



DIVISION OF
CORPORATION FINANCE

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

April 7, 2022

Ronald O. Mueller
Gibson, Dunn & Crutcher LLP

Re: Amazon.com, Inc. (the "Company")
Incoming letter dated January 21, 2022

Dear Mr. Mueller:

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

The Proposal asks the board to oversee the preparation of a report on the risks to the Company related to ensuring adequate staffing of its business and operations, including risks associated with tighter labor markets, and how the Company is mitigating or plans to mitigate those risks, and to include a discussion of the extent to which the Company relies on part-time, temporary and contracted workers in each of its three operating segments, and whether staffing considerations have affected any of the Company's decisions about strategy, such as expansion plans or entering new geographies or lines of business.

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: Cambria Allen-Ratzlaff
UAW Retiree Medical Benefits Trust

January 21, 2022

VIA E-MAIL

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

Re: *Amazon.com, Inc.*
Shareholder Proposal of UAW Retiree Medical Benefits Trust
Securities Exchange Act of 1934—Rule 14a-8

Ladies and Gentlemen:

This letter is to inform you that our client, Amazon.com, Inc. (the “Company”), intends to omit from its proxy statement and form of proxy for its 2022 Annual Meeting of Shareholders (collectively, the “2022 Proxy Materials”) a shareholder proposal (the “Proposal”) and statement in support thereof (the “Supporting Statement”) received from the UAW Retiree Medical Benefits Trust (the “Proponent”).

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

- filed this letter with the Securities and Exchange Commission (the “Commission”) no later than eighty (80) calendar days before the Company intends to file its definitive 2022 Proxy Materials with the Commission; and
- concurrently sent a copy of this correspondence to the Proponent.

Rule 14a-8(k) and Staff Legal Bulletin No. 14D (Nov. 7, 2008) (“SLB 14D”) provide that shareholder proponents are required to send companies a copy of any correspondence that the proponents elect to submit to the Commission or the staff of the Division of Corporation Finance (the “Staff”). Accordingly, we are taking this opportunity to inform the Proponent that if the Proponent elects to submit additional correspondence to the Commission or the Staff with respect to the Proposal, a copy of such correspondence should be furnished concurrently to the undersigned on behalf of the Company pursuant to Rule 14a-8(k) and SLB 14D.

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THE PROPOSAL

The Proposal states:

RESOLVED, that shareholders of Amazon.com, Inc. (“Amazon” or the “Company”) ask the Board of Directors to oversee the preparation of a report, at reasonable cost and omitting confidential and proprietary information, on the risks to the Company related to ensuring adequate staffing of Amazon’s business and operations, including risks associated with tighter labor markets, and how Amazon is mitigating or plans to mitigate those risks. The report should include a discussion of the extent to which Amazon relies on part-time, temporary and contracted workers in each of its three operating segments, and whether staffing considerations have affected any of Amazon’s decisions about strategy, such as expansion plans or entering new geographies or lines of business.

A copy of the Proposal and the Supporting Statement, as well as related correspondence with the Proponent, is attached to this letter as Exhibit A.¹

BASES FOR EXCLUSION

We hereby respectfully request that the Staff concur in our view that the Proposal may be excluded from the 2022 Proxy Materials pursuant to Rule 14a-8(i)(7) because the Proposal relates to the Company’s ordinary business operations.

We believe that the Proposal may be excluded pursuant to Rule 14a-8(i)(11) because (i) the Proposal substantially duplicates a different shareholder proposal received by the Company from the AFL-CIO Reserve Fund (the “Prior Proposal”); (ii) the Prior Proposal was submitted to the Company before the Proposal; and (iii) the Company expects to include the Prior Proposal in the 2022 Proxy Materials, unless the Staff concurs with a no-action request submitted on January 21, 2021 addressing exclusion of the Prior Proposal. A copy of the Prior Proposal and statement in support thereof is attached to this letter as Exhibit B. Accordingly, if the Staff does not concur that the Proposal may be excluded pursuant to Rule

¹ In reliance on the announcement by the Staff, we have omitted all correspondence that is not directly relevant to this no-action request. See Announcement Regarding Personally Identifiable and Other Sensitive Information in Rule 14a-8 Submissions and Related Materials, *available at* <https://www.sec.gov/corpfin/announcement/announcement-14a-8-submissions-pii-20211217> (last updated Dec. 17, 2021).

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14a-8(i)(7) and the Staff does not concur that the Prior Proposal may be excluded pursuant to either Rule 14a-8(i)(7) or Rule 14a-8(i)(11), we request that the Staff concur that the Proposal may be excluded under Rule 14a-8(i)(11).

BACKGROUND

The Company is proud to create both short-term and long-term jobs with great pay and great benefits. Some employees stay with the Company throughout the year, and others choose to work with the Company only for a few months to earn extra income when they need it. A large percentage of people that the Company hires are re-hires, demonstrating that employees choose to work with the Company when they want to, and return to work at the Company when it is convenient for them. To help manage its workforce, the Company focuses on hiring, developing, and retaining the best talent. It relies on numerous and evolving initiatives to implement these objectives, including competitive compensation and employee benefits, flexible work arrangements, skills training and educational programs, mentorship and support resources, and numerous programs that advance employee engagement, communication, and feedback.²

ANALYSIS

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

A. Background On The Ordinary Business Standard.

Rule 14a-8(i)(7) permits a company to omit from its proxy materials a shareholder proposal that relates to the company's "ordinary business" operations. According to the Commission's release accompanying the 1998 amendments to Rule 14a-8, the term "ordinary business" "refers to matters that are not necessarily 'ordinary' in the common meaning of the word," but instead the term "is rooted in the corporate law concept providing management with flexibility in directing certain core matters involving the company's business and operations." Exchange Act Release No. 40018 (May 21, 1998) (the "1998 Release"). In the 1998 Release, the Commission stated that the underlying policy of the ordinary business exclusion is "to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such

² See *Amazon.com, Inc. (AFL-CIO Reserve Fund)* (avail. Apr. 9, 2021), detailing some of the Company's initiatives for recruiting women and underrepresented racial/ethnic minorities.

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problems at an annual shareholders meeting,” and identified two central considerations that underlie this policy. *Id.* As relevant here, one of these considerations is that “[c]ertain tasks are so fundamental to management’s ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight.” *Id.* The Commission stated that examples of tasks that implicate the ordinary business standard include “*the management of the workforce*, such as the hiring, promotion, and termination of employees, decisions on production quality and quantity, and the retention of suppliers.” *Id.* (emphasis added).

A shareholder proposal being framed in the form of a request for a report does not change the nature of the proposal. The Commission has stated that a proposal requesting the dissemination of a report may be excludable under Rule 14a-8(i)(7) if the subject matter of the proposed report is within the ordinary business of the issuer. *See* Exchange Act Release No. 20091 (Aug. 16, 1983); *Johnson Controls, Inc.* (avail. Oct. 26, 1999) (“[Where] the subject matter of the additional disclosure sought in a particular proposal involves a matter of ordinary business . . . it may be excluded under [R]ule 14a-8(i)(7).”); *see also Ford Motor Co.* (avail. Mar. 2, 2004) (concurring with the exclusion of a proposal requesting that the company publish a report about global warming/cooling, where the report was required to include details of indirect environmental consequences of its primary automobile manufacturing business).

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

[R]ather than focusing on whether a proposal and supporting statement relate to the company engaging in an evaluation of risk, we will instead focus on the subject matter to which the risk pertains or that gives rise to the risk. . . . [S]imilar to the way in which we analyze proposals asking for the preparation of a report, the formation of a committee or the inclusion of disclosure in a Commission-prescribed document—where we look to the underlying subject matter of the report, committee or disclosure to determine whether the proposal relates to ordinary business—we will consider whether the underlying subject matter of the risk evaluation involves a matter of ordinary business to the company.

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

B. The Proposal Is Excludable Because It Relates To The Quintessential Ordinary Business Topic Of Managing Workforce Staffing.

The Proposal requests a report on “the risks to the Company related to ensuring adequate staffing of Amazon’s business and operations, including risks associated with tighter labor markets, and how Amazon is mitigating or plans to mitigate those risks,” and “a discussion of the extent to which Amazon relies on part-time, temporary and contracted workers in each of its three operating segments, and whether staffing considerations have affected any of Amazon’s decisions about strategy, such as expansion plans or entering new geographies or lines of business.” The subject matter of the report and risk assessment requested in the Proposal addresses how the Company manages staffing within its workforce and ordinary business decisions that are affected by staffing considerations. Staffing decisions, which implicate complex but routine business and operational considerations, such as wage and benefit levels, operating hours, scope of operations, and facility design, are fundamental to management’s ability to run the Company on a day-to-day basis, implicating complex considerations that are not appropriately addressed through the shareholder proposal process. The Proposal thus implicates a quintessentially routine business management consideration and therefore is excludable under Rule 14a-8(i)(7) as relating to the Company’s ordinary business operations.

The Commission and Staff have long held that shareholder proposals relating to the management of the company’s workforce, including the relationship with its employees, are excludable under Rule 14a-8(i)(7). Notably, in *United Technologies Corp.* (avail. Feb. 19, 1993), the Staff provided the following examples of excludable ordinary business categories: “employee health benefits, general compensation issues not focused on senior executives, management of the workplace, employee supervision, labor-management relations, *employee hiring* and firing, conditions of the employment and employee training and motivation” (emphasis added). *PepsiCo, Inc.* (avail. Mar. 24, 1993) (same). In the 1998 Release, the Commission subsequently recognized that the “management of the workforce, such as the

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hiring, promotion, and termination of employees” (emphasis added) constitute “tasks . . . 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.”

Consistent with the Commission’s statement in the 1998 Release and the Staff’s statement in *United Technologies Corp.* categorizing proposals that address “management of the workforce” as relating to a company’s “ordinary business” operations, the Staff has long held that proposals addressing workforce staffing are excludable under Rule 14a-8(i)(7). For example, in *Starwood Hotels & Resorts Worldwide, Inc.* (avail. Feb. 14, 2012) (“*Starwood*”), the proposal requested that the company require verified U.S. citizenship for all workers in the United States and minimize required training for foreign workers in the United States, which the company characterized as involving “employee staffing and training decisions.” The Staff concurred with the exclusion of the proposal, noting that it “relates to procedures for hiring and training employees” and that “[p]roposals concerning a company’s management of its workforce are generally excludable under [R]ule 14a-8(i)(7).”

Similarly, the Staff also has concurred that proposals addressing geographic staffing decisions relate to management of a company’s workforce and thus are excludable under Rule 14a-8(i)(7). In 2005, the Staff addressed seven proposals relating to offshoring of company jobs. The proposals centered on management’s ability to determine the location of employment for its employees, and the proposals requested that the companies issue a “Job Loss and Dislocation Impact Statement” concerning the elimination of jobs and relocation of jobs to foreign countries, including the “decision-making process by which job elimination and job relocation decisions are made.” The Staff concurred with the exclusion of all seven proposals on Rule 14a-8(i)(7) grounds, acknowledging that such proposals related to each company’s “ordinary business operations (i.e., management of the workforce).” See *Boeing Co.* (avail. Feb. 25, 2005); *Citigroup Inc.* (avail. Feb. 4, 2005); *Mattel, Inc.* (avail. Feb. 4, 2005); *SBC Communications Inc.* (avail. Feb. 4, 2005); *Capital One Financial Corp.* (avail. Feb. 3, 2005); *Fluor Corp.* (avail. Feb. 3, 2005); *General Electric Co.* (avail. Feb. 3, 2005). In *Wells Fargo & Co.* (avail. Feb. 22, 2008), the Staff concurred with the exclusion of a proposal relating to decisions on how to staff the workforce, agreeing that a proposal requesting a policy to not employ individuals who worked at a credit rating agency within the last year related to “ordinary business operations (i.e., the termination, hiring, or promotion of employees).”

In addition, the Staff has concurred with the exclusion of proposals requesting reports that discuss a company’s staffing levels as relating to ordinary business operations under Rule 14a-8(i)(7). See *Amazon.com, Inc. (International Brotherhood of Teamsters General Fund)*

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(avail Apr. 1, 2020, *recon. denied* Apr. 9, 2020) (concurring with the exclusion of a proposal that requested a report on the Company's efforts to "describe the Board's oversight process of safety management, *staffing levels*, inspection and maintenance of Company facilities and equipment and those of the Company's dedicated third-party contractors" (emphasis added) because the proposal focused "on . . . [an] ordinary business matter, and [did] not transcend the Company's ordinary business operations"); *The Chemours Co.* (avail. Jan. 17, 2017) (concurring with the exclusion of a proposal requesting a board report "on the steps the [c]ompany has taken to reduce the risk of accidents" and stating that "[t]he report should describe the [b]oard's oversight of Process Safety Management; *staffing levels*; inspection and maintenance of facilities and other equipment" (emphasis added) because the proposal related to "ordinary business operations"); *Northrop Grumman Corp.* (avail. Mar. 18, 2010) (concurring with the exclusion of a proposal requesting that the board provide certain disclosures in the context of the company's reduction-in-force review process and noting "[p]roposals concerning a company's management of its workforce are generally excludable under [R]ule 14a-8(i)(7)").

Here, the Proposal requests a report "on the risks to the Company related to ensuring adequate staffing of Amazon's business and operations." The Supporting Statement also makes numerous references to "staffing" and staffing challenges, the Company's "hiring," and the effect of staffing considerations on decisions about business strategy, "such as . . . entering new geographies," as identified in the resolved clause. Accordingly, like the foregoing precedents, the Proposal relates to how the Company manages its workforce by addressing the adequacy of the Company's staffing, thereby implicating ordinary business considerations such as recruiting, retention, and location of employees, as well as other ordinary business decisions around business strategy. Like the proposals excluded in the precedents discussed above, the Proposal relates to the types of complex but routine workplace-oriented matters that Rule 14a-8(i)(7) is intended to address and is therefore excludable as relating to the Company's ordinary business operations.

C. The Proposal Does Not Focus On A Significant Social Policy Issue That Transcends The Company's Ordinary Business Operations.

In the 1998 Release, the Commission reaffirmed the standards for when proposals are excludable under the "ordinary business" provision that the Commission had initially articulated in Exchange Act Release No. 12999 (Nov. 22, 1976) (the "1976 Release"). In the 1998 Release, the Commission also distinguished proposals pertaining to ordinary business matters that are excludable under Rule 14a-8(i)(7) from those that "focus on" significant social policy issues. The Commission stated, "proposals relating to [ordinary business]

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matters but focusing on sufficiently significant social policy issues (e.g., significant discrimination matters) generally would not be considered to be excludable, because the proposals would transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote.” 1998 Release. When assessing proposals under Rule 14a-8(i)(7), the Staff considers the terms of the resolution and its supporting statement as a whole. *See* Staff Legal Bulletin No. 14C, part D.2 (June 28, 2005) (“In determining whether the focus of these proposals is a significant social policy issue, we consider both the proposal and the supporting statement as a whole.”).

In contrast, proposals with passing references touching upon topics that might raise significant social policy issues—but which do not focus on or have only tangential implications for such issues—are not transformed from an otherwise ordinary business proposal into one that transcends ordinary business, and as such, remain excludable under Rule 14a-8(i)(7). For example, in *Dominion Resources, Inc.* (avail. Feb. 3, 2011), a proposal requested that the company promote “stewardship of the environment” by initiating a program to provide financing to home and small business owners for installation of rooftop solar or renewable wind power generation. Even though the proposal touched upon environmental matters, the Staff concluded that the subject matter of the proposal actually related to “the products and services offered for sale by the company” and therefore determined that the proposal could be excluded under Rule 14a-8(i)(7). *See also, General Electric Co.* (avail. Feb. 10, 2000) (concurring with the exclusion of a proposal relating to the accounting and use of funds for the company’s executive compensation program because it both touched upon the significant social policy issue of senior executive compensation, and involved the ordinary business matter of choice of accounting method).

In Staff Legal Bulletin No. 14L (Nov. 3, 2021), the Staff stated that it “will realign its approach for determining whether a proposal relates to ‘ordinary business’ with the standard the Commission initially articulated in [the 1976 Release], which provided an exception for certain proposals that raise significant social policy issues, and which the Commission subsequently reaffirmed in the 1998 Release.” As such, the Staff stated that it will focus on the issue that is the subject of the shareholder proposal and determine whether it has “a broad societal impact, such that [it] transcend[s] the ordinary business of the company.” The Staff noted further that “proposals squarely raising human capital management issues with a broad societal impact would not be subject to exclusion solely because the proponent did not demonstrate that the human capital management issue was significant to the company” (citing to the 1998 Release and *Dollar General Corp.* (avail. Mar. 6, 2020) and providing “significant discrimination matters” as an example of an issue that transcends ordinary business matters).

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Here, the Proposal does not raise a significant social policy issue or address any topic with a broad societal impact. Instead, the Proposal addresses the Company's workforce staffing, and it and the Supporting Statement address only business and management implications of that topic. For example, the Proposal states that the requested report should encompass the interplay of staffing and "decisions about strategy, such as expansion plans or entering new geographies or lines of business." The Supporting Statement admits that the goal of the Proposal is simply to provide information on "how skillfully [the Company] is managing" the issue. Thus, the Proposal relates directly to management of the Company's workforce, and does not focus on, or even mention, a significant social policy issue. As such, the Proposal may properly be excluded under Rule 14a-8(i)(7).

II. The Proposal May Be Excluded Under Rule 14a-8(i)(11) Because It Substantially Duplicates Another Proposal That The Company Expects To Include In Its 2022 Proxy Materials.

A. Background.

The Proposal substantially duplicates the Prior Proposal (together with the Proposal, the "Proposals") and statement in support thereof (together with the Supporting Statement, the "Supporting Statements") because both Proposals request that the Company report on the staffing and management of its workforce in light of challenges facing the current labor market. The Prior Proposal states:

RESOLVED, shareholders request that Amazon.com, Inc. ("Amazon" or "Company") report to shareholders on the Company's workforce turnover rates and the effects of labor market changes that have resulted from the coronavirus disease ("COVID-19") pandemic. The report should assess the impact of the Company's workforce turnover on the Company's diversity, equity and inclusion. The report should be prepared at reasonable cost and omit proprietary information.

The Company received the Prior Proposal on December 14, 2021, whereas the Company subsequently received the Proposal on December 15, 2021. The Company intends to include the Prior Proposal in the 2022 Proxy Materials. As discussed below, the Proposals share the same core concern and therefore, if the Staff does not concur that the Proposal may be excluded pursuant to Rule 14a-8(i)(7) and the Staff does not concur that the Prior Proposal may be excluded pursuant to either Rule 14a-8(i)(7) or Rule 14a-8(i)(11), the Proposal is properly excludable under Rule 14a-8(i)(11).

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B. The “Substantially Duplicates” Standard.

Rule 14a-8(i)(11) provides that a shareholder proposal may be excluded if it “substantially duplicates another proposal previously submitted to the company by another proponent that will be included in the company’s proxy materials for the same meeting.” The Commission has stated that “the purpose of [Rule 14a-8(i)(11)] is to eliminate the possibility of shareholders having to consider two or more substantially identical proposals submitted to an issuer by proponents acting independently of each other.” 1976 Release. When two substantially duplicative proposals are received by a company, the Staff has indicated that the company must include the first of the proposals it received in its proxy materials, unless that proposal otherwise may be excluded. *See, e.g., Great Lakes Chemical Corp.* (avail. Mar. 2, 1998); *Pacific Gas and Electric Co.* (avail. Jan. 6, 1994).

A proposal may be excluded as substantially duplicative of another proposal despite differences in terms or scope and even if the proposals request different actions. *See, e.g., Exxon Mobil Corp.* (avail. Mar. 13, 2020) (concurring with the exclusion of a proposal as substantially duplicative where the Staff explained that “the two proposals share a concern for seeking additional transparency from the [c]ompany about its lobbying activities and how these activities align with the [c]ompany’s expressed policy positions” despite the proposals requesting different actions); *Exxon Mobil Corp.* (avail. Mar. 9, 2017) (concurring with the exclusion of a proposal requesting a report on the company’s political contributions as substantially duplicative of a proposal requesting a report on lobbying expenditures); *Wells Fargo & Co.* (avail. Feb. 8, 2011) (concurring with the exclusion of a proposal seeking a review and report on the company’s loan modifications, foreclosures, and securitizations as substantially duplicative of a proposal seeking a report that would include “home preservation rates” and “loss mitigation outcomes,” which would not necessarily be covered by the other proposal); *Chevron Corp.* (avail. Mar. 23, 2009, *recon. denied* Apr. 6, 2009) (concurring with the exclusion of a proposal requesting that an independent committee prepare a report on the environmental damage that would result from the company’s expanding oil sands operations in the Canadian boreal forest as substantially duplicative of a proposal to adopt goals for reducing total greenhouse gas emissions from the company’s products and operations); *Bank of America Corp.* (avail. Feb. 24, 2009) (concurring with the exclusion of a proposal requesting the adoption of a 75% hold-to-retirement policy as subsumed by another proposal that included such a policy as one of many requests); *Ford Motor Co. (Leeds)* (avail. Mar. 3, 2008) (concurring with the exclusion of a proposal to establish an independent committee to prevent founding family shareholder conflicts of interest with non-family shareholders as substantially duplicative of a proposal requesting that the board take steps to adopt a recapitalization plan for all of the company’s outstanding

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stock to have one vote per share). The Staff has traditionally referred to Rule 14a-8(i)(11)’s substantial duplication standard as assessing whether the later proposal presents the same “principal thrust” or “principal focus” as a previously submitted proposal, *see Pacific Gas & Electric Co.* (avail. Feb. 1, 1993), or the same core concern.

C. The Proposal Has The Same Core Concern As The Prior Proposal.

Although the requests are slightly different—the Proposal requests that the Company prepare “a report . . . on the risks to the Company related to *ensuring adequate staffing of Amazon’s business and operations*, including risks associated with tighter labor markets” (emphasis added), while the Prior Proposal requests that the Company “report to shareholders on the Company’s *workforce turnover rates* and the effects of labor market changes that have resulted from the coronavirus disease (‘COVID-19’) pandemic” (emphasis added)—both Proposals share the same underlying concern regarding workforce staffing considerations in light of current labor market challenges.

The overlap between the Proposals is further demonstrated by the similar concerns addressed in the Supporting Statements:

<i>The Prior Proposal</i>	<i>The Proposal</i>
<i>Both Proposals address labor market constraints relating to “The Great Resignation.”</i>	
The Prior Proposal notes that “[w]orkers have been quitting their jobs at historically unprecedented rates as a result of the COVID-19 pandemic. . . . This labor market phenomenon has been called the ‘Great Resignation.’”	The Proposal references how the COVID-19 pandemic has led to a “raft of employees voluntarily leaving jobs in 2021, dubbed ‘The Great Resignation.’”
<i>Both Proposals assert that the Company faced potential staffing challenges prior to the COVID-19 pandemic.</i>	
The Prior Proposal states that “[e]ven before the ‘Great Resignation,’ workforce turnover has been an issue at Amazon.”	The Proposal states that “[e]ven before the COVID-19 pandemic, Amazon faced staffing challenges.”

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<p><i>Both Proposals state that the requested report would provide shareholders with key information on the Company’s workforce.</i></p>	
<p>The Prior Proposal states that a “report to shareholders on workforce turnover will provide shareholders with material information regarding Amazon’s human capital management practices.”</p>	<p>The Proposal states that the Company “does not disclose enough information about its staffing to enable investors to assess how skillfully it is managing staffing pressures. . . . This proposal aims to fill that gap.”</p>

Here, notwithstanding some differences in the terminology and scope of the requests, the information that would be addressed in the report requested under the Proposal and the Prior Proposal would be the same: workforce staffing adequacy. The fact that the Prior Proposal seeks to evaluate that information in the context of the Company’s diversity, equity, and inclusion, while the Proposal seeks to assess such information in the context of evaluating the implications for the Company’s business and strategy, does not prevent the Proposal from substantially duplicating the Prior Proposal.

Moreover, the Staff has consistently concurred that two proposals can be substantially similar within the meaning of Rule 14a-8(i)(11) notwithstanding differences in the wording or scope of actions requested. For example, in *Cooper Industries, Ltd.* (avail. Jan. 17, 2006), the Staff concurred with the exclusion under Rule 14a-8(i)(11) of a proposal requesting that the company “review its policies related to human rights to assess areas where the company needs to adopt and implement additional policies and to report its findings” as substantially duplicating a previously submitted proposal requesting that the company “commit itself to the implementation of a code of conduct based on . . . ILO human rights standards and United Nations’ Norms on the Responsibilities of Transnational Corporations with Regard to Human Rights.” See also, e.g., *Caterpillar Inc. (AFSCME Employees Pension Plan)* (avail. Mar. 25, 2013) (concurring with the exclusion of a proposal requesting a report as substantially duplicative of a proposal that the company “review and amend, where applicable,” certain policies and post a summary of the review on the company’s website, despite the addition of an additional action in connection with the requested report); *Ford Motor Co.* (avail. Feb. 19, 2004) (concurring with the exclusion of a proposal calling for internal goals related to greenhouse gases as substantially duplicative of a proposal calling for a report on historical data on greenhouse gas emissions and the company’s planned response to regulatory scenarios, where the company successfully argued that “[a]lthough the terms and the breadth of the two proposals are somewhat different, the principal thrust and

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focus are substantially the same, namely to encourage the [c]ompany to adopt policies that reduce greenhouse gas emissions in order to enhance competitiveness”).

In addition, even if aspects of the Proposal are viewed as narrower or more limited than that requested in the Prior Proposal, the Staff previously has concurred with the exclusion of shareholder proposals under Rule 14a-8(i)(11) when the second proposal is more specific or narrower than the first proposal. For example, in *JPMorgan Chase & Co. (New York City Employees' Retirement System et al.)* (avail. Mar. 14, 2011), the Staff concurred that a proposal that specifically requested a report on internal controls over the company's mortgage servicing operations could be omitted in reliance on Rule 14a-8(i)(11) as substantially duplicative of other previous proposals that asked for general oversight on the development and enforcement of already-existing internal controls related to loan modification methods. Irrespective of the differences in scope and detail, the principal focus and the core issue of general mortgage modification practices remained the same. *See also Exxon Mobil Corp. (Goodwin et al.)* (avail. Mar. 19, 2010) (concurring with the exclusion of a proposal seeking consideration of a decrease in the demand for fossil fuels as substantially duplicative of a proposal asking for a report to assess the financial risks associated with climate change); *Lehman Brothers Holdings Inc.* (avail. Jan. 12, 2007) (concurring with the exclusion of a proposal requesting semi-annual reports on independent expenditures, political contributions, and related policies and procedures as substantially duplicative of a proposal that sought an annual disclosure of independent expenditures and political contributions); *American Power Conversion Corp.* (avail. Mar. 29, 2002) (concurring with the exclusion of a proposal asking that the company's board of directors create a goal to establish a two-thirds independent board as substantially duplicative of a proposal that sought a policy requiring nomination of a majority of independent directors).

As noted above, the purpose of Rule 14a-8(i)(11) “is to eliminate the possibility of shareholders having to consider two or more substantially identical proposals submitted to an issuer by proponents acting independently of each other.” 1976 Release. Because the Proposal substantially duplicates the Prior Proposal, the Company's shareholders should not be required to twice consider whether the Company should issue a report that addresses workplace staffing and workforce management. In addition, if the voting outcome on the two proposals differed, the shareholder vote would not provide guidance on what actions shareholders want the Company to pursue, given that the same actions would be necessary to implement either proposal. The variations in wording do not change the conclusion that the Proposal shares the same concern as the Prior Proposal and would be addressed through implementation of the Prior Proposal. Accordingly, if the Staff does not concur that the Proposal may be excluded pursuant to Rule 14a-8(i)(7) and the Staff does not concur that the

GIBSON DUNN

Office of Chief Counsel
Division of Corporation Finance
January 21, 2022
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Prior Proposal may be excluded pursuant to either Rule 14a-8(i)(7) or Rule 14a-8(i)(11), the Proposal may be excluded pursuant to Rule 14a-8(i)(11) as substantially duplicative of the Prior Proposal.

CONCLUSION

Based upon the foregoing analysis, the Company intends to exclude the Proposal from its 2022 Proxy Materials, and we respectfully request that the Staff concur that the Proposal may be excluded under Rule 14a-8.

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

Sincerely,



Ronald O. Mueller

Enclosures

cc: Mark Hoffman, Amazon.com, Inc.
Cambria Allen-Ratzlaff, UAW Retiree Medical Benefits Trust

EXHIBIT A



December 15, 2021

Via UPS and Email (davidz@amazon.com)

David A. Zapolsky
Senior Vice President, General Counsel, and Secretary
Amazon.com, Inc.
410 Terry Avenue North
Seattle, Washington 98109

Re: Shareholder proposal for 2022 Annual Shareholder Meeting

Dear Mr. Zapolsky:

The UAW Retiree Medical Benefits Trust (“we” or the “Trust”) is submitting the attached proposal (the “Proposal”) pursuant to the Securities and Exchange Commission’s Rule 14a-8 to be included in the proxy statement of Amazon.com, Inc. (the “Company”) for its 2022 annual meeting of shareholders.

The Trust has continuously beneficially owned, for at least one (1) year as of the date hereof, at least \$25,000 worth of the Company’s common stock. Verification of this ownership will be sent under separate cover. The Trust intends to continue to hold such shares through the date of the Company’s 2022 annual meeting of shareholders.

The Trust is available to meet with the Company via teleconference or videoconference on Wednesday, January 12, from 11:00 am – 12:00 pm PST, or Thursday, January 13, from 12-1:00 pm PST.

I can be contacted on [REDACTED] or by email at [REDACTED] to schedule a meeting. We look forward to engaging on this issue and hope to reach an agreeable settlement. Please feel free to contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Cambria Allen-Ratzlaff".

Cambria Allen-Ratzlaff
Director, Corporate Governance
UAW Retiree Medical Benefits Trust

Attachment

RESOLVED, that shareholders of [Amazon.com](https://www.amazon.com), Inc. (“Amazon” or the “Company”) ask the Board of Directors to oversee the preparation of a report, at reasonable cost and omitting confidential and proprietary information, on the risks to the Company related to ensuring adequate staffing of Amazon’s business and operations, including risks associated with tighter labor markets, and how Amazon is mitigating or plans to mitigate those risks. The report should include a discussion of the extent to which Amazon relies on part-time, temporary and contracted workers in each of its three operating segments, and whether staffing considerations have affected any of Amazon’s decisions about strategy, such as expansion plans or entering new geographies or lines of business.

SUPPORTING STATEMENT

Even before the COVID-19 pandemic, Amazon faced staffing challenges. According to a June 2021 article in [The New York Times](https://www.nytimes.com), Amazon’s workforce management model was “uneven and strained even before the coronavirus arrived.” Pre-pandemic, about three percent of Amazon’s hourly workforce left each week, nearly two times the rate in the retail and logistics industries.¹

The pandemic has intensified these pressures. Public attention has focused on the raft of employees voluntarily leaving jobs in 2021, dubbed “The Great Resignation.”² The trend has been most acute among “employees who worked in fields that had experienced extreme increases in demand due to the pandemic,” such as tech and health care.³ According to the Bureau of Labor Statistics, 3% of Americans quit their jobs in September 2021.⁴

Low-income workers’ wages “are rising at their fastest rate since the Great Recession” and employers struggle to fill positions.⁵ As one commentator noted, “The low-wage service-sector economy is experiencing the equivalent of ‘free agency’ in a professional sports league.”⁶

Experts recommend that employers “begin valuing the employee as a whole person, and not just as an ‘asset’ or resource to be used for financial gain” to address labor market challenges.⁷ That advice appears to run counter to Amazon’s workforce management approach, which reportedly reflects Jeff Bezos’ view that a long-tenured workforce causes a

¹ <https://www.nytimes.com/interactive/2021/06/15/us/amazon-workers.html>

² E.g., <https://www.theatlantic.com/ideas/archive/2021/10/great-resignation-accelerating/620382/>; <https://www.npr.org/sections/money/2021/10/19/1047032996/why-are-so-many-americans-quitting-their-jobs>; <https://www.nytimes.com/2021/12/11/opinion/great-resignation-labor-shortage.html>

³ <https://hbr.org/2021/09/who-is-driving-the-great-resignation>

⁴ <https://www.bls.gov/news.release/jolts.t04.htm>

⁵ <https://www.theatlantic.com/ideas/archive/2021/10/great-resignation-accelerating/620382/>

⁶ <https://www.theatlantic.com/ideas/archive/2021/12/great-resignation-myths-quitting-jobs/620927/>

⁷ <https://www.inc.com/marcel-schwantes/1-forgotten-strategy-that-will-keep-your-employees-from-joining-great-resignation.html>; see also <https://www.fastcompany.com/90687805/this-is-the-cost-of-the-great-resignation-heres-what-leaders-can-do>; <https://hbr.org/2021/10/with-so-many-people-quitting-dont-overlook-those-who-stay>

“march to mediocrity.”⁸

Amazon now acknowledges its staffing-related challenges. In an October 2021 earnings call, CFO Brian Olsavsky stated that the Company’s increased staffing need “has recently coincided with the shortage of available workers, particularly in the United States,” adding to Amazon’s cost structure.⁹ In his final letter to shareholders as CEO, Bezos admitted that “we need a better vision for how we create value for employees – a vision for their success.”¹⁰

But Amazon does not disclose enough information about its staffing to enable investors to assess how skillfully it is managing staffing pressures. For example, investors did not have sufficient data on Amazon’s workforce to interpret whether the Company’s 2020 hiring¹¹ would expand the workforce or simply replace workers who had left. This proposal aims to fill that gap.

⁸ <https://www.nytimes.com/interactive/2021/06/15/us/amazon-workers.html>

⁹ <https://seekingalpha.com/article/4463311-amazon-com-inc-amzn-q3-2021-results-earnings-call-transcript>

¹⁰ <https://www.businessinsider.com/amazon-jeff-bezos-final-letter-to-shareholders-as-ceo-2021-4>

¹¹ <https://www.nytimes.com/2020/04/05/technology/coronavirus-amazon-workers.html>;
<https://press.aboutamazon.com/news-releases/news-release-details/creating-more-job-opportunities-amazon-hiring-100000-new-full>

EXHIBIT B

RESOLVED, shareholders request that Amazon.com, Inc. (“Amazon” or “Company”) report to shareholders on the Company’s workforce turnover rates and the effects of labor market changes that have resulted from the coronavirus disease (“COVID-19”) pandemic. The report should assess the impact of the Company’s workforce turnover on the Company’s diversity, equity and inclusion. The report should be prepared at reasonable cost and omit proprietary information.

SUPPORTING STATEMENT

Workers have been quitting their jobs at historically unprecedented rates as a result of the COVID-19 pandemic. A record 38 million workers in the U.S. quit their jobs between January 2021 and October 2021.¹ One survey showed that 1 out of 4 U.S. workers plan to leave their employer after the COVID-19 pandemic subsides, and another found that more than half of surveyed workers plan to look for a new job in 2021.² This labor market phenomenon has been called the “Great Resignation” or the “Big Quit” by many economic observers.

Even before the “Great Resignation,” workforce turnover has been an issue at Amazon. Before COVID-19, a report estimated that Amazon’s annual turnover of its hourly associates was about 150 percent.³ During the pandemic, another report estimated Amazon’s front-line turnover rate to be around 100 percent, which is more than double the retail and warehouse industry averages.⁴ Some Amazon managers reportedly “hire to fire” people to meet internal attrition goals.⁵

High workforce turnover creates challenges for the successful operation of any company. Employers must spend more time and resources on hiring and recruitment. Newly hired employees may need time to acquire the job specific training and experience that contributes to a high productivity workforce. And high workforce turnover can also work against diversity, equity and inclusion goals if the employer has difficulty retaining diverse employees.

We believe that the business challenges created by Amazon’s workforce turnover are compounded by the fact that Amazon has a large and rapidly growing workforce. Amazon is the second largest private sector employer in the U.S. where 1 out of 153 workers is estimated to be an Amazon employee.⁶ High workforce turnover reportedly has led some Amazon executives to worry about running out of hireable employees in the U.S.⁷

¹ Business Insider, December 8, 2021, <https://www.businessinsider.com/how-many-why-workers-quit-jobs-this-year-great-resignation-2021-12>

² HR Magazine, June 2, 2021, <https://www.shrm.org/hr-today/news/hr-magazine/summer2021/pages/reducing-turnover.aspx>

³ New York Times, June 15, 2021, <https://www.nytimes.com/interactive/2021/06/15/us/amazon-workers.html>

⁴ Seattle Times, October 10, 2020, <https://www.seattletimes.com/business/amazon/amazons-turnover-rate-amid-pandemic-is-at-least-double-the-average-for-retail-and-warehousing-industries/>

⁵ Business Insider, May 10, 2021, <https://www.businessinsider.com/amazon-managers-performance-reviews-hire-to-fire-internal-turnover-goal-2021-5>

⁶ Business Insider, July 30, 2021, <https://www.businessinsider.com/amazon-employees-number-1-of-153-us-workers-head-count-2021-7>

⁷ New York Times, June 15, 2021, <https://www.nytimes.com/interactive/2021/06/15/us/amazon-workers.html>

In our opinion, high workforce turnover works against the goal of Amazon’s founder Jeff Bezos to make Amazon the “Earth’s Best Employer.”⁸ We believe the best way to reduce workforce turnover is to be an “employer of choice” that workers will choose when presented with other employment options. A report to shareholders on workforce turnover will provide shareholders with material information regarding Amazon’s human capital management practices.

For these reasons, we urge a vote FOR this proposal.

⁸ Amazon.com, April 15, 2021, https://www.sec.gov/Archives/edgar/data/1018724/000110465921050346/tm216818d2_ex99-1.htm



February 28, 2022

[Via e-mail at shareholderproposals@sec.gov](mailto:shareholderproposals@sec.gov)

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

Re: Request by Amazon.com Inc. to omit proposal submitted by the UAW Retiree Medical Benefits Trust

Ladies and Gentlemen,

Pursuant to Rule 14a-8 under the Securities Exchange Act of 1934, the UAW Retiree Medical Benefits Trust (the "Trust") submitted a shareholder proposal (the "Proposal") to Amazon.com Inc. ("Amazon" or the "Company"). The Proposal asks Amazon to report to shareholders on risks to the Company related to ensuring adequate staffing of its business and operations, including risks associated with tighter labor markets, and how Amazon is mitigating or plans to mitigate those risks.

In a letter to the Division dated January 21, 2022 (the "No-Action Request"), Amazon stated that it intends to omit the Proposal from its proxy materials to be distributed to shareholders in connection with the Company's 2022 annual meeting of shareholders. Amazon argues that it is entitled to exclude the Proposal in reliance on Rule 14a-8(i)(7), on the ground that the Proposal deals with the Company's ordinary business operations; and Rule 14a-8(i)(11), as substantially duplicating an earlier-received proposal that will appear in Amazon's proxy statement. Because the labor shortage is the consistent subject of widespread public debate, transcending ordinary business, and the earlier-received proposal requests different information from that sought in the Proposal, Amazon has not met its burden of proving that it is entitled to exclude the Proposal on either basis. The Trust thus respectfully requests that Amazon's request for relief be denied.

The Proposal

The Proposal states:

RESOLVED, that shareholders of Amazon.com, Inc. ("Amazon" or the "Company") ask the Board of Directors to oversee the preparation of a report, at reasonable cost and omitting confidential and proprietary information, on the risks to the Company related to ensuring adequate staffing of Amazon's business and operations, including risks associated with tighter labor markets, and how Amazon is mitigating

or plans to mitigate those risks. The report should include a discussion of the extent to which Amazon relies on part-time, temporary and contracted workers in each of its three operating segments, and whether staffing considerations have affected any of Amazon's decisions about strategy, such as expansion plans or entering new geographies or lines of business.

Ordinary Business

Amazon argues that the Proposal is excludable because it addresses the ordinary business matter of "managing workforce staffing." The Division has generally regarded workforce management concerns such as wages and benefits as ordinary business matters; however, if a proposal focuses on a significant social policy issue, the fact that it implicates a company's treatment of its workers does not support exclusion on ordinary business grounds.

For example, BB&T¹ claimed that a proposal asking the company to consider the pay of other employees when setting target amounts for CEO compensation was excludable on ordinary business grounds because "although styled as directed towards CEO compensation, the Proposal addresses the compensation of employees in general." The Staff did not grant relief, stating that the proposal "focuse[d] on senior executive compensation" despite the use of non-senior executives' pay in setting targets. Similarly, the Staff did not concur with IBM's² argument that a proposal requesting a policy regarding age discrimination in benefit plan conversions was excludable, reasoning that the subject transcended ordinary business because of "the widespread public debate concerning the conversion from traditional defined benefit pension plans to cash-balance plans and the increasing recognition that this issue raises significant social and corporate policy issues."

Amazon's characterization of the Proposal disregards the broader context of the staffing crisis facing many companies, amidst the labor market tightening known as the "Great Resignation"³ or "Great Quit."⁴ The COVID-19 pandemic took an unknown number of people out of the workforce through death, extended illness, and resignation, and experts have estimated that the pandemic led about three million U.S. workers to retire, many ahead of schedule.⁵ As of December 31, 2021, there were 11 million open jobs in the U.S., and the number of workers who quit their jobs reached an all-time high in November 2021, inching down slightly in December.⁶ Over the course of 2021, one in four American

¹ BB&T Corporation (Jan. 17, 2017).

² International Business Machines Corporation (Feb. 16, 2000).

³ E.g., <https://www.wsj.com/articles/investors-seek-more-information-about-companies-struggles-to-hire-retain-staff-11645045610>

⁴ <https://www.forbes.com/sites/lisacurtis/2021/06/30/why-the-big-quit-is-happening-and-why-every-boss-should-embrace-it/?sh=7eba2041601c>; <https://www.motherjones.com/politics/2022/01/record-quits-great-resignation-labor-workers-pandemic/>

⁵ See <https://www.cnet.com/news/the-great-resignation-is-changing-work-in-america-and-its-here-to-stay/>; <https://www.businessinsider.com/great-resignation-labor-shortage-healthy-labor-market-jerome-powell-fed-2021-11>

⁶ <https://www.bls.gov/news.release/jolts.nr0.htm>

workers quit their job.⁷ A July 2021 Gallup poll found that 48% of U.S. workers were “actively job searching or watching for opportunities.”⁸

There is evidence that employer treatment has been a key factor in workers’ decision making. Federal Reserve Chairman Jerome Powell explained that workers are leaving for jobs with better pay.⁹ In an October 2021 column, economist Paul Krugman pronounced that “[l]ong-suffering American workers, who have been underpaid and overworked for years, may have hit their breaking point.”¹⁰ Some observers have characterized the Great Resignation as a type of general strike.¹¹ One BBC article explained:

Workers who, pre-pandemic, may already been teetering on the edge of quitting companies with existing poor company culture saw themselves pushed to a breaking point. That’s because, as evidenced by a recent Stanford study, many of these companies with bad environments doubled-down on decisions that didn’t support workers, such as layoffs (while, conversely, companies that had good culture tended to treat employees well). This drove out already disgruntled workers who survived the layoffs, but could plainly see they were working in unsupportive environments.¹²

Labor scarcity is pushing up wages. Low-income U.S. workers’ wages are increasing at a faster rate than at any time since the financial crisis.¹³ And wages paid to younger workers, those between 16 and 24, rose at the quickest rate since 1997.¹⁴ Although a great deal of attention has focused on staffing shortages in the U.S., reports indicate that quit rates are also high in other markets, including western Europe.¹⁵

The staffing crisis has strategic implications for companies. Seventy-three percent of CEOs surveyed in October 2021 said that a “labor/skills shortage” was the “most likely external issue to disrupt their business” in the following 12 months.¹⁶

⁷ <https://www.motherjones.com/politics/2022/01/record-quits-great-resignation-labor-workers-pandemic/>

⁸ <https://www.gallup.com/workplace/351545/great-resignation-really-great-discontent.aspx>

⁹ <https://www.businessinsider.com/great-resignation-labor-shortage-healthy-labor-market-jerome-powell-fed-2021-11>

¹⁰ <https://www.nytimes.com/2021/10/14/opinion/workers-quitting-wages.html>

¹¹ <https://www.cnn.com/2022/02/04/robert-reich-great-resignation-general-strike-health-care-childcare.html>; <https://www.washingtonpost.com/outlook/2021/11/18/are-we-witnessing-general-strike-our-own-time/>

¹² <https://www.bbc.com/worklife/article/20210629-the-great-resignation-how-employers-drove-workers-to-quit>

¹³ <https://www.theatlantic.com/ideas/archive/2021/10/great-resignation-accelerating/620382/>

¹⁴ <https://www.wsj.com/articles/investors-seek-more-information-about-companies-struggles-to-hire-retain-staff-11645045610>

¹⁵ Murray Peiperl, “Will the Great Resignation lead to a corporate realization?” *HR Dive*, Feb. 10, 2022.

¹⁶ <https://fortune.com/2021/10/21/the-great-resignation-is-no-joke/>

The crisis may hit Amazon especially hard due to the large size of its workforce and the Company's reputation as an overly demanding and unsupportive employer.¹⁷ At more remote facilities, Amazon has churned through local workers and has resorted to transporting workers from other locations.¹⁸ Even before the pandemic, Amazon's annual hourly worker turnover was 150%, and then-CEO Jeff Bezos reportedly believed that long employee tenure led to a "march to mediocrity."¹⁹ During the pandemic, Amazon "burned through workers," according to an investigation by The New York Times, due to dysfunctional human capital management practices.²⁰ Amazon workers have recently protested against mandatory overtime and pressed for raises and job security.²¹

Staffing challenges appear to have affected Amazon's strategy. Amazon's CFO recently explained that the Company's decision to raise the price for a Prime membership was spurred by "a rise in 'wages and transportation costs' in its logistics network." A former Amazon executive criticized that increase as a "very dangerous move." Amazon's CEO noted that higher labor costs had increased the Company's cost structure over the holidays.²² Labor shortages have also been a factor in Amazon's inability to meet its goal of one-day delivery for Prime members.²³

Staffing strains are not limited to the hourly workforce. A recent opinion piece focused on Amazon's more highly-compensated employees noted: "Amazon has more recently suffered a string of negative headlines for its brain-drain problem. My Bloomberg colleague Brad Stone reports that turnover in some engineering units is over 50 percent (a figure the company disputed). Business Insider has cataloged a litany of complaints about below-market pay, unreasonable hours and a toxic culture."²⁴ Amazon acknowledged in its most recent 10-K filing that it could suffer in its competition for talent as a result of "changes . . . to our current and future work environments"; the Company's policies on work-from-home are reportedly less flexible than those of some competitors.²⁵ Amazon

¹⁷ <https://theintercept.com/2021/03/25/amazon-drivers-pee-bottles-union/>; <https://www.theverge.com/2018/4/16/17243026/amazon-warehouse-jobs-worker-conditions-bathroom-breaks>; <https://www.motherjones.com/politics/2022/01/i-was-an-amazon-staffer-i-finally-had-enough-when-my-wife-was-dying-and-i-was-told-to-perform-or-quit/>; "Inside Amazon's Employment Machine," The New York Times, June 15, 2021; "Inside Amazon: Wrestling Big Ideas in a Bruising Workplace," The New York Times, August 15, 2015.

¹⁸ "Inside Amazon's Employment Machine," The New York Times, June 15, 2021

¹⁹ "Inside Amazon's Employment Machine," The New York Times, June 15, 2021

²⁰ "Inside Amazon's Employment Machine," The New York Times, June 15, 2021

²¹ E. Tammy Kim, "Get Rid of the Bad Bosses," The New York Times, Feb. 20, 2022

²² Dave Lee, "Amazon stock has best day since 2015 after Prime price rise and cloud boost," Financial Times, Feb. 4, 2022

²³ <https://www.reuters.com/business/retail-consumer/amazon-labor-shortage-hinders-one-day-delivery-ambitions-2021-10-29/>

²⁴ Sarah Green Carmichael, "Until it fixes its culture, Amazon's success in doubt; Amazon has more recently suffered a string of negative headlines for its brain-drain problem," The Daily Herald (Everett, Washington), Feb. 7, 2022

²⁵ <https://www.cnn.com/2022/02/04/tech-companies-acknowledge-rejecting-remote-work-could-cost-them-talent.html>

recently announced that it would pay corporate and technical employees more than twice as much in base pay, citing a “particularly competitive labor market.”²⁶

The labor shortage is a consistent subject of widespread public debate, the standard applied by the Division in determining whether a proposal’s subject transcends ordinary business operations.²⁷ As one author recently put it, “Not a single day passes without news of the Great Resignation’s impact on companies big and small.”²⁸ It even has its own social media hashtag, #TheGreatResignation. The subject has received extensive media coverage, including:

- <https://www.wsj.com/articles/an-american-labor-market-mystery-11643976005>
- <https://www.wsj.com/articles/omicron-absences-fail-to-dent-job-growth-11643991329>
- <https://www.nytimes.com/2022/01/04/business/economy/job-openings-coronavirus.html>
- <https://www.motherjones.com/politics/2022/01/record-quits-great-resignation-labor-workers-pandemic/>
- <https://www.bloomberg.com/news/articles/2021-05-10/quit-your-job-how-to-resign-after-covid-pandemic>
- <https://www.businessinsider.com/why-everyone-is-quitting-great-resignation-psychologist-pandemic-rethink-life-2021-10>
- <https://www.washingtonpost.com/washington-post-live/2021/09/24/transcript-great-resignation-with-molly-m-anderson-anthony-c-klotz-phd-elaine-welteroth/>
- <https://www.barrons.com/articles/covid-worker-shortage-great-resignation-professor-what-comes-next-51640853004>
- <https://msmagazine.com/2020/09/30/what-the-increase-in-quit-rates-during-a-recession-means-for-women-and-how-to-counteract-it/>
- <https://www.npr.org/2021/06/04/1003035263/hiring-picked-up-last-month-a-relief-for-an-economy-desperate-for-workers>
- <https://www.reuters.com/business/us-trade-deficit-narrows-april-2021-06-08/>
- <https://www.latimes.com/opinion/story/2021-08-28/lz-granderson-employment-workplace-genz-millennials-resignation>
- <https://www.seattletimes.com/opinion/is-the-great-resignation-a-great-rethink/>
- <https://www.cnbc.com/2021/08/25/great-resignation-55-percent-are-looking-to-change-jobs-over-the-next-year-.html>
- <https://fortune.com/2021/08/26/pandemic-burnout-career-changes-great-resignation-adobe/>
- <https://www.npr.org/2021/05/05/993433235/hotels-and-restaurants-that-survived-pandemic-face-new-challenge-staffing-shortage>

²⁶ <https://www.geekwire.com/2022/amazon-more-than-doubles-max-base-pay-to-350k-for-corporate-and-tech-workers-citing-labor-market/>

²⁷ See, e.g., www.sec.gov/interp/interp/legal/cfslb14a.htm.

²⁸ “5 Tips for Young Companies to Hire Talent During the Great Resignation,” *Inc.*, Feb. 16, 2022

- <https://www.npr.org/2021/09/01/1033053756/millions-will-lose-unemployment-benefits-that-doesnt-mean-theyll-return-to-work>
- <https://www.usnews.com/news/economy/articles/2021-08-26/study-gen-z-millennials-driving-the-great-resignation>
- <https://www.cnbc.com/2021/06/09/4-million-people-quit-their-jobs-in-april-to-find-better-work.html>
- <https://www.bostonglobe.com/2021/06/27/business/giant-game-musical-chairs-waves-workers-are-changing-jobs-pandemic-wanes/>
- <https://finance.yahoo.com/news/the-great-resignation-is-ripping-through-the-restaurant-industry-162052446>
- <https://www.bbc.com/worklife/article/20211028-what-were-getting-wrong-about-the-great-resignation>
- <https://www.businessinsider.com/whats-a-labor-shortage-strike-shortages-great-resignation-defined-2021-11>
- <https://www.businessinsider.com/great-resignation-labor-shortage-healthy-labor-market-jerome-powell-fed-2021-11>
- <https://www.theatlantic.com/ideas/archive/2021/10/great-resignation-accelerating/620382/>
- <https://www.npr.org/2021/06/24/1007914455/as-the-pandemic-recedes-millions-of-workers-are-saying-i-quit>
- <https://www.cnn.com/2021/10/29/opinions/labor-activism-and-striketober-hemmer/index.html>
- <https://www.bloomberg.com/news/features/2021-12-07/why-people-are-quitting-jobs-and-protesting-work-life-from-the-u-s-to-china>
- David Gelles, “Great Resignation Spills Into the C-Suite,” The New York Times, Feb. 21, 2022
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- Chris Roebuck, “How to Beat the Great Resignation and Secure Your Future,” Newsweek, Feb. 10, 2022
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- Murray Peiperl, “Will the Great Resignation lead to a corporate realization?” HR Dive, Feb. 10, 2022.
- Erika Lance, “How to Stop the Great Resignation: 5 Tips for Higher Employee Retention,” Newsweek, Feb. 11, 2022
- E. Tammy Kim, “Get Rid of the Bad Bosses,” The New York Times, Feb. 20, 2022

Podcasts have addressed the Great Resignation. An October 2021 episode of NPR’s “Consider This” took on “The Great Resignation: Why People Are Leaving Their Jobs in Growing Numbers.” Fast Company’s podcast, “The New Way We Work,” included a September 2021 episode on “What is Behind the Great Resignation.” The subject of a September 2021 episode of Washington Post Live was “The Great Resignation’: Why

millions of Americans are quitting their jobs.” That same month, WBUR’s “On Point” posed the question, “The Great Resignation: What’s Driving America’s Labor Gap.” The Daily Show with Trevor Noah even broadcast a segment entitled “Why is Everyone Quitting Their Jobs? Getting Back to Normal-ish” on October 14, 2021.²⁹

The importance of the issue is reflected in investors’ push to obtain more information about staffing. According to a recent article in The Wall Street Journal, “Workers are increasingly important to forecasting corporate profitability, but investors receive little information about them.”³⁰ The Commission is shortly expected to propose rules requiring disclosure of human capital information.³¹ Bills have been proposed in Congress to require companies to disclose information about their workforce management policies, practices and performance³² and to disclose certain human capital metrics dealing with issues like turnover and worker health and safety.³³ The Division highlighted human capital matters in Staff Legal Bulletin 14L³⁴ where it announced that it would no longer require proponents to show a company-specific nexus, stating that, “[f]or example, proposals squarely raising human capital management issues with a broad societal impact would not be subject to exclusion solely because the proponent did not demonstrate that the human capital management issue was significant to the company.”

Amazon cites³⁵ a number of determinations in which the Staff allowed exclusion on ordinary business grounds of proposals that dealt with companies’ workforce management, but none of those proposals involved a significant policy issue. Many of them addressed the kinds of day-to-day management issues for which the ordinary business exclusion was designed; for example, the proposal in Wells Fargo³⁶ asked for a policy requiring a 12-month cooling off period before someone who had worked at a credit rating agency could work for the company. The proponents of the Wells Fargo proposal did not respond to the company’s request for no-action relief, and the Starwood³⁷ proponent responded but failed to address the company’s substantive bases for exclusion; thus, they did not try to make the case that their proposals addressed a significant policy issue. The Division was unpersuaded that outsourcing, the reduction-in-force review process, and worker health and safety, cited by the proponents of the proposals at issue in the determinations on pages 6-7 of the No-Action Request, were significant policy issues. Those determinations, then, do not stand for the proposition that a proposal addressing a

²⁹ <https://www.youtube.com/watch?v=D5fOUgKwCYM>

³⁰ <https://www.wsj.com/articles/investors-seek-more-information-about-companies-struggles-to-hire-retain-staff-11645045610>

³¹ <https://www.wsj.com/articles/investors-seek-more-information-about-companies-struggles-to-hire-retain-staff-11645045610>

³² <https://www.congress.gov/bill/117th-congress/house-bill/1187>;

³³ <https://www.congress.gov/bill/117th-congress/senate-bill/1815>

³⁴ Staff Legal Bulletin 14L (Nov. 3, 2021)

³⁵ See No-Action Request, at 5-7.

³⁶ Wells Fargo & Co. (Feb. 22, 2008).

³⁷ Starwood Hotels & Resorts Worldwide, Inc. (Feb. 14, 2012)

significant policy issue, as the Proposal does, is excludable simply because it addresses or relates to a company's management of its workforce.

Finally, the Proposal does not focus on ordinary business matters despite touching on or referencing a significant policy issue, as Amazon claims.³⁸ In the determinations Amazon cites on page 8 of the No-Action Request, the proposals' requests were too far afield from the putative significant policy issues. For example, the resolved clause in the Dominion³⁹ proposal asked the company to "initiate a program to provide financing to home and small business owners for installation of rooftop solar or wind power renewable generation." The company argued that the proposal dealt with financial transactions with its customers and/or the sale of products and services, core ordinary business matters. The proponent urged that the program advocated in the proposal would reduce the amount of coal-fired electricity generated by Dominion. Perhaps because the resolved clause did not mention climate change or greenhouse gas emission reduction, the Staff concurred with Dominion, reasoning that the proposal "relate[d] to the products and services offered for sale by the company." In contrast, the Proposal directly addresses the significant policy issue of risks associated with the tight labor market.

In sum, Amazon is not entitled to exclude the Proposal on ordinary business grounds because the Proposal addresses a significant social policy issue transcending ordinary business, as evidenced by the consistent and widespread public debate in the media and among policy makers.

Substantial Duplication

Rule 14a-8(i)(11) allows exclusion of a proposal that is "substantially duplicative of a proposal previously submitted to the registrant by another proponent, which proposal will be included in the registrant's proxy material for the meeting." The adopting release for the exclusion explained that it was adopted "to eliminate the possibility of shareholders having to consider two or more substantially identical proposals . . ." Considering such "redundant" proposals, the Commission stated, would serve "no useful purpose."⁴⁰

Amazon urges that the Proposal substantially duplicates an earlier-submitted proposal that will appear in the Company's proxy statement (the "Prior Proposal"). The Prior Proposal asks Amazon to report on the Company's turnover rates and the effects of labor market changes that have resulted from the COVID-19 pandemic.

Amazon claims that the "traditional" standard for analyzing substantial duplication is whether the proposals share a "principal thrust" or "principal focus," and argues that it is entitled to exclude the Proposals because they both "share the same underlying concern regarding workforce staffing considerations in light of current labor market challenges."⁴¹

³⁸ No-Action Request, at 8.

³⁹ Dominion Resources, Inc. (Feb. 3, 2011).

⁴⁰ Exchange Act Release No. 12999 (Nov. 22, 1976).

⁴¹ No-Action Request, at 11.

But the Pacific Gas & Electric Company (“PG&E”)⁴² determination Amazon cites did not supersede the Commission’s own approach to applying the exclusion and does not support Lilly’s overbroad approach.

In PG&E, the Staff was considering whether any of three later-received proposals substantially duplicated the first-received proposal. All four proposals dealt with compensation, with the first-received asking that non-salary compensation of management be tied to performance, while the second-received requested a ceiling on total compensation of officers and directors. The Staff allowed PG&E to exclude as substantially duplicative a third proposal asking that the CEO’s total compensation be tied to company performance, which was nearly identical to the first proposal.

The Staff did not agree with PG&E’s view that the second proposal substantially duplicated the first. The second proposal specifically sought the “reduction and imposition of ceilings on total compensation of executive officers and directors”—in other words, to affect *how much* they were paid—and thus its “principal thrust” was different from the first proposal’s “principal focus” on tying pay to performance, which wouldn’t necessarily affect the amount paid. The Staff used “principal thrust” and “principal focus” to emphasize the differences between the proposals; it did not introduce a new interpretive approach, nor could it override the Commission’s own articulation of the standard in its 1976 release. It is significant that the Staff has not used the “principal thrust” and “principal focus” language in determinations applying Rule 14a-8(i)(11) since the PG&E letter, despite reliance on that letter and use of that language by companies seeking relief.

The differences between the actions requested in the Proposal and Prior Proposal are not “slight,” as Amazon claims.⁴³ The Proposal focuses broadly on identification and mitigation of risks related to staffing, while the Prior Proposal zeroes in specifically on turnover. Indeed, the Prior Proposal’s entire supporting statement addresses turnover and does not allude to any other impacts of the tighter labor market. The Proposal requests data on the use of part-time, temporary and contracted workers, which the Prior Proposal does not mention. The Prior Proposal asks Amazon to discuss turnover in the context of its diversity, equity and inclusion efforts, about which the Proposal is silent. Finally, the Proposal asks Amazon to report on whether and how staffing challenges have played a role in Amazon’s decisions about strategy. Given this lack of overlap, the Proposal and Prior Proposal are not so similar that “no useful purpose” would be served by shareholders voting on them both.

Amazon identifies common concerns behind the Proposal and Prior Proposal as “labor market constraints relating to “The Great Resignation,”” pre-pandemic staffing challenges, and the provision of information on the workforce to shareholders.⁴⁴ But the fact that two proposals reflect or were motivated by such general common concerns does not compel the conclusion that they are substantially duplicative. The absurdity of that

⁴² Pacific Gas & Electric Company (Feb. 1, 1993).

⁴³ See No-Action Request, at 11.

⁴⁴ No-Action Request, at 11

approach can be illustrated by considering whether a proposal seeking board declassification and another asking the company to adopt a majority vote standard for director elections would substantially duplicate each other if both supporting statements focused on the need for greater accountability of directors to shareholders. Would a proposal suggesting an independent board chair policy substantially duplicate one advocating for greater board independence, simply because both supporting statements urge that the requested reforms would enhance board oversight? Given the difference between the requested reforms, a finding of substantial duplication would be unwarranted. The same is true here.

The Staff recently denied relief to Amazon on substantial duplication grounds despite arguably greater similarity between the proposals. In *Amazon.com*,⁴⁵ an earlier-received proposal asked the board to commission a study regarding the likelihood that the company's facial recognition technology Rekognition "may endanger, threaten or violate privacy and/or civil rights, and unfairly or disproportionately target or surveil people of color, immigrants and activists" and the risks stemming from use of Rekognition by authoritarian or repressive governments. The later-received proposal asked the board to commission a study "assessing Amazon's process for customer due diligence, to determine whether customers' use of its surveillance and computer vision products or cloud-based services contributes to human rights violations."

Amazon argued that "the principal thrust and focus of the Proposal and the Prior Proposal are the same: an independent report on the Company's process for reviewing customers of certain computer vision and cloud-based facial recognition technologies with a focus on potential human rights implications of such customers' use of the technologies." Amazon highlighted the proposals' common concerns about effects on human and civil rights, including use of facial recognition technology in immigration enforcement, and disparate racial impacts. Amazon acknowledged that the later-received proposal did not specifically identify Rekognition, but argued that its reference to "surveillance and computer vision products or cloud-based services" clearly encompassed that product. The proponent of the later-received proposal contended that it focused on process, while the earlier-received one asked Amazon to provide specific substantive information about risks, and that the reports requested by the proposals would therefore not overlap. The Staff declined to grant relief.

The exclusive focus of the Prior Proposal is workforce turnover, whereas the Proposal seeks information on risks related to staffing. Although the report elicited by the Proposal might mention turnover, the Proposal's objective is not to obtain such data but rather to inform shareholders about more general risks. As well, the Proposal—but not the Prior Proposal—asks Amazon to discuss the strategic impact of staffing challenges. Accordingly, Amazon has not met its burden of showing that the Proposal substantially duplicates the Prior Proposal.

⁴⁵ *Amazon.com, Inc.* (Apr. 1, 2020).

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For the reasons set forth above, Amazon has not satisfied its burden of showing that it is entitled to omit the Proposal in reliance on Rule 14a-8 (i)(7) or Rule 14a-8(i)(11). Accordingly, the Trust respectfully requests that Amazon's request for relief be denied.

The Trust appreciates the opportunity to be of assistance in this matter. If you have any questions or need additional information, please contact me at (734) 929-5789 or via email at callen@rhac.com.

Sincerely,



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