



DIVISION OF  
CORPORATION FINANCE

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

April 19, 2022

Jan Ott

Re: JP Morgan Chase & Co. (the "Company")  
Incoming letter dated April 1, 2022

Dear Mr. Ott:

This letter is in response to your correspondence concerning the shareholder proposal (the "Proposal") you submitted to the Company. On March 25, 2022, we issued a no-action response expressing our informal view that the Company could exclude the Proposal from its proxy materials for its upcoming annual meeting. You have asked us to reconsider our position.

The Division "endeavors to act upon a request for reconsideration within a reasonable time, giving due consideration to the demands of the management's schedule for printing its proxy materials." *See* Statement of Informal Procedures for the Rendering of Staff Advice with Respect to Shareholder Proposals, Exchange Act Release No. 34-12599 (July 7, 1976).

The Company has informed us that when it received your request for reconsideration, the Company had already begun printing its 2022 proxy materials. In light of these timing considerations, we deny the request for reconsideration.

Sincerely,

Rule 14a-8 Review Team

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

Friday, April 1, 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: Re: Shareholder Proposal Submitted by Jan Ott

Members of the staff of the Division of Corporation Finance:

This letter comes as opposition to a No-action request sent by Brian V. Breheny of Skadden, Arps, Slate, Meagher & Flom LLP ("Outside Counsel"), acting as outside counsel to J.P. Morgan Chase & Co. (the "Company" or the "Firm") on January 11<sup>th</sup>, 2022. I, the shareholder who initiated the resolution submission, was only made aware of this opposition letter on March 4<sup>th</sup>, 2022, via an email from Stella Lee, Assistant General Counsel, JP Morgan Chase & Co. I was about to send this letter when I received your notice to the Firm of a recommendation of no action. My letter stating as such to the Firm is attached (Exhibit B). I ask that you reverse this decision based on the below.

The Firm alleges outside council sent a copy of its opposition request to me on January 11<sup>th</sup>, 2022, but has no proof other than electronic documents. Nothing written in this response should be interpreted in any way to suggest that I received this communication. I have no record of receiving an email from outside counsel, nor a record of an opposition letter other than the copy received from Ms. Lee on March 10<sup>th</sup>, 2022. The evidence (Exhibit A) does show that the copy allegedly sent to me was sent *after* the version sent to the staff of the Division of Corporation Finance (the "Staff"). Six paper copies will be sent alongside this electronic version (to [shareholderproposals@sec.gov](mailto:shareholderproposals@sec.gov)) as per 17 CFR § 240.14a-8(k)(1). Both an electronic as well as a paper copy will be sent to the Firm in accordance with Rule 14a-8(k) and Section E of SLB 14D.

I would like to start my rebuttal to the Company's no-action request by entreating it be disregarded by means of procedural requirement. 17 CFR § 240.14a-8(j)(1) clearly states "...The company must simultaneously provide you with a copy of its submission. ..." In this case the Company sent their communication, allegedly, to me after the communication to the Staff. As I would expect a shareholder to be considered ineligible if they held only \$1,999 dollars for 3 years or submitted a resolution at 502 words, I would similarly expect a company to be ineligible for not sending their communication simultaneously, especially considering how trivial it is to do thru electronic media.

If the Firm's request is not rejected on procedural grounds, I offer the following rebuttal. First and foremost, despite what the Firm is alleging, as clearly stated and cited in the original resolution,

"Multiple studies show pay transparency can reduce or erase gender and ethnic pay gaps for most jobs."<sup>ii</sup> The Firm states, "In this instance, the Proposal does not appear to touch on any significant policy issue." Given the inequities publicized in the news, in protests, and in marches throughout our nation in the past year, I find it insulting that they believe race/ethnic and gender equality is not a significant social policy issue. While the submitted resolution does state and cite other benefits that pay transparency has to companies, shareholders, and employees, the idea that a policy that has social good is mutually exclusive from those other goods is absurd. This resolution ought to be voted on by shareholders, and, if aspects of the resolution help them, the Company, the employees, and if the resolution has an impact on social policy of racial and gender injustice, it is more likely to pass. The truth should not invalidate a proposal to affect a great social injustice.

Second, the Firm would lead you to believe that because the resolution deals with pay that the resolution meddles with the ordinary business of the Company, and tries to "micro-manage." The resolution neither prescribes the Company to make any changes to how it establishes, or produces compensation, nor does it "...control every detail..."<sup>iii</sup> surrounding compensation (as micromanage is defined by the Oxford Learner's Dictionaries). The Company in one breath says that this proposal is micro-managing yet in another it states "...without reference to any particular compensation program or policy..." which would be controlling every detail. How would someone without intimate details of the Company's compensations policies make a reference to a particular compensation program or policy? The idea that a specific program should be focused upon seems to be the definition of micromanaging and somehow the Company is trying to state that because the resolution does not do so it is micromanaging and affecting ordinary, day-to-day, business. I don't see how the Company can have it both ways, regardless of the social policy issues raised by the resolution. At no point does this stop the Firm from making "...[d]ecisions with respect to the compensation and management of each Company employee...." The resolution requests transparency about the decisions after they are made.

The Firm states "...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." The resolution does not ask the Company to change any practices it implements concerning employees or how it handles compensation, but rather asks for transparency into those proceedings. Without such transparency individuals would never know whether they are being discriminated against. Many companies function with pay transparency including large institutions such as Starbucks<sup>iv</sup>, Whole Foods<sup>v</sup>, the BBC<sup>vi</sup> and Adobe<sup>vii</sup>. Famously, financial firm Gravity Payments operates with pay transparency. These companies are "...managing a large, global workforce on a day-to-day basis." The US government seems to function with pay transparency.

Third, pay transparency is becoming public law in a number of states and cities, many of which the Company already operates.<sup>viii</sup> Accordingly, the Firm will be required to do this for locations in which it currently operates with more locations adopting these laws every day.

Fourth, the Firm states that the proposal delves "... into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment." The idea that shareholders, who are financially savvy enough to invest in J.P. Morgan stock and take the time to vote

their shares, cannot understand an average of compensation is an insult to both the Staff and the shareholders; not to mention that at least 25% of the stock is held by institutional holders such as Vanguard and BlackRock and 10% is held by mutual funds<sup>ix</sup>. The idea that these entities with voting rights cannot understand employee compensation is not only ludicrous but factually inaccurate.

Fifth, the Company has stated "...the Staff has consistently permitted exclusion of shareholder proposals that focus on general employee compensation, even if they would include executive compensation;" later citing Yum Brands Inc (Feb. 24<sup>th</sup> 2015). This position was overturned by The Securities and Exchange Commission (the "Commission") almost 5 months later when implementing congressional rules surrounding the Dodd-Frank Wall Street Reform and Consumer Protection Act.<sup>x</sup> The Commission already has the Company reporting a median employee income, though one that does not aid in affecting the social policy of racial/ethnic and gender pay disparity.

Throughout their citations they fail to mention the more recent Staff Legal Bulletin No. 14L (CF)[November 3, 2021]<sup>xi</sup>, which rescinds Staff Legal Bulletin Nos. 14I, 14J and 14K (the "rescinded SLBs"). In SBL 14L the Staff state it is

"...realign[ing] its approach for determining whether a proposal relates to 'ordinary business'... is essential for preserving shareholders' right to bring important issues before other shareholders by means of the company's proxy statement, while also recognizing the board's authority over most day-to-day business matters. For these reasons, staff will no longer focus on determining the nexus between a policy issue and the company, but will instead focus on the social policy significance of the issue that is the subject of the shareholder proposal. In making this determination, the staff will consider whether the proposal raises issues with a broad societal impact, such that they transcend the ordinary business of the company."

As the social impact of pay transparency can be cited, as it was in the resolution, but not to the fullest extent due to the word limitation, by many reputable organizations such as Harvard<sup>xii</sup>, TIME<sup>xiii</sup>, CNBC<sup>xiv,xv</sup>, Forbes<sup>xvi</sup>, the AAUW<sup>xvii</sup>, the Guardian<sup>xviii</sup>, the NWLC<sup>xix</sup>. SHRM<sup>xx</sup>, the European Parliament<sup>xxi</sup>, Payscale.com<sup>xxii</sup>, Darden School of Business at the University of Virginia<sup>xxiii</sup>, and the Journal of Business and Psychology<sup>xxiv</sup>, the question of pay transparency being a social policy issue surrounding the gender and racial/ethnic pay gap can be quite resolutely affirmed. These are just some of the citations and sources that readily available using basic research methods. Real world policy experts and researchers are stating that the gender and racial/ethnic pay gap is a social policy problem and that transparency in pay is a means to resolve the issue.

Lastly, the U.S. government has shown that gender and racial/ethnic pay gaps are a social issue of concern and that transparency is paramount to a working market, especially in the instance of the securities industry. The Department of Labor (DOL) has an entire Office of Federal Contract Compliance Programs (OFCCP) to help promote diversity and protect workers. The efforts of the above companies show that despite the work of the OFCCP the issue of diversity equity still exists. The National Labor Relations Board (NLRB) was created to ensure the National Labor Relations Act (NLRA) was upheld and ensure that employers are bargaining in good faith with employees. Transparency in pay allows for that in the absence of collective bargaining. "Congress enacted the federal securities laws to promote fair and transparent securities markets, ... 'substitute a philosophy of full disclosure for the philosophy of caveat emptor and thus to achieve a high standard of business ethics in the securities industry.' [Affiliated Ute Citizens of Utah v. United States, 406 U.S. 128, 151 (1972); accord Lorenzo v. SEC, 139

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s. Ct. 1094, 1103 (2019).]”<sup>xxv</sup> The idea of transparency and full disclosure are ingrained in our systems because the government has acknowledged the social policy impact of such transparency.

**Conclusion:**

Staff Legal Bulletin No. 14L (CF) [November 3, 2021] clearly has a shift in focus to social policy, even when a resolution may affect ordinary business. This resolution is focused on that social policy issue, though not as much cited information could be provided in the resolution as was here in this rebuttal letter, due to the word count limitations. While the focus is on a social policy of gender and ethnic/racial equality, this still needs to be voted on by shareholders and the additional incentives that it is good for employees, the business, and shareholders does not negate the fact that the resolution concerns a deep social policy issue. The two are not mutually exclusive, despite what the Company is trying to say.

I ask that you overturn your recommendation of no action due to both the Firm not following the law by failing to send a simultaneous communication per 17 CFR § 240.14a-8(j)(1) (which I had never received) and also that this resolution has a real chance to make a change for the good of society in closing racial/ethnic and gender pay gaps. I thank you for your time and consideration.

Please feel free to reach out to me with any questions or concerns.

- *Jan C. Ott*

Jan C. Ott

PII



Friday, April 1, 2022

# Exhibit A

Subject: FW: JPMorgan Chase & Co. No-Action Request (Jan Ott)



**Adams, Ryan J** <Ryan.Adams@skadden.com>

to Gillis, David KF, Scott, Linda E, Han, Irene E, Lee, Stella, Breheny, Brian V, Bond, Andrew T

You are viewing an attached message. Gmail can't verify the authenticity of attached message.

Submitted, for your files.

**Ryan J. Adams**

**Skadden, Arps, Slate, Meagher & Flom LLP**

1440 New York Avenue, N.W. | Washington | D.C. | 20005-2111

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[ryan.adams@skadden.com](mailto:ryan.adams@skadden.com)

**From:** Adams, Ryan J (WAS)

**Sent:** Tuesday, January 11, 2022 3:41 PM

**To:** [REDACTED] <sup>PII</sup>

**Cc:** Breheny, Brian V (WAS) <[Brian.Breheny@skadden.com](mailto:Brian.Breheny@skadden.com)>

**Subject:** FW: JPMorgan Chase & Co. No-Action Request (Jan Ott)

Jan Ott,

Please see below / attached.

Best,  
Ryan

**Ryan J. Adams**

**Skadden, Arps, Slate, Meagher & Flom LLP**

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[ryan.adams@skadden.com](mailto:ryan.adams@skadden.com)

**From:** Adams, Ryan J (WAS)

**Sent:** Tuesday, January 11, 2022 3:39 PM

**To:** '[shareholderproposals@sec.gov](mailto:shareholderproposals@sec.gov)' <[shareholderproposals@sec.gov](mailto:shareholderproposals@sec.gov)>

**Cc:** Breheny, Brian V (WAS) <[Brian.Breheny@skadden.com](mailto:Brian.Breheny@skadden.com)>

**Subject:** JPMorgan Chase & Co. No-Action Request (Jan Ott)

Dear Sir or Madam:

On behalf of our client, JPMorgan Chase & Co. ("JPMC"), please find the attached no-action request (and related meeting of stockholders.

Please contact Brian Breheny at (202) 371-7180 or the undersigned if you have any questions or need additional contact information for JPMC and the proponent:

Friday, April 1, 2022

# Exhibit B

Tuesday, March 8, 2022

Office of the Secretary,  
4 New York Plaza,  
New York, NY 10004-2413.  
John H. Tribolati Secretary  
Office of the Secretary at corporate.secretary@jpmchase.com

Re Rc: *Company Statement Relating to Shareholder Proposal – Compensation Transparency*

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

Dear Mr. Tribolati et al.,

I have received your correspondence on 2022.03.04 and am surprised that it states:

As you were notified, JPMorgan Chase & Co. (the "Company") has indicated to the staff of the Division of Corporation Finance (the "Staff") of the Securities and Exchange Commission that it intends to omit from its proxy statement and form of proxy for its 2022 Annual Meeting of Shareholders (collectively, the "2022 Proxy Materials") the shareholder proposal you submitted ("Proposal").

I have not been notified, to the best of my knowledge, that a no action request has been submitted to the Staff, nor have I received a copy of such correspondence. The last documented contact I have in this regards is with Ms. Linda Scott on 2021.10.05 via email as well as a phone call. In that call Ms. Scott did state that the Company may request a no action letter, but at that time had not made a decision.

Unless this correspondence is sent out of order, or the required copy of the letter was sent by mail and is yet to arrive, the company has not simultaneously provided me with a copy of its submission, as is required under 17 CFR §240.14a-8(j)(1). Is it correct to assume that the Company is more than 80-days out from filing its definitive proxy statement and form of proxy with the Commission?

At this time I request information on what method the indication to the Staff was submitted, what date it was submitted, what date my copy was transmitted, evidence of submission to the Staff and myself and when (estimated if a firm date has not been established) the company intends to file its definitive proxy statement and form of proxy with the Commission.

-Jan Ott

PII



Friday, April 1, 2022

# Original No-Action Request

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP  
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FIRM/AFFILIATE OFFICES

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BEIJING  
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LONDON  
MOSCOW  
MUNICH  
PARIS  
SAO PAULO  
SEOUL  
SHANGHAI  
SINGAPORE  
TOKYO  
TORONTO

January 11, 2022

BY EMAIL (shareholderproposals@sec.gov)

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

Re: 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

Office of Chief Counsel  
January 11, 2022  
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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

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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

Office of Chief Counsel  
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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

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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.

Friday, April 1, 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

# No Action Response



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

Friday, April 1, 2022

# Original Resolution

## **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>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</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>vi</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>1</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>2</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>3</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>4</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>5</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>6</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>7</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->

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<sup>i</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>ii</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>iii</sup> <https://www.oxfordlearnersdictionaries.com/us/definition/english/micromanage>

<sup>iv</sup> <https://www.linkedin.com/business/talent/blog/talent-strategy/why-these-companies-are-sharing-how-much-employees-make>

<sup>v</sup> <https://www.cnbc.com/2020/11/05/ceo-john-mackey-on-how-much-you-can-make-working-at-whole-foods.html#:~:text=At%20Whole%20Foods%2C%20every%20employee,source%20of%20motivation%20for%20employees.>

<sup>vi</sup> <https://www.toolbox.com/hr/hr-compliance/articles/pay-transparency-hr-strategy/>

<sup>vii</sup> <https://theorg.com/iterate/the-100-most-transparent-tech-companies-of-2021>

<sup>viii</sup> <https://www.cnbc.com/2022/01/12/states-and-cities-where-employers-must-share-salary-ranges-when-hiring.html>

<sup>ix</sup> <https://finance.yahoo.com/quote/JPM/holders/>, as reported 2021.12.30

<sup>x</sup> <https://www.sec.gov/news/pressrelease/2015-160.html>

<sup>xi</sup> <https://www.sec.gov/corpfin/staff-legal-bulletin-14l-shareholder-proposals>

<sup>xii</sup> <https://www.pon.harvard.edu/daily/leadership-skills-daily/counteracting-racial-and-gender-bias-in-job-negotiations-nb/>

<sup>xiii</sup> <https://time.com/5353848/salary-pay-transparency-work/>

<sup>xiv</sup> <https://www.cnbc.com/2022/01/28/companies-that-arent-transparent-about-pay-will-be-under-fire-says-salary-expert.html>

<sup>xv</sup> <https://www.cnbc.com/2022/01/12/states-and-cities-where-employers-must-share-salary-ranges-when-hiring.html>

<sup>xvi</sup> [forbes.com/sites/kimelsesser/2018/09/05/pay-transparency-is-the-solution-to-the-pay-gap-heres-one-companys-success-story/?sh=533866af5010](https://forbes.com/sites/kimelsesser/2018/09/05/pay-transparency-is-the-solution-to-the-pay-gap-heres-one-companys-success-story/?sh=533866af5010)

<sup>xvii</sup> <https://www.aauw.org/resources/research/simple-truth/>

<sup>xviii</sup> <https://www.theguardian.com/us-news/2020/feb/05/buffer-company-published-every-employee-salary-online-pay-more-equal-gender-gap>

<sup>xix</sup> <https://nwlc.org/resource/promoting-pay-transparency-to-fight-the-gender-wage-gap-creative-international-models/>

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- <sup>xx</sup> <https://www.shrm.org/resourcesandtools/hr-topics/compensation/pages/transparency-shrinks-gender-pay-gap.aspx>
- <sup>xxi</sup> <https://www.rand.org/randeurope/research/projects/equal-pay-gender-wage-gap.html>
- <sup>xxii</sup> <https://www.payscale.com/research-and-insights/pay-transparency/>
- <sup>xxiii</sup> <https://www.nytimes.com/2019/01/20/smarter-living/pay-wage-gap-salary-secrecy-transparency.html>
- <sup>xxiv</sup> <https://psycnet.apa.org/record/2016-01521-001>
- <sup>xxv</sup> <https://www.sec.gov/rules/proposed/2022/33-11013.pdf>

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April 6, 2022

BY EMAIL (shareholderproposals@sec.gov)

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

Re: JPMorgan Chase & Co. – 2022 Annual Meeting  
Response to Request for Reconsideration of  
No-Action Letter Relating to Shareholder Proposal of Jan Ott

Ladies and Gentlemen:

By letter dated March 25, 2022 (the “No-Action Letter”), the Staff of the Division of Corporation Finance (the “Staff”) of the U.S. Securities and Exchange Commission (the “Commission”) stated that it would not recommend enforcement action to the Commission if JPMorgan Chase & Co., a Delaware corporation (the “Company”), were to omit the shareholder proposal and supporting statement (the “Proposal”) submitted by Jan Ott (the “Proponent”) from its proxy materials for the 2022 Annual Meeting of Shareholders (the “2022 Annual Meeting”).

This letter is in response to the letter to the Staff, dated April 1, 2022, submitted by the Proponent requesting that the Staff overturn the No-Action Letter (the “Reconsideration Request”). A copy of this letter is also being sent to the Proponent.

The Company believes the Reconsideration Request should be denied as untimely and without merit. The Staff has routinely denied requests for reconsideration and Commission review when a company has already begun printing its proxy materials. *See, e.g., The Goldman Sachs Group, Inc.* (Mar. 8, 2022, *recon. denied* Mar. 21, 2022); *Pfizer Inc.* (Dec. 22, 2014, *recon. denied* Mar. 10, 2015); *Wells Fargo & Co.* (Feb. 14, 2014, *recon. denied* Mar. 10, 2014, *appeal denied* May 22, 2014) (noting, in each case, that the request for reconsideration was submitted after the company had begun printing its definitive proxy materials); *see also* Statement of Informal Procedures for the Rendering of Staff Advice with Respect to Shareholder

Proposals, Exchange Act Release No. 34-12599 (July 7, 1976) (noting that the Staff's action on requests for reconsideration "giv[e] due consideration to the demands of the management's schedule for printing its proxy materials" and that requests for Commission review should be "received sufficiently far in advance of the scheduled printing date for management's definitive proxy materials to avoid a delay in the printing process").

In this instance, the Company is currently in the process of mailing its proxy materials for the 2022 Annual Meeting to shareholders and had begun the process to print when the Reconsideration Request was received. By way of background, the Proponent submitted the Proposal to the Company on September 22, 2021. Counsel for the Company submitted a no-action request to the Staff, with a copy to the Proponent, on January 11, 2022 (the "No-Action Request"). On March 8, 2022, the Company received correspondence from the Proponent claiming that he had not received a copy of the No-Action Request. After verifying that a copy of the No-Action Request was emailed to the Proponent at the time it was submitted to the Staff, the Company provided another copy of both the relevant correspondence and the No-Action Request to the Proponent on March 9, 2022. On March 25, 2022, the Company and the Proponent received the No-Action Letter from the Staff, concurring that the Company could exclude the Proposal under Rule 14a-8(i)(7) as relating to ordinary business matters.

Immediately upon receiving the No-Action Letter and in reliance on the Staff's response, the Company initiated the process of printing its proxy materials for the 2022 Annual Meeting, which did not include the Proposal. Even though the Company avails itself of the Commission's "notice and access" rules, the Company is printing and mailing approximately 90,000 copies of its proxy materials. On April 4, 2022, the Company filed its definitive proxy statement for the 2022 Annual Meeting with the Commission and began mailing its proxy materials. The 2022 Annual Meeting is scheduled to take place on May 17, 2022. Managing the logistics for the Company's annual meeting is complex and must be set well in advance of the scheduled meeting date.

The Reconsideration Request, however, has not been received sufficiently far in advance for it to be feasibly taken into account for the 2022 Annual Meeting. As noted above, the Company is not just printing, but has begun mailing proxy materials. Any decision to "stop the presses" now would result in an extraordinary waste of materials, would result in significant expense to the Company and its shareholders and would impact the Company's ability to comply with the 40-day notice period required by Rule 14a-16 to use "notice and access," thereby imposing even greater printing and mailing costs. Moreover, this untimeliness is entirely a situation of the Proponent's own making. As conceded in the Reconsideration Request, the Proponent withheld submitting any correspondence until over a week after receiving the No-Action Letter. *See* Reconsideration Request at 1 ("I was about to send this letter when I received your notice to the Firm of a recommendation of no action."). Given this, as well as the uncertainty and expense potentially involved, it would be unfair and unduly burdensome for the Staff to reconsider its decision or the Commission to review the Staff's decision regarding the excludability of the Proposal at this time.

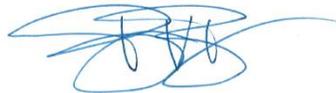
Office of Chief Counsel  
April 6, 2022  
Page 3

In addition, the Reconsideration Request does not provide any valid basis for the Staff to reconsider its decision or, in the alternative, present the matter to the Commission. In this respect, the Reconsideration Request does not present any novel or highly complex issues. Instead, the Proponent claims he did not receive a copy of the No-Action Request when it was submitted to the Staff, yet the No-Action Request was emailed to him when it was submitted to the Staff. See Exhibit A. We have no indication that the email was not delivered on January 11, 2022—there was no error message or other reason to believe the Proponent did not receive the No-Action Request. We regularly communicate with both the Staff and proponents using the same method as was employed here and have not experienced any issues with this method. Moreover, this same method of communication is employed by countless other companies.

The Proponent also attempts to recharacterize the Proposal as focused on racial and gender equality despite this not being within the text of the Proposal. In this regard, the Proponent even concedes that he intends to use the Reconsideration Request as a means to circumvent the procedural requirements of Rule 14a-8(d), stating that “[t]his resolution is focused on that social policy issue, though not as much cited information could be provided in the resolution as was here in this rebuttal letter, due to the word count limitations.” This attempt should be denied, along with the entirety of the Reconsideration Request, for the reasons described above.

Given the timing considerations described above, the Company respectfully requests that the Staff render its decision on an expedited basis. 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

Enclosure

cc: John H. Tribolati  
Corporate Secretary  
JPMorgan Chase & Co.

Jan Ott

EXHIBIT A

(see attached)

**Adams, Ryan J (WAS)**

---

**From:** Adams, Ryan J (WAS)  
**Sent:** Tuesday, January 11, 2022 3:41 PM  
**To:** [REDACTED] PII  
**Cc:** Breheny, Brian V (WAS)  
**Subject:** FW: JPMorgan Chase & Co. No-Action Request (Jan Ott)  
**Attachments:** JPMorgan Chase & Co. No-Action Request (Jan Ott).pdf

Jan Ott,

Please see below / attached.

Best,  
Ryan

**Ryan J. Adams**  
**Skadden, Arps, Slate, Meagher & Flom LLP**  
1440 New York Avenue, N.W. | Washington | D.C. | 20005-2111  
[T: +1.202.371.7526](tel:+12023717526) | [F: +1.202.661.0526](tel:+12026610526) | [M: +1.202.702.0132](tel:+12027020132)  
[ryan.adams@skadden.com](mailto:ryan.adams@skadden.com)

**From:** Adams, Ryan J (WAS)  
**Sent:** Tuesday, January 11, 2022 3:39 PM  
**To:** 'shareholderproposals@sec.gov' <shareholderproposals@sec.gov>  
**Cc:** Breheny, Brian V (WAS) <Brian.Breheny@skadden.com>  
**Subject:** JPMorgan Chase & Co. No-Action Request (Jan Ott)

Dear Sir or Madam:

On behalf of our client, JPMorgan Chase & Co. ("JPMC"), please find the attached no-action request (and related exhibit thereto) with respect to a shareholder proposal submitted pursuant to Rule 14a-8 by Jan Ott for inclusion in the proxy materials to be distributed by JPMC in connection with its 2022 annual meeting of stockholders.

Please contact Brian Breheny at (202) 371-7180 or the undersigned if you have any questions or need additional information. A copy of this request is being sent by email to the proponent. In addition, per recent SEC staff guidance, we have redacted any personally identifiable information. Below please find contact information for JPMC and the proponent:

- Linda Scott, JPMC [REDACTED]
- Irene Han, JPMC [REDACTED]
- Stella Lee, JPMC [REDACTED]
- Jan Ott, Proponent [REDACTED] PII

Very truly yours,  
Ryan

**Ryan J. Adams**  
**Skadden, Arps, Slate, Meagher & Flom LLP**  
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