



DIVISION OF  
CORPORATION FINANCE

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

March 25, 2022

Brian V. Breheny  
Skadden, Arps, Slate, Meagher & Flom LLP

Re: JPMorgan Chase & Co. (the "Company")  
Incoming letter dated January 11, 2022

Dear Mr. Breheny:

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

The Proposal requests that the Company issue a report, annually, of pay and total estimated compensation for each role, broken down by location, for the prior year giving the mean, median, and pay band (high/low) for the role, both weighted and unweighted for cost of living adjustments.

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 ordinary business matters and does not focus on sufficiently significant social policy issues. 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).

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: Jan Ott

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January 11, 2022

BY EMAIL ([shareholderproposals@sec.gov](mailto:shareholderproposals@sec.gov))

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

Re: Shareholder Proposal Submitted by Jan Ott

Ladies and Gentlemen:

This letter is submitted on behalf of JPMorgan Chase & Co., a Delaware corporation (the “Company”), pursuant to Rule 14a-8(j) promulgated under the Securities Exchange Act of 1934, as amended (the “Exchange Act”). The Company requests that the staff of the Division of Corporation Finance (the “Staff”) of the U.S. Securities and Exchange Commission (the “Commission”) not recommend enforcement action if the Company omits from its proxy materials for the Company’s 2022 Annual Meeting of Shareholders (the “2022 Annual Meeting”) the shareholder proposal and supporting statement (the “Proposal”) submitted by Jan Ott (the “Proponent”).

This letter provides an explanation of why the Company believes it may exclude the Proposal and includes the attachments required by Rule 14a-8(j). In accordance with Section C of Staff Legal Bulletin No. 14D (Nov. 7, 2008) (“SLB 14D”), this letter is being submitted by email to [shareholderproposals@sec.gov](mailto:shareholderproposals@sec.gov). A copy of this letter also is being sent to the Proponent as notice of the Company’s intent to omit the Proposal from the Company’s proxy materials for the 2022 Annual Meeting.

Rule 14a-8(k) and Section E of SLB 14D provide that shareholder proponents are required to send companies a copy of any correspondence that the shareholder

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

### Background

The Company received the Proposal on September 22, 2021, along with a cover letter from the Proponent and documentation of the Proponent's participation in the Company's Employee Stock Purchase Plan, verifying the Proponent's stock ownership in the Company. Copies of the Proposal, cover letter and related correspondence are attached hereto as Exhibit A.

### Summary of the Proposal

The text of the resolution contained in the Proposal follows:

#### **Resolved:**

Shareholders request that JPMorgan issue a report, annually, of pay and total estimated compensation for each role, broken down by location, for the prior year giving the mean, median, and pay band (high/low) for the role, both weighted and unweighted for Cost of Living Adjustments (COLA). The report should be prepared at reasonable cost, omitting personal identifying information, proprietary information, litigation strategy and legal compliance information, where applicable by law.

### Bases for Exclusion

We hereby respectfully request that the Staff concur in the Company's view that it may exclude the Proposal from the proxy materials for the 2022 Annual Meeting pursuant to Rule 14a-8(i)(7) because the Proposal deals with matters relating to the Company's ordinary business operations.

### Analysis

Under Rule 14a-8(i)(7), a shareholder proposal may be excluded from a company's proxy materials if the proposal "deals with matters relating to the company's ordinary business operations." In Exchange Act Release No. 34-40018 (May 21, 1998) (the "1998 Release"), the Commission stated that the policy underlying the ordinary business exclusion rests on two central considerations. The first recognizes that certain tasks are so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight. The second consideration relates to the degree to

which the proposal seeks to “micro-manage” the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment.

The Commission has stated that a proposal requesting the dissemination of a report is excludable under Rule 14a-8(i)(7) if the substance of the proposal is within the ordinary business of the company. *See* 1998 Release (noting that the first consideration underlying the ordinary business exclusion “relates to the subject matter of the proposal”); Exchange Act Release No. 34-20091 (Aug. 16, 1983) (“[T]he staff will consider whether the subject matter of the special report or the committee involves a matter of ordinary business; where it does, the proposal will be excludable under Rule 14a-8(c)(7).”).

In accordance with the policy considerations underlying the ordinary business exclusion, the Commission has stated that proposals involving the “management of the workforce” relate to ordinary business matters. *See* 1998 Release. Consistent with this guidance, the Staff has permitted exclusion under Rule 14a-8(i)(7) of shareholder proposals relating to general employee compensation. In analyzing shareholder proposals relating to compensation, the Staff has distinguished between proposals that relate to general employee compensation and proposals that relate to executive officer and director compensation, indicating that the former implicate a company’s ordinary business operations and are thus excludable. *See* Staff Legal Bulletin No. 14A (July 12, 2002) (“SLB 14A”) (indicating that under the Staff’s “bright-line analysis” for compensation proposals, companies “may exclude proposals that relate to general employee compensation matters in reliance on Rule 14a-8(i)(7)” but “may [not] exclude proposals that concern only senior executive and director compensation”).

In particular, the Staff has consistently permitted exclusion of shareholder proposals that focus on general employee compensation, even if they would include executive compensation. For example, in *Yum! Brands, Inc.* (Feb. 24, 2015), the proposal requested that the compensation committee of the company’s board prepare a report on the company’s executive compensation policies and suggested that the report include a comparison of senior executive compensation and “store employees’ median wage.” The company argued, among other things, that the proposal was not limited to executive compensation but rather addressed the compensation of the general workforce. In permitting exclusion under Rule 14a-8(i)(7), the Staff noted that the proposal “relates to compensation that may be paid to employees generally and is not limited to compensation that may be paid to senior executive officers and directors.” *See also, e.g., CytRx Corporation* (Jun. 26, 2018) (permitting exclusion under Rule 14a-8(i)(7) of a proposal recommending that the company’s board limit the annual salary and benefit packages of each individual employed by the company, noting that the proposal relates to the “compensation that may be paid to employees

generally and is not limited to compensation that may be paid to senior executive officers and directors”); *Verizon Communications Inc.* (Feb. 23, 2015) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting a review of the company’s executive compensation policies including a comparison of the total compensation package of the top senior executives and the company’s employees’ median wage, noting that the proposal “relates to compensation that may be paid to employees generally and is not limited to compensation that may be paid to senior executive officers and directors”); *Microsoft Corp.* (Sept. 17, 2013) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting, among other things, that the company’s board and/or compensation committee limit the average individual total compensation of senior management, executives and “all other employees the board is charged with determining compensation for,” noting that the proposal “relates to compensation that may be paid to employees generally and is not limited to compensation that may be paid to senior executive officers and directors”); *ENGlobal Corp.* (Mar. 28, 2012) (permitting exclusion under Rule 14a-8(i)(7) of a proposal seeking to amend the stated purpose of the company’s equity incentive plan to “attract and retain key employees, directors, consultants and non-employees by providing them with additional incentives to promote the success of the [c]ompany’s business,” noting that the proposal “relates to compensation that may be paid to employees generally and is not limited to compensation that may be paid to senior executive officers and directors”); *International Business Machines Corp.* (Jan. 22, 2009) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting to limit salary increases for employees of “level equivalent to a 3rd [l]ine [m]anager or above,” noting that the proposal relates to the company’s “ordinary business operations (i.e., general compensation matters)”).

In this instance, the Proposal focuses on the ordinary business matter of the Company’s general employee compensation. In particular, the Proposal’s resolved clause requests that the Company “issue a report, annually, of pay and total estimated compensation for each role, broken down by location, for the prior year giving the mean, median, and pay band (high/low) for the role, both weighted and unweighted for Cost of Living Adjustments (COLA).” By requesting a report on the Company’s compensation for “each role,” without reference to any particular compensation program or policy, the Proposal goes well beyond compensation of just the Company’s executive officers and focuses on the Company’s overall employee compensation. In addition, the Proposal’s supporting statement notes that “[p]ay transparency is a key to a more productive workforce,” which also demonstrates the Proposal’s concern with the Company’s management of its workforce through compensation. When read together, the Proposal’s resolved clause and supporting statement clearly demonstrate that the Proposal’s requested report relates to how the Company compensates its employees, which is a core component of managing a large, global workforce on a day-to-day basis. Decisions with respect to the compensation and management of each Company employee are at the heart of the

Company's business as a global financial services company and are so fundamental to the Company's day-to-day operations that they cannot, as a practical matter, be subject to shareholder oversight. Therefore, the Proposal may be excluded under Rule 14a-8(i)(7) as relating to the Company's general employee compensation.

We note that a proposal may not be excluded under Rule 14a-8(i)(7) if it is determined to focus on a significant policy issue. The fact that a proposal may touch upon a significant policy issue, however, does not preclude exclusion under Rule 14a-8(i)(7). Instead, the question is whether the proposal focuses primarily on a matter relating to the company's ordinary business operations or raises a policy issue that transcends the company's ordinary business, and whether or not the policy issue has a sufficient nexus to the company. *See* 1998 Release; Staff Legal Bulletin No. 14E (Oct. 27, 2009). The Staff has consistently permitted exclusion of shareholder proposals where the proposal focused on ordinary business matters, even though it also related to a potential significant policy issue. For example, in *PetSmart, Inc.* (Mar. 24, 2011), the proposal requested that the company's board require suppliers to certify that they had not violated certain laws regulating the treatment of animals. Those laws affected a wide array of matters dealing with the company's ordinary business operations beyond the humane treatment of animals, which the Staff has recognized as a significant policy issue. In permitting exclusion under Rule 14a-8(i)(7), the Staff noted the company's view that "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.'" *See also, e.g., CIGNA Corp.* (Feb. 23, 2011) (permitting exclusion under Rule 14a-8(i)(7) when, although the proposal addressed the potential significant policy issue of access to affordable healthcare, it also asked CIGNA to report on expense management, an ordinary business matter); *Capital One Financial Corp.* (Feb. 3, 2005) (permitting exclusion under Rule 14a-8(i)(7) when, although the proposal addressed the significant policy issue of outsourcing, it also asked the company to disclose information about how it manages its workforce, an ordinary business matter).

In this instance, the Proposal does not appear to touch on any significant policy issue. However, even if the Proposal did touch on a significant policy issue, the Proposal's overwhelming concern with the Company's general employee compensation demonstrates that the Proposal's focus is on an ordinary business matter. Therefore, even if the Proposal could be viewed as touching upon a significant policy issue, its focus is on ordinary business matters.

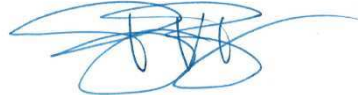
Accordingly, consistent with the precedent described above, the Proposal may be excluded under Rule 14a-8(i)(7) as relating to the Company's ordinary business operations.

Office of Chief Counsel  
January 11, 2022  
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Conclusion

On the basis of the foregoing, the Company respectfully requests the concurrence of the Staff that the Proposal may be excluded from the Company's proxy materials for the 2022 Annual Meeting. If you have any questions or would like any additional information regarding the foregoing, please do not hesitate to contact me at (202) 371-7180. Thank you for your prompt attention to this matter.

Very truly yours,



Brian V. Breheny

Enclosures

cc: John Tribolati  
Corporate Secretary  
JPMorgan Chase & Co.

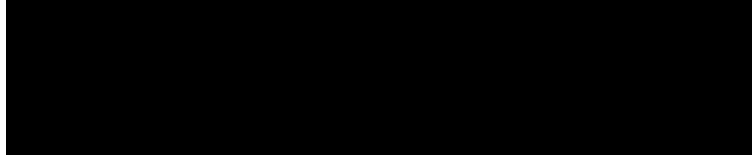
Jan Ott

EXHIBIT A

(see attached)



Office of the Secretary,



To the Office of the Secretary at J.P. Morgan Chase & Co,

I submit the attached/included resolution, at under 500 words, for inclusion in the proxy statement in accordance with Rule 14a-8 of the general rules and regulations of the Securities Exchange Act of 1934, to the Secretary of JPMorgan Chase prior to December 8, 2021 as stated in the 2021 proxy statement.

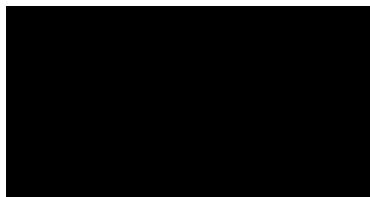
I have continuously held at least \$2,000 in market value of the company's securities entitled to vote on the proposal for at least three years; I intend to continue to hold the requisite amount of securities, determined in accordance with 17 CFR §240.14a-8(b)(1)(i)(A) through the date of the shareholders' meeting for which this proposal is submitted. Proof of ownership attached/included.

I am able to meet with a representative of J.P. Morgan in person or via teleconference no less than 10 calendar days, nor more than 30 calendar days, after submission of this shareholder proposal, Monday through Friday, 9AM to 5PM Eastern Time.

I will attend the annual meeting to move the resolution as required by SEC rules. Please let me know, timely and in writing, if the 2022 shareholder meeting will, in whole or in part, be held via electronic media. If so, I request you will permit me to present in such as fashion if held outside the state of Delaware or if Covid19 guidelines recommend masks indoors as set down by the CDC.

Copies of this cover letter, resolution, and custodian's letter will be sent via email as well as through carrier post. Please expect a copy.

-Jan Ott



**Resolved:**

Shareholders request that JPMorgan issue a report, annually, of pay and total estimated compensation for each role, broken down by location, for the prior year giving the mean, median, and pay band (high/low) for the role, both weighted and unweighted for Cost of Living Adjustments (COLA). The report should be prepared at reasonable cost, omitting personal identifying information, proprietary information, litigation strategy and legal compliance information, where applicable by law.

**Whereas:**

Transparency in pay is enhancing shareholder profits, empowering employees, controlling reputational narrative, and reducing the gender and ethnic wage gaps across the world. JPMorgan has made multiple commitments, in the order of Billions, to social justice causes.<sup>i,ii</sup> It has paid Millions to resolve, when it is accused of failing to meet those obligations.<sup>iii</sup> "Employer[s] profits rise with transparency, increasing 27% ...."<sup>iv</sup> Multiple studies show pay transparency can reduce or erase gender and ethnic pay gaps for most jobs.<sup>v,vi</sup> These same studies show an increase in hiring via transparency.

The National Labor Relations Act (NLRA), forbids management from stopping non-management employees from discussing their terms and conditions of employment, such as compensation. Employees are posting this information, unverified, to resources such as GlassDoor. Some of this information is available via H1B Visa salary directories. Firms such as RobertHalf already post salary guides for the Fin-Tech Industry. Transparency in pay protects the firm's reputation by providing honest, accurate data surrounding compensation.

Pay transparency is a key to a more productive workforce. Studies show when employees are aware of compensation, they're more likely to solicit assistance, leading to higher job performance overall.<sup>vii</sup>

Shareholders deserve the economic benefits, minorities deserve the social equality, the unemployed and underemployed deserve the empowerment, and the firm deserves the performance boost. We should be following the data from prestigious Academic and Industry Experts. Transparent Compensation is the future.

Please Vote Yes: Compensation Transparency

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- <sup>i</sup> Dorgan, Haley. "JPMorgan Chase Commits \$350 Million to Grow Black, Latinx and Women-Owned Small Businesses." J.P. Morgan Press & News, February 25, 2021. <https://www.jpmorganchase.com/news-stories/jpmc-commits-350m-to-grow-black-latinx-women-owned-sb>.
- <sup>ii</sup> Dorgan, Haley. "JPMorgan Chase Commits \$30 Billion to Advance Racial Equity." J.P. Morgan News & Press, October 8, 2020. <https://www.jpmorganchase.com/news-stories/jpmc-commits-30-billion-to-advance-racial-equity>.
- <sup>iii</sup> US, DOL. "JP Morgan Chase Agrees to Pay \$9.8 Million To Resolve Gender Discrimination Allegations: U.S. Department of Labor." U.S. Department of Labor Seal, November 12, 2020. <https://www.dol.gov/newsroom/releases/ofccp/ofccp20201112>.
- <sup>iv</sup> Cullen, Zoe B, and Bobak Pakzad-Hurson. "Equilibrium Effects of Pay Transparency in a Simple Labor Market\*." Harvard Business School. Harvard Business School, April 2020. [https://www.hbs.edu/ris/Publication%20Files/CPH-transparency\\_259249ab-8591-4b4f-a8c1-5e5466ba3139.pdf](https://www.hbs.edu/ris/Publication%20Files/CPH-transparency_259249ab-8591-4b4f-a8c1-5e5466ba3139.pdf).
- <sup>v</sup> PayScale. "PayScale Research Shows Pay Transparency Can Erase the Gender Pay Gap for Most Jobs and Industries." AP NEWS. Associated Press, January 22, 2020. <https://apnews.com/press-release/pr-globenewswire/f8eeb51e0992d206db1f7e0c28dc3ae8>.
- <sup>vi</sup> 19, James L. November, and Allen Z. November 19. "Counteracting Negotiation Biases Like Race and Gender in the Workplace." PON. Harvard Law School, November 19, 2020. <https://www.pon.harvard.edu/daily/leadership-skills-daily/counteracting-racial-and-gender-bias-in-job-negotiations-nb/>.
- <sup>vii</sup> Belogolovsky, E., Bamberger, P., Alterman, V. et al. Looking for Assistance in the Dark: Pay Secrecy, Expertise Perceptions, and Efficacious Help Seeking Among Members of Newly Formed Virtual Work Groups. *J Bus Psychol* 31, 459–477 (2016). <https://doi.org/10.1007/s10869-015-9427->