec.gov)

SEC Division of corporation Finance
Office of Chief Counsel
U.S Securities and Exchange Commission
100 F Street, NE
Washington, DC 29549

Re: PayPal Holdings, Inc.
Stockholder Proposal of James A. Heagy

Ladies and Gentlemen:

This letter is submitted by James A. Heagy as a rebuttal of the allegations in the “No Action Letter” submitted by PayPal Holdings. A copy of this letter is concurrently sent to Bryan Y. Yamasaki, Vice President. Corporate and Legal and Secretary for PayPal Holdings.

Rebuttal to PayPal’s Justifications for Exclusion

The Company’s response to the Proposal claims that the Company has already substantially implemented the proposal and offers an 8-page document Exhibit B. Charter of the Audit, Risk and Compliance Committee. This response is totally inadequate. It is clear the 8-page document is about audits and risk to the Company’s assets with only a slight reference to ethics on one of 8 pages.

Throughout the Company’s argument it attempts to link the 2022 proposal to the previous 2021 proposal which suggested several procedures by stating “It is clear that the Proposal seeks to manage the Company’s procedures.” The 2022 Proposal does no such thing. It does not ask the Company to restate or enforce its code of ethics as alleged. Nor does it request the Board to write any report, form any committee’ issue any proclamation or change the way it handles customer accounts.

The Proposal gives several examples of how customers have been treated, none of which have been disputed by the Company. The Proposal then asks, “Who on the Board of Directors would accept such answers as being ethical if directed toward them?” The Proposal does not ask the directors to write any report or even acknowledge publicly their conclusion. The hope of the suggestion is that upon reflection, the board members will realize that a change should be made.

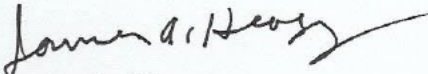
An examination of topics concerning frozen accounts or money seized on the PayPal-community self-help web site shows tales of woe by many thousands of PayPal customers who feel abused and robbed by PayPal. These topics have been accessed more than 50,000 times.

The Company apparently does not consider Ethics very important, quoting instead animal cruelty, gun violence, and nuclear power and safety as worthy topics to transcend other considerations. Yet the problems with all those subjects only arise when there is a lack of ethics on the part of the individuals involved.

Conclusion

The Company's request for no action on the part of the SEC should be declined. Should you have any questions please contact me at [REDACTED] ^{PII}.

Sincerely,



James A. Heagy

Proponent of the 2022 proposal

cc: Brian Y. Yamasaki
byamasaki@paypal.com