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

DIVISION OF
CORPORATION FINANCE

November 26, 2025

Sean Donahue
Paul Hastings LLP

Re: Amentum Holdings, Inc. (the "Company")
Incoming Letter dated October 15, 2025
Supplemental Correspondence dated November 26, 2025

Dear Sean Donahue:

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

You represent that the Company has a reasonable basis to exclude the Proposal. Based solely on that representation, we will not object if the Company excludes the Proposal from its proxy materials.

Copies of all of the correspondence on which this response is based will be made available on our website.

Sincerely,

Division of Corporation Finance
Office of Chief Counsel

cc: John Chevedden

October 15, 2025

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

Re: *Amentum Holdings, Inc.*
Stockholder Proposal of John Chevedden
Securities Exchange Act of 1934 – Rule 14a-8

Ladies and Gentlemen:

This letter is to inform you that our client, Amentum Holdings, Inc. (the "**Company**"), intends to omit from its proxy statement and form of proxy for its 2026 annual meeting of stockholders (collectively, the "**Proxy Materials**") a stockholder proposal and statements in support thereof (collectively, the "**Proposal**") received from John Chevedden (the "**Proponent**").

The Company respectfully requests that the staff of the Division of Corporation Finance (the "**Staff**") of the U.S. Securities and Exchange Commission (the "**Commission**") advise the Company that it will not recommend any enforcement action to the Commission if the Company excludes the Proposal from its Proxy Materials pursuant to Rule 14a-8(b) and Rule 14a-8(f)(l) of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), on the basis that the Proponent failed to establish that the Proponent continuously held the requisite amount of the Company's securities entitled to be voted on the Proposal at the Company's 2026 annual meeting of stockholders in response to the Company's proper request for that information.

Pursuant to Exchange Act Rule 14a-8(j) and Staff Legal Bulletin No. 14D (November 7, 2008) ("**SLB 14D**"), the Company is submitting electronically to the Commission this letter, and the Proposal and related correspondence (attached as **Exhibit A** to this letter), and is concurrently sending a copy to the Proponent.

The Company agrees to promptly forward to the Proponent any Staff response to the Company's no-action request that the Staff transmits to the Company by mail, email and/or facsimile. Rule 14a-8(k) and SLB 14D provide that a stockholder proponent is required to send to the Company a copy of any correspondence which the proponent elects to submit to the Commission or the Staff. Accordingly, the Company hereby informs the Proponent that the undersigned on behalf of the Company is entitled to receive from the Proponent a concurrent

copy of any additional correspondence submitted to the Commission or the Staff relating to the Proposal.

The Company intends to mail and file its definitive proxy statement on or about December 24, 2025. This letter is therefore being sent to the Staff fewer than 80 calendar days before such date and accordingly, as described below, the Company requests the Staff to waive the 80-day requirement set forth in Rule 14a-8(j)(1) with respect to this letter.

I. Basis for Exclusion

The Company believes that the Proposal may be properly excluded from the Proxy Materials pursuant to 14a-8(b)(1) and 14a-8(f)(1) because the Proponent has failed to provide sufficient evidence that the Proponent satisfies the ownership threshold requirements of Rule 14a-8(b)(1)(i) in response to the Company's proper request for that information. Specifically, the Proponent failed to document ownership of Company shares that satisfy the market value tests in Rule 14a-8 and failed to demonstrate the Proponent's continuous ownership of the requisite amount of Company shares.

II. Background

The Proposal was submitted to the Company via FedEx and received by the Company on September 17, 2025 (the "**Submission Date**"). See Exhibit A. The Proponent's initial submission did not include any evidence of his ownership of Company shares. The Company reviewed its stock records, which did not indicate that the Proponent was a record owner of Company shares. On September 22, 2025, per instructions from the Proponent in the Proposal, the Company emailed the Proponent requesting documentation showing proof of ownership (attached as **Exhibit B** to this letter). On September 23, 2025, the Proponent responded by email to the Company providing a broker letter from Fidelity Investments, dated September 23, 2025, indicating ownership of Amentum Holdings Inc. of 63 shares since September 6, 2022 through the date of the letter (the "Broker Letter") (attached as **Exhibit C** to this letter). As discussed in detail below, the Broker Letter did not provide verification that the Proponent satisfied one of the three ownership requirements (each an "Ownership Requirement," and collectively the "**Ownership Requirements**") of Rule 14a-8(b) under the Exchange Act because it verified ownership of only $1,677.69 in market value of the Company's shares. Accordingly, and in compliance with the timing set forth in Rule 14a-8(f), the Company sent a notice of deficiency on September 29, 2025 (the "**Notice of Deficiency**") to the Proponent via FedEx and email, which identified proof of ownership as the deficiency with the Proposal and requested that the Proponent remedy such deficiency within 14 calendar days of receiving the Company's request

(attached as **Exhibit D** to this letter). The Proponent received the FedEx delivery of the Notice of Deficiency on September 30, 2025. In relevant part, the Notice of Deficiency identified the Proponent's failure to provide proof of ownership as required by Rule 14a-8(b). The Notice of Deficiency also provided detailed information regarding how to remedy the deficiency. The Proponent's confirmation of overnight delivery of the Deficiency Notice is attached hereto as **Exhibit E**. The 14-day period for the Proponent to respond to the Notice of Deficiency expired on October 14, 2025. As of the date hereof, the Company has not received any proof of stock ownership from the Proponent. We are submitting this no-action request letter to the Staff today, October 15, 2025, which is the first day we can submit such request after the 14 days required by Rule 14a-8(f).

III. Analysis

a. *The Proposal May Be Excluded Under Rule 14a-8(b) And Rule 14a-8(f)(1) Because The Proponent Failed To Establish The Requisite Eligibility To Submit The Proposal.*

Rule 14a-8(b) under the Exchange Act provides, in part, that a stockholder proponent must submit sufficient proof of its continuous ownership of company shares preceding and including the submission date for at least one of the following ownership requirements found in Rule 14a-8(b)(1)(i):

(1) $2,000 in market value of the Company's shares entitled to vote on the Proposal for at least three years;
(2) $15,000 in market value of the Company's shares entitled to vote on the Proposal for at least two years; or
(3) $25,000 in market value of the Company's shares entitled to vote on the Proposal for at least one year (collectively, the "**Ownership Requirements**").

Staff Legal Bulletin No. 14M states that brokers and banks may provide "confirmation as to how many shares the proponent held continuously . . .." Staff Legal Bulletin No. 14M then provides guidance on how to calculate the share valuation by citing Release No. 34-89964 (Sept. 23, 2020):

> In order to determine whether the shareholder satisfies the relevant ownership threshold, the shareholder should look at whether, on any date within the 60 calendar days before the date the shareholder submits the proposal, the shareholder's investment is valued at the relevant threshold or greater. For these

> purposes, companies and shareholders should determine the market value by multiplying the number of securities the shareholder continuously held for the relevant period by the highest selling price during the 60 calendar days before the shareholder submitted the proposal.

The highest price of Company shares during the 60-calendar-days before the Submission Date, was $26.63 per share. Thus, the market value of the Proponent's shares was $1,677.69. In order to meet one of the Ownership Requirements as the holder of 63 shares, the Proponent would need to show a highest selling price during the applicable period in excess of $31.74 per share. Accordingly, the Broker Letter failed to demonstrate that the Proponent met any of the Ownership Requirements, because it verified ownership of only $1,677.69 in market value of the Company's shares, which does not satisfy the requisite amount in any of the Ownership Requirements.

Where a proponent of a stockholder proposal fails to meet the procedural requirement of providing proof of ownership, Rule 14a-8(f) allows a company to exclude the proposal as long as it has provided the proponent with a written notice of the deficiency within 14-calendar-days of receiving the proposal and the proponent does not adequately respond to the written notice within 14-calendar-days of receiving the written notice of deficiency. The Company received the Proposal on September 17, 2025 and submitted to the Proponent the Notice of Deficiency via email and FedEx on September 29, 2025, which is within 14-calendar-days of September 17, 2025. The Proponent received the FedEx delivery of the Notice of Deficiency on September 30, 2025. The Company did not receive a response from the Proponent that demonstrates any additional ownership in Company shares such that the Proponent would be able to meet any of the Ownership Requirements. Accordingly, we believe that the Staff will agree with our conclusion that the Proposal can be excluded from the Company's Proxy Materials in reliance on Rules 14a-8(b)(1)(i) and 14a-8(f)(1).

The Staff has consistently permitted exclusion under Rule 14a-8(f)(1) of stockholder proposals where a proponent failed to show sufficient proof of ownership, including, recently in *Walgreens Boots Alliance, Inc.* (avail. Dec. 9, 2024) where the Staff concurred with the exclusion of a stockholder proposal under Rule 14a-8(b) and Rule 14a-8(f) noting that "the market value of Company securities held by the Proponent did not meet the thresholds set forth in Rule 14a-8(b)(1)(i) and the Company notified the Proponent of this problem" where the Proponent showed ownership of $1,866.00 in market value of company stock. *See also AMC Networks Inc.* (avail. Apr. 4, 2023) (the Staff concurred with the exclusion of a stockholder proposal where the proponent showed ownership of only $1,591.80 in market value of company stock); and *PPL Corp.* (avail. Mar. 12, 2021) (the Staff concurred with the exclusion of a stockholder proposal

where the proponent showed ownership of only $1,498 in market value of company stock).

As in the precedents cited above, the Proponent failed to provide adequate documentary evidence of ownership of Company shares despite proper notice from the Company. Therefore, since the Proponent has not demonstrated eligibility under Rule 14a-8 to submit the Proposal, we ask that the Staff concur that the Company may exclude the Proposal under Rule 14a-8(b) and Rule 14a-8(f)(1).

IV. Waiver of the 80-Day Requirement under Rule 14a-8(j)

Rule 14a-8(j) requires a company to file its no-action letter with the Commission no later than 80 calendar days before such company intends to file its definitive proxy materials for the upcoming annual meeting. However, per Rule 14a-8(j)(l), the Staff may waive the 80-day requirement if the company demonstrates good cause for missing the 80-day deadline. The Company intends to file its definitive Proxy Materials with the Commission on or around December 24, 2025, which is 10 days less than 80 days from the date of this letter. We are submitting this no-action request letter to the Staff today, October 15, 2025, which is the earliest day we can submit such request after the 14 days required by Rule 14a-8(f).

The Staff has previously granted waivers of Rule 14a-8(j)(1) where the reason for the delayed submission of a request was that the company has been waiting for a response from the proponent to correct deficiencies in the proponent's submission. *See, e.g. Toll Brothers, Inc.* (avail. Jan 10, 2006); *Toll Brothers, Inc.* (avail. Jan. 5, 2006); *E*TRADE Group, Inc.* (avail. October 31, 2000). Here the deadline for the Proponent to correct the deficiencies was October 14, 2025. Had the company been aware that the Proponent was not going to communicate any further with the Company on this matter, this request would have been submitted on or before the 80-day deadline. We therefore believe that the Company has acted in good faith and has good cause for its inability to meet the 80-day deadline, and we respectfully request that the Staff waive the 80-day requirement with respect to this letter.[1] If the Staff is unwilling to grant this waiver, the Company will endeavor to file its Proxy Materials on a date that is at least 80 days after the date of this request.

V. Conclusion

For the foregoing reasons, the Company believes that the Proposal may be omitted from

[1] We note that, even if the Staff does not agree there is "good cause" to waive the 80-day requirement, it has noted that it "generally will consider the bases upon which the company intends to exclude a proposal, as [the Staff] believe[s] that is an appropriate exercise of its] responsibilities under rule 14a-8." See Staff Legal Bulletin No. 14B.

its Proxy Materials in accordance with Rules 14a-8(b)(1) and 14a-8(f)(1). The Company respectfully requests that the Staff confirm that it will not recommend any enforcement action if the Proposal is excluded from the Company's Proxy Materials.

We would be happy to provide you with any additional information and answer any questions that you may have regarding this subject. Correspondence regarding this letter should be sent to seandonahue@paulhastings.com. If we can be of any further assistance in this matter, please do not hesitate to call me at (202) 538-3557.

Sincerely,

/s/ Sean Donahue

Sean Donahue

Attachments

cc:

Michele St. Mary, Amentum Holdings, Inc.

John Chevedden

EXHIBIT A

JOHN CHEVEDDEN

Mr. Paul W. Cobb, Jr.
Amentum Holdings, Inc. (AMTM)
4800 Westfields Blvd
Suite #400
Chantilly, VA 20151
703 579 0410

Mr. Cobb,

This Rule 14a-8 proposal is respectfully submitted in support of the long-term performance of our company.

This Rule 14a-8 proposal is intended as a low-cost method to improve company performance – especially compared to the substantial capitalization of our company.

This proposal is for the next annual shareholder meeting.

I intend to continue to hold the same requisite amount of Company shares through the date of the Company's next Annual Meeting of Stockholders and beyond as is or will be documented in my ownership proof.

This submitted format, with the shareholder-supplied emphasis, is intended to be used for definitive proxy publication.

Please assign the proper sequential proposal number in each appropriate place.

Please use the title of the proposal in bold in all references to the proposal in the proxy including the table of contents, like Board of Directors proposals, and on the ballot. If there is objection to the title please negotiate or seek no action relief as a last resort.

I expect to forward a broker letter soon so if you acknowledge this proposal in an email message to
it may very well save you from formally requesting a broker letter from me.

Please confirm that this proposal was sent to the correct email address for rule 14a-8 proposals. Per SEC SLB 14L, Section F, the Securities and Exchange Commission Staff "encourages both companies and shareholder proponents to acknowledge receipt of emails when requested." I so request.

Sincerely,

John Chevedden

Date

[AMTM: Rule 14a-8 Proposal, September 14, 2025]
[This line and any line above it – *Not* for publication.]
Proposal 4 – Support for a Simple Majority Vote Standard

Shareholders request that the Board of Directors take each step necessary so that each voting requirement in our charter and bylaws (that is explicit or implicit due to default to state law) that calls for a greater than simple majority vote be replaced by a requirement for a majority of the votes cast for and against applicable proposals, or a simple majority in compliance with applicable laws. If necessary this means the closest standard to a majority of the votes cast for and against such proposals consistent with applicable laws. This proposal includes that Amentum Holdings shall state in its governing documents that it will not have any default super-majority voting standards upon adoption of this proposal.

Shareholders are willing to pay a premium for shares of companies that have excellent corporate governance. The supermajority voting requirements, like those of Amentum Holdings have been found to be one of 6 entrenching mechanisms that are negatively related to company performance according to "What Matters in Corporate Governance" by Lucien Bebchuk, Alma Cohen and Allen Ferrell of the Harvard Law School. Supermajority requirements are used to block initiatives supported by most shareowners but opposed by a status quo management.

This proposal topic won from 74% to 88% support at Weyerhaeuser, Alcoa, Waste Management, Goldman Sachs, FirstEnergy and Macy's. These votes would have been higher than 74% to 88% if more shareholders had access to independent proxy voting advice.

This proposal topic received 98% support each in 2024 at Domino's Pizza, FMC Corporation, ConocoPhillips, Masco Corporation and Power Integrations.

Please vote yes:
Support for a Simple Majority Vote Standard – Proposal 4
[The line above – *Is* for publication. Please assign the correct proposal number in the 2 places.]

Notes:
"Proposal 4" stands in for the final proposal number that management will assign.
The proposal number and title at the top of proposal is the number and title intended for publication in the proxy and on the ballot – word for word with no added words or mixture of shareholder words with management words.

It is critically important that the proponent have control of the ballot title with no words added or subtracted from the title because the title of the proposal may be the only words a voting shareholder sees. If management disagrees then it has the option of negotiating now or asking for no action relief.

This proposal is believed to conform with Staff Legal Bulletin No. 14B (CF), September 15, 2004 including (emphasis added):

Accordingly, going forward, we believe that it would not be appropriate for companies to exclude supporting statement language and/or an entire proposal in reliance on rule 14a-8(I)(3) in the following circumstances:

- the company objects to factual assertions because they are not supported;
- the company objects to factual assertions that, while not materially false or misleading, may be disputed or countered;
- the company objects to factual assertions because those assertions may be interpreted by shareholders in a manner that is unfavorable to the company, its directors, or its officers; and/or
- the company objects to statements because they represent the opinion of the shareholder proponent or a referenced source, but the statements are not identified specifically as such.

We believe that it is appropriate under rule 14a-8 for companies to address these objections in their statements of opposition.

See also: Sun Microsystems, Inc. (July 21, 2005).

The proponent is available for a telephone meeting on the first Monday and Tuesday after 10-days of the proposal submittal date at noon PT.
Please arrange in advance in a separate email message regarding a meeting if needed.

I intend to continue to hold the same requisite amount of Company shares through the date of the Company's next Annual Meeting of Stockholders and beyond as is or will be documented in my ownership proof.

Please acknowledge this proposal promptly by email

The color version of the below graphic is to be published immediately after the bold title line of the proposal at the top of the proposal and be center justified with the title.

EXHIBIT B

From: St. Mary, Michele <Michele.StMary@amentum.com>
Sent: Monday, September 22, 2025 6:03 PM
To: [redacted]
Subject: Amentum Holdings, Inc. -- Rule 14a-8 Shareholder Proposal

Mr. Chevedden,
Amentum Holdings, Inc. is in receipt of your Rule 14a-8 shareholder proposal. Please communicate through this email address and to the undersigned going forward. We request that you provide proof of required ownership.
Regards.
Michele St. Mary

Michele St. Mary
Chief Legal Officer and General Counsel
M 571-690-0939
michele.stmary@amentum.com
amentum.com

From: John [redacted]
Sent: Monday, September 22, 2025 9:22 PM
To: St. Mary, Michele
Subject: [EXTERNAL] AMTM

Ms. St. Mary,
Thank you for the acknowledgment.
I will forward the broker letter soon.
John Chevedden

EXHIBIT C

From: John [redacted]
Sent: Tuesday, September 23, 2025 8:54 PM
To: St. Mary, Michele
Subject: [EXTERNAL] AMTM
Attachments: Scan2025-09-23_174812(3).pdf

Please see the below broker letter.
Please confirm receipt.
John Chevedden

Personal Investing

P.O. Box 770001
Cincinnati, OH 45277-0045

JOHN R CHEVEDDEN

September 23, 2025

September 23, 2025

Dear Mr. Chevedden,

This letter is provided at the request of Mr. John R. Chevedden, a customer of Fidelity investments.

Please accept this letter as confirmation that as of the start of business on the date of this letter Mr. Chevedden has continuously owned no fewer than the share quantities of the securities shown on the below table since at least September 6, 2022.

Security	Symbol	Share Quantity
AMENTUM HOLDINGS INC	AMTM	63.000

These securities are registered in the name of National Financial Services LLC, a DTC participant (DTC number 0226) a Fidelity Investments subsidiary.

I hope this information is helpful. For any other issues or general inquiries, please contact a Fidelity representative at 800-544-6666. Thank you for choosing Fidelity Investments.

Sincerely,

Curtis Mitchell

Curtis Mitchell
Brokerage Operations

Our File: W210588-23SEP25

Fidelity Brokerage Services LLC, Members NYSE, SIPC.

EXHIBIT D

From: Donahue, Sean <seandonahue@paulhastings.com>
Sent: Monday, September 29, 2025 5:03 PM
To: [redacted]
Subject: Amentum Holdings, Inc. - Deficiency Letter

Dear Mr. Chevedden,

On behalf of our client, Amentum Holdings, Inc., please find attached a notice of deficiency with respect to the stockholder proposal you submitted. A paper copy of this correspondence is being delivered to you in hard copy as well.

We would appreciate you kindly confirming receipt of this correspondence.

Regards,
Sean Donahue

PAUL
HASTINGS

Sean Donahue | Chair, Public Company Advisory Practice
Paul Hastings LLP | 2050 M Street NW, Washington, DC 20036 | Direct: +1.202.551.1704 | Main: +1.202.551.1700 | Mobile: +1.202.538.3557 | seandonahue@paulhastings.com | www.paulhastings.com

PAUL
HASTINGS

September 29, 2025

VIA OVERNIGHT MAIL AND EMAIL
John Chevedden

Dear Mr. Chevedden:

I am writing on behalf of Amentum Holdings, Inc. (the "**Company**"), which received your letter via FedEx on September 17, 2025 (the "**Submission Date**") giving notice of your intent to present a stockholder proposal at the Company's 2026 Annual Meeting of Stockholders (the "**Proposal**") pursuant to Rule 14a-8(b) under the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"). We are also in receipt of your correspondence dated September 23, 2025 providing documentation addressing your ownership of the Company's shares (the "**September 23 Email**"). Please note that the Proposal contains certain procedural deficiencies, which Securities and Exchange Commission ("**SEC**") regulations require us to bring to your attention and which you should correct as described below if the Company is to consider the Proposal as properly submitted.

Proof of Continuous Ownership

Rule 14a-8(b) under the Exchange Act provides that a stockholder proponent must submit sufficient proof of its continuous ownership of company shares preceding and including the submission date for at least one of the following ownership requirements found in Rule 14a-8(b)(1)(i):

(1) $2,000 in market value of the Company's shares entitled to vote on the Proposal for at least three years;
(2) $15,000 in market value of the Company's shares entitled to vote on the Proposal for at least two years; or
(3) $25,000 in market value of the Company's shares entitled to vote on the Proposal for at least one year (collectively, the "**Ownership Requirements**").

The letter from Fidelity Investments dated September 23, 2025 that you provided in the September 23 Email indicates that you have owned no fewer than 63 shares of Amentum Holdings Inc. since at least September 6, 2022 (the "Fidelity Letter"). The Fidelity Letter is insufficient both because (i) it does not evidence that you have held the requisite minimum value of the Company's shares during the time period set forth in any of the Ownership Requirements above and (ii) it does not show you (a) continuously held the requisite amount of Company shares since September 27, 2024 until the Submission Date and (b) through September 27, 2024, continuously held sufficient

shares of Jacobs Solutions Inc. for a sufficient amount of time such that, when combined with the length of time for which you have held Company shares, you satisfy at least one of the Ownership Requirements described above.

Staff Legal Bulletin No. 14M states that brokers and banks may provide "confirmation as to how many shares the proponent held continuously . . .." Staff Legal Bulletin No. 14M then provides guidance on how to calculate the share valuation by citing Release No. 34-89964 (Sept. 23, 2020): "In order to determine whether the shareholder satisfies the relevant ownership threshold, the shareholder should look at whether, on any date within the 60 calendar days before the date the shareholder submits the proposal, the shareholder's investment is valued at the relevant threshold or greater. For these purposes, companies and shareholders should determine the market value by multiplying the number of securities the shareholder continuously held for the relevant period by the highest selling price during the 60 calendar days before the shareholder submitted the proposal." The highest price of Company shares during the 60 calendar days before the Submission Date, was $26.63 per share. Thus, the market value of your Company shares was $1,677.69, which does not meet any of the Ownership Requirements. Further, we were not able to find a selling price during the applicable period at or above the amount required to show the market value of 63 shares that would meet or exceed the $2,000 threshold or $31.74.

Please note that the Company has examined its stock records and has determined that you are not the record owner of sufficient shares to satisfy any of the Ownership Requirements. To remedy these defects, Rule 14a-8(b)(2) and SEC staff guidance requires that you must submit to the Company a new proof of ownership letter verifying that you have satisfied at least one of the Ownership Requirements in the form of either:

(1) a written statement from the "record" holder of your shares (usually a broker or a bank) verifying that, at the time you submitted your proposal (the Submission Date), you continuously held at least $2,000, $15,000, or $25,000 in market value of the company's securities entitled to vote on the proposal for at least three years, two years, or one year, respectively; or

(2) if you have filed a Schedule 13D, Schedule 13G, Form 3, Form 4 or Form 5, or amendments to those documents or updated forms, reflecting ownership of the Company's securities as of or before the date on which the one-year, two-year or three-year eligibility periods begin, a copy of the schedule and/or form, and any subsequent amendments reporting a change in the ownership level and a written statement that you have continuously held the required number of shares for the applicable period.

Moreover, in light of our separation from Jacobs Solutions Inc. on September 27, 2024, in

order to demonstrate continuous ownership of Company shares that satisfies at least one of the Ownership Requirements described above, you must submit proof that shows you (i) continuously held the requisite amount of Company shares since September 27, 2024 until the Submission Date and (ii) through September 27, 2024, continuously held sufficient shares of Jacobs Solutions Inc. for a sufficient amount of time such that, when combined with the length of time for which you have held Company shares, you satisfy at least one of the Ownership Requirements described above. In this regard, the Fidelity Letter only notes ownership of Company shares, it does not provide proof of ownership of the shares of Jacobs Solutions Inc. To remedy this defect, please include proof of ownership of the shares of Jacobs Solutions Inc. in your new proof of ownership letter for the requisite time period.

In order to help shareholders comply with the requirement to prove ownership by providing a written statement from the "record" holder of the shares, the SEC's Division of Corporation Finance published Staff Legal Bulletin 14F in October 2011 and Staff Legal Bulletin 14G in October 2012. As the SEC adopted amendments to Rule 14a-8 that became effective in 2021, note that Staff Legal Bulletin 14F and Staff Legal Bulletin 14G do not reflect those amendments and, to the extent any provisions are inconsistent, Rule 14a-8 governs in all respects.

In Staff Legal Bulletin 14F and Staff Legal Bulletin 14G, the SEC Staff clarified that, for purposes of SEC Rule 14a-8(b)(2)(i), only brokers or banks that are Depository Trust Company ("**DTC**") participants or affiliates of DTC participants will be viewed as "record" holders of securities that are deposited at DTC. An entity is an "affiliate" of a DTC participant if such entity directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the DTC participant.

As a result, you will need to obtain the required written statement from the DTC participant or an affiliate of the DTC participant through which your shares are held. For the purposes of determining if a broker or bank is a DTC participant, you may check the list posted at https://www.dtcc.com/-/media/Files/Downloads/client-center/DTC/DTC-Participant-in-Alphabetical-Listing-1.pdf.

If the DTC participant or an affiliate of the DTC participant knows the holdings of your broker or bank, but does not know your individual holdings, you may satisfy the proof of ownership requirement by obtaining and submitting two proof of ownership statements verifying that, at the time the Proposal was submitted, the required amount of securities was held continuously by you for the requisite holding period – with one statement from the broker or bank confirming your ownership, and the other statement from the DTC participant or an affiliate of the DTC participant confirming the broker's or bank's ownership. In Staff Legal Bulletin 14G, the SEC Staff also clarified that, in situations where a shareholder holds securities through a

securities intermediary that is not a broker or bank, a shareholder can satisfy Rule 14a-8's documentation requirement by submitting a proof of ownership letter from that securities intermediary. If the securities intermediary is not a DTC participant or an affiliate of a DTC participant, then the shareholder will also need to obtain a proof of ownership letter from the DTC participant or an affiliate of a DTC participant that can verify the holdings of the securities intermediary.

Pursuant to Rule 14a-8(f) and SEC Staff Legal Bulletin No. 14M, any response to this letter must be postmarked, or transmitted electronically, no later than 14 days from the date you received this letter. Please address any response to me at Paul Hastings LLP, 2050 M St NW, Washington, DC 20036. You may transmit any response by email to me at seandonahue@paulhastings.com. Please note that the SEC's staff has stated that a proponent is responsible for confirming our receipt of any correspondence transmitted in response to this letter.

If you have any questions with respect to the foregoing, please contact me at (202) 538-3557. For your reference, I enclose a copy of Rule 14a-8, Staff Legal Bulletin No. 14F, SEC Staff Legal Bulletin No. 14G, and SEC Staff Legal Bulletin No. 14M.

Sincerely,

/s/ Sean Donahue

Sean Donahue

Enclosures

§ 240.14a-8 Shareholder proposals.

This section addresses when a company must include a shareholder's proposal in its proxy statement and identify the proposal in its form of proxy when the company holds an annual or special meeting of shareholders. In summary, in order to have your shareholder proposal included on a company's proxy card, and included along with any supporting statement in its proxy statement, you must be eligible and follow certain procedures. Under a few specific circumstances, the company is permitted to exclude your proposal, but only after submitting its reasons to the Commission. We structured this section in a question-and-answer format so that it is easier to understand. The references to “you” are to a shareholder seeking to submit the proposal.

(a) ***Question 1:*** What is a proposal? A shareholder proposal is your recommendation or requirement that the company and/or its board of directors take action, which you intend to present at a meeting of the company's shareholders. Your proposal should state as clearly as possible the course of action that you believe the company should follow. If your proposal is placed on the company's proxy card, the company must also provide in the form of proxy means for shareholders to specify by boxes a choice between approval or disapproval, or abstention. Unless otherwise indicated, the word “proposal” as used in this section refers both to your proposal, and to your corresponding statement in support of your proposal (if any).

(b) ***Question 2:*** Who is eligible to submit a proposal, and how do I demonstrate to the company that I am eligible?

(1) To be eligible to submit a proposal, you must satisfy the following requirements:

(i) You must have continuously held:

(A) At least $2,000 in market value of the company's securities entitled to vote on the proposal for at least three years; or

(B) At least $15,000 in market value of the company's securities entitled to vote on the proposal for at least two years; or

(C) At least $25,000 in market value of the company's securities entitled to vote on the proposal for at least one year; or

(D) The amounts specified in paragraph (b)(3) of this section. This paragraph (b)(1)(i)(D) will expire on the same date that § 240.14a-8(b)(3) expires; and

(ii) You must provide the company with a written statement that you intend to continue to hold the requisite amount of securities, determined in accordance with paragraph (b)(1)(i)(A) through (C) of this section, through the date of the shareholders' meeting for which the proposal is submitted; and

(iii) You must provide the company with a written statement that you are able to meet with the company in person or via teleconference no less than 10 calendar days, nor more than 30 calendar days, after submission of the shareholder proposal. You must include your contact

information as well as business days and specific times that you are available to discuss the proposal with the company. You must identify times that are within the regular business hours of the company's principal executive offices. If these hours are not disclosed in the company's proxy statement for the prior year's annual meeting, you must identify times that are between 9 a.m. and 5:30 p.m. in the time zone of the company's principal executive offices. If you elect to co-file a proposal, all co-filers must either:

(A) Agree to the same dates and times of availability, or

(B) Identify a single lead filer who will provide dates and times of the lead filer's availability to engage on behalf of all co-filers; and

(iv) If you use a representative to submit a shareholder proposal on your behalf, you must provide the company with written documentation that:

(A) Identifies the company to which the proposal is directed;

(B) Identifies the annual or special meeting for which the proposal is submitted;

(C) Identifies you as the proponent and identifies the person acting on your behalf as your representative;

(D) Includes your statement authorizing the designated representative to submit the proposal and otherwise act on your behalf;

(E) Identifies the specific topic of the proposal to be submitted;

(F) Includes your statement supporting the proposal; and

(G) Is signed and dated by you.

(v) The requirements of paragraph (b)(1)(iv) of this section shall not apply to shareholders that are entities so long as the representative's authority to act on the shareholder's behalf is apparent and self-evident such that a reasonable person would understand that the agent has authority to submit the proposal and otherwise act on the shareholder's behalf.

(vi) For purposes of paragraph (b)(1)(i) of this section, you may not aggregate your holdings with those of another shareholder or group of shareholders to meet the requisite amount of securities necessary to be eligible to submit a proposal.

(2) One of the following methods must be used to demonstrate your eligibility to submit a proposal:

(i) If you are the registered holder of your securities, which means that your name appears in the company's records as a shareholder, the company can verify your eligibility on its own, although you will still have to provide the company with a written statement that you intend to continue to hold the requisite amount of securities, determined in accordance with paragraph (b)(1)(i)(A) through (C) of this section, through the date of the meeting of shareholders.

(ii) If, like many shareholders, you are not a registered holder, the company likely does not know that you are a shareholder, or how many shares you own. In this case, at the time you submit your proposal, you must prove your eligibility to the company in one of two ways:

(A) The first way is to submit to the company a written statement from the "record" holder of your securities (usually a broker or bank) verifying that, at the time you submitted your proposal, you continuously held at least $2,000, $15,000, or $25,000 in market value of the company's securities entitled to vote on the proposal for at least three years, two years, or one year, respectively. You must also include your own written statement that you intend to continue to hold the requisite amount of securities, determined in accordance with paragraph (b)(1)(i)(A) through (C) of this section, through the date of the shareholders' meeting for which the proposal is submitted; or

(B) The second way to prove ownership applies only if you were required to file, and filed, a Schedule 13D (§ 240.13d-101), Schedule 13G (§ 240.13d-102), Form 3 (§ 249.103 of this chapter), Form 4 (§ 249.104 of this chapter), and/or Form 5 (§ 249.105 of this chapter), or amendments to those documents or updated forms, demonstrating that you meet at least one of the share ownership requirements under paragraph (b)(1)(i)(A) through (C) of this section. If you have filed one or more of these documents with the SEC, you may demonstrate your eligibility to submit a proposal by submitting to the company:

(***1***) A copy of the schedule(s) and/or form(s), and any subsequent amendments reporting a change in your ownership level;

(***2***) Your written statement that you continuously held at least $2,000, $15,000, or $25,000 in market value of the company's securities entitled to vote on the proposal for at least three years, two years, or one year, respectively; and

(***3***) Your written statement that you intend to continue to hold the requisite amount of securities, determined in accordance with paragraph (b)(1)(i)(A) through (C) of this section, through the date of the company's annual or special meeting.

(c) ***Question 3:*** How many proposals may I submit? Each person may submit no more than one proposal, directly or indirectly, to a company for a particular shareholders' meeting. A person may not rely on the securities holdings of another person for the purpose of meeting the eligibility requirements and submitting multiple proposals for a particular shareholders' meeting.

(d) ***Question 4:*** How long can my proposal be? The proposal, including any accompanying supporting statement, may not exceed 500 words.

(e) ***Question 5:*** What is the deadline for submitting a proposal?

(1) If you are submitting your proposal for the company's annual meeting, you can in most cases find the deadline in last year's proxy statement. However, if the company did not hold an annual meeting last year, or has changed the date of its meeting for this year more than 30 days from last year's meeting, you can usually find the deadline in one of the company's quarterly reports on Form 10-Q (§ 249.308a of this chapter), or in shareholder reports of investment companies under § 270.30d-1 of this chapter of the Investment Company Act of 1940. In order to avoid

controversy, shareholders should submit their proposals by means, including electronic means, that permit them to prove the date of delivery.

(2) The deadline is calculated in the following manner if the proposal is submitted for a regularly scheduled annual meeting. The proposal must be received at the company's principal executive offices not less than 120 calendar days before the date of the company's proxy statement released to shareholders in connection with the previous year's annual meeting. However, if the company did not hold an annual meeting the previous year, or if the date of this year's annual meeting has been changed by more than 30 days from the date of the previous year's meeting, then the deadline is a reasonable time before the company begins to print and send its proxy materials.

(3) If you are submitting your proposal for a meeting of shareholders other than a regularly scheduled annual meeting, the deadline is a reasonable time before the company begins to print and send its proxy materials.

(f) ***Question 6:*** What if I fail to follow one of the eligibility or procedural requirements explained in answers to Questions 1 through 4 of this section?

(1) The company may exclude your proposal, but only after it has notified you of the problem, and you have failed adequately to correct it. Within 14 calendar days of receiving your proposal, the company must notify you in writing of any procedural or eligibility deficiencies, as well as of the time frame for your response. Your response must be postmarked, or transmitted electronically, no later than 14 days from the date you received the company's notification. A company need not provide you such notice of a deficiency if the deficiency cannot be remedied, such as if you fail to submit a proposal by the company's properly determined deadline. If the company intends to exclude the proposal, it will later have to make a submission under § 240.14a-8 and provide you with a copy under Question 10 below, § 240.14a-8(j).

(2) If you fail in your promise to hold the required number of securities through the date of the meeting of shareholders, then the company will be permitted to exclude all of your proposals from its proxy materials for any meeting held in the following two calendar years.

(g) ***Question 7:*** Who has the burden of persuading the Commission or its staff that my proposal can be excluded? Except as otherwise noted, the burden is on the company to demonstrate that it is entitled to exclude a proposal.

(h) ***Question 8:*** Must I appear personally at the shareholders' meeting to present the proposal?

(1) Either you, or your representative who is qualified under state law to present the proposal on your behalf, must attend the meeting to present the proposal. Whether you attend the meeting yourself or send a qualified representative to the meeting in your place, you should make sure that you, or your representative, follow the proper state law procedures for attending the meeting and/or presenting your proposal.

(2) If the company holds its shareholder meeting in whole or in part via electronic media, and the company permits you or your representative to present your proposal via such media, then you may appear through electronic media rather than traveling to the meeting to appear in person.

(3) If you or your qualified representative fail to appear and present the proposal, without good cause, the company will be permitted to exclude all of your proposals from its proxy materials for any meetings held in the following two calendar years.

(i) ***Question 9:*** If I have complied with the procedural requirements, on what other bases may a company rely to exclude my proposal?

(1) Improper under state law: If the proposal is not a proper subject for action by shareholders under the laws of the jurisdiction of the company's organization;

Note to paragraph (i)(1):

Depending on the subject matter, some proposals are not considered proper under state law if they would be binding on the company if approved by shareholders. In our experience, most proposals that are cast as recommendations or requests that the board of directors take specified action are proper under state law. Accordingly, we will assume that a proposal drafted as a recommendation or suggestion is proper unless the company demonstrates otherwise.

(2) ***Violation of law:*** If the proposal would, if implemented, cause the company to violate any state, federal, or foreign law to which it is subject;

Note to paragraph (i)(2):

We will not apply this basis for exclusion to permit exclusion of a proposal on grounds that it would violate foreign law if compliance with the foreign law would result in a violation of any state or federal law.

(3) ***Violation of proxy rules:*** If the proposal or supporting statement is contrary to any of the Commission's proxy rules, including § 240.14a-9, which prohibits materially false or misleading statements in proxy soliciting materials;

(4) ***Personal grievance; special interest:*** If the proposal relates to the redress of a personal claim or grievance against the company or any other person, or if it is designed to result in a benefit to you, or to further a personal interest, which is not shared by the other shareholders at large;

(5) ***Relevance:*** If the proposal relates to operations which account for less than 5 percent of the company's total assets at the end of its most recent fiscal year, and for less than 5 percent of its net earnings and gross sales for its most recent fiscal year, and is not otherwise significantly related to the company's business;

(6) ***Absence of power/authority:*** If the company would lack the power or authority to implement the proposal;

(7) ***Management functions:*** If the proposal deals with a matter relating to the company's ordinary business operations;

(8) ***Director elections:*** If the proposal:

(i) Would disqualify a nominee who is standing for election;

(ii) Would remove a director from office before his or her term expired;

(iii) Questions the competence, business judgment, or character of one or more nominees or directors;

(iv) Seeks to include a specific individual in the company's proxy materials for election to the board of directors; or

(v) Otherwise could affect the outcome of the upcoming election of directors.

(9) ***Conflicts with company's proposal:*** If the proposal directly conflicts with one of the company's own proposals to be submitted to shareholders at the same meeting;

Note to paragraph (i)(9):

A company's submission to the Commission under this section should specify the points of conflict with the company's proposal.

(10) ***Substantially implemented:*** If the company has already substantially implemented the proposal;

Note to paragraph (i)(10):

A company may exclude a shareholder proposal that would provide an advisory vote or seek future advisory votes to approve the compensation of executives as disclosed pursuant to Item 402 of Regulation S-K (§ 229.402 of this chapter) or any successor to Item 402 (a "say-on-pay vote") or that relates to the frequency of say-on-pay votes, provided that in the most recent shareholder vote required by § 240.14a-21(b) of this chapter a single year (***i.e.,*** one, two, or three years) received approval of a majority of votes cast on the matter and the company has adopted a policy on the frequency of say-on-pay votes that is consistent with the choice of the majority of votes cast in the most recent shareholder vote required by § 240.14a-21(b) of this chapter.

(11) ***Duplication:*** If the proposal 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;

(12) ***Resubmissions.*** If the proposal addresses substantially the same subject matter as a proposal, or proposals, previously included in the company's proxy materials within the preceding five calendar years if the most recent vote occurred within the preceding three calendar years and the most recent vote was:

(i) Less than 5 percent of the votes cast if previously voted on once;

(ii) Less than 15 percent of the votes cast if previously voted on twice; or

(iii) Less than 25 percent of the votes cast if previously voted on three or more times.

(13) ***Specific amount of dividends:*** If the proposal relates to specific amounts of cash or stock dividends.

(j) ***Question 10:*** What procedures must the company follow if it intends to exclude my proposal?

(1) If the company intends to exclude a proposal from its proxy materials, it must file its reasons with the Commission no later than 80 calendar days before it files its definitive proxy statement and form of proxy with the Commission. The company must simultaneously provide you with a copy of its submission. The Commission staff may permit the company to make its submission later than 80 days before the company files its definitive proxy statement and form of proxy, if the company demonstrates good cause for missing the deadline.

(2) The company must file six paper copies of the following:

(i) The proposal;

(ii) An explanation of why the company believes that it may exclude the proposal, which should, if possible, refer to the most recent applicable authority, such as prior Division letters issued under the rule; and

(iii) A supporting opinion of counsel when such reasons are based on matters of state or foreign law.

(k) ***Question 11:*** May I submit my own statement to the Commission responding to the company's arguments?

Yes, you may submit a response, but it is not required. You should try to submit any response to us, with a copy to the company, as soon as possible after the company makes its submission. This way, the Commission staff will have time to consider fully your submission before it issues its response. You should submit six paper copies of your response.

(l) ***Question 12:*** If the company includes my shareholder proposal in its proxy materials, what information about me must it include along with the proposal itself?

(1) The company's proxy statement must include your name and address, as well as the number of the company's voting securities that you hold. However, instead of providing that information, the company may instead include a statement that it will provide the information to shareholders promptly upon receiving an oral or written request.

(2) The company is not responsible for the contents of your proposal or supporting statement.

(m) ***Question 13:*** What can I do if the company includes in its proxy statement reasons why it believes shareholders should not vote in favor of my proposal, and I disagree with some of its statements?

(1) The company may elect to include in its proxy statement reasons why it believes shareholders should vote against your proposal. The company is allowed to make arguments reflecting its own

point of view, just as you may express your own point of view in your proposal's supporting statement.

(2) However, if you believe that the company's opposition to your proposal contains materially false or misleading statements that may violate our anti-fraud rule, § 240.14a-9, you should promptly send to the Commission staff and the company a letter explaining the reasons for your view, along with a copy of the company's statements opposing your proposal. To the extent possible, your letter should include specific factual information demonstrating the inaccuracy of the company's claims. Time permitting, you may wish to try to work out your differences with the company by yourself before contacting the Commission staff.

(3) We require the company to send you a copy of its statements opposing your proposal before it sends its proxy materials, so that you may bring to our attention any materially false or misleading statements, under the following timeframes:

(i) If our no-action response requires that you make revisions to your proposal or supporting statement as a condition to requiring the company to include it in its proxy materials, then the company must provide you with a copy of its opposition statements no later than 5 calendar days after the company receives a copy of your revised proposal; or

(ii) In all other cases, the company must provide you with a copy of its opposition statements no later than 30 calendar days before its files definitive copies of its proxy statement and form of proxy under § 240.14a-6.

[63 FR 29119, May 28, 1998; 63 FR 50622, 50623, Sept. 22, 1998, as amended at 72 FR 4168, Jan. 29, 2007; 72 FR 70456, Dec. 11, 2007; 73 FR 977, Jan. 4, 2008; 76 FR 6045, Feb. 2, 2011; 75 FR 56782, Sept. 16, 2010; 85 FR 70294, Nov. 4, 2020]

July 9, 2021

Division of Corporation Finance
Securities and Exchange Commission

Action: Publication of CF Staff Legal Bulletin

Date: October 18, 2011

Summary: This staff legal bulletin provides information for companies and shareholders regarding Rule 14a-8 under the Securities Exchange Act of 1934.

Supplementary Information: The statements in this bulletin represent the views of the Division of Corporation Finance (the "Division"). This bulletin is not a rule, regulation or statement of the Securities and Exchange Commission (the "Commission"). Further, the Commission has neither approved nor disapproved its content.

Contacts: For further information, please contact the Division's Office of Chief Counsel by calling (202) 551-3500 or by submitting a web-based request form at https://www.sec.gov/forms/corp_fin_interpretive.

A. The purpose of this bulletin

This bulletin is part of a continuing effort by the Division to provide guidance on important issues arising under Exchange Act Rule 14a-8. Specifically, this bulletin contains information regarding:

- Brokers and banks that constitute "record" holders under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8;
- Common errors shareholders can avoid when submitting proof of ownership to companies;
- The submission of revised proposals;
- Procedures for withdrawing no-action requests regarding proposals submitted by multiple proponents; and
- The Division's new process for transmitting Rule 14a-8 no-action responses by email.

You can find additional guidance regarding Rule 14a-8 in the following bulletins that are available on the Commission's website: SLB No. 14, SLB No. 14A, SLB No. 14B, SLB No. 14C, SLB No. 14D and SLB No. 14E.

B. The types of brokers and banks that constitute "record" holders under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8

1. Eligibility to submit a proposal under Rule 14a-8

To be eligible to submit a shareholder proposal, a shareholder must have continuously held at least $2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the shareholder meeting for at least one year as of the date the shareholder submits the proposal. The shareholder must also continue to hold the required amount of securities through the date of the meeting and must provide the company with a written statement of intent to do so.[1]

The steps that a shareholder must take to verify his or her eligibility to submit a proposal depend on how the shareholder owns the securities. There are two types of security holders in the U.S.: registered owners and beneficial owners.[2] Registered owners have a direct relationship with the issuer because their ownership of shares is listed on the records maintained by the issuer or its transfer agent. If a shareholder is a registered owner, the company can independently confirm that the shareholder's holdings satisfy Rule 14a-8(b)'s eligibility requirement.

The vast majority of investors in shares issued by U.S. companies, however, are beneficial owners, which means that they hold their securities in book-entry form through a securities intermediary, such as a broker or a bank. Beneficial owners are sometimes referred to as "street name" holders. Rule 14a-8(b)(2)(i) provides that a beneficial owner can provide proof of ownership to support his or her eligibility to submit a proposal by submitting a written statement "from the 'record' holder of [the] securities (usually a broker or bank)," verifying that, at the time the proposal was submitted, the shareholder held the required amount of securities continuously for at least one year.[3]

2. The role of the Depository Trust Company

Most large U.S. brokers and banks deposit their customers' securities with, and hold those securities through, the Depository Trust Company ("DTC"), a registered clearing agency acting as a securities depository. Such brokers and banks are often referred to as "participants" in DTC.[4] The names of these DTC participants, however, do not appear as the registered owners of the securities deposited with DTC on the list of shareholders maintained by the company or, more typically, by its transfer agent. Rather, DTC's nominee, Cede & Co., appears on the shareholder list as the sole registered owner of securities deposited with DTC by the DTC participants. A company can request from DTC a "securities position listing" as of a specified date, which identifies the DTC participants having a position in the company's securities and the number of securities held by each DTC participant on that date.[5]

3. Brokers and banks that constitute "record" holders under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8

In *The Hain Celestial Group, Inc.* (Oct. 1, 2008), we took the position that an introducing broker could be considered a "record" holder for purposes of Rule 14a-8(b)(2)(i). An introducing broker is a broker that engages in sales and other activities involving customer contact, such as opening customer accounts and accepting customer orders, but is not permitted to maintain custody of customer funds and securities.[6] Instead, an introducing broker engages another broker, known as a "clearing broker," to hold custody of client funds and securities, to clear and execute customer trades, and to handle other functions such as issuing confirmations of customer trades and customer account statements. Clearing brokers generally are DTC participants; introducing brokers generally are not. As introducing brokers generally are not DTC participants, and therefore typically do not appear on DTC's securities position listing, *Hain Celestial* has required companies to accept proof of ownership letters from brokers in cases where, unlike the positions of registered owners and brokers and banks that are DTC participants, the company is unable to verify the positions against its own or its transfer agent's records or against DTC's securities position listing.

In light of questions we have received following two recent court cases relating to proof of ownership under Rule 14a-8[7] and in light of the Commission's discussion of registered and beneficial owners in the Proxy Mechanics Concept Release, we have reconsidered our views as to what types of brokers and banks should be considered "record" holders under Rule 14a-8(b)(2)(i). Because of the transparency of DTC participants' positions in a company's securities, we will take the view going forward that, for Rule 14a-8(b)(2)(i) purposes, only DTC participants should be viewed as "record" holders of securities that are deposited at DTC. As a result, we will no longer follow *Hain Celestial*.

We believe that taking this approach as to who constitutes a "record" holder for purposes of Rule 14a-8(b)(2)(i) will provide greater certainty to beneficial owners and companies. We also note that this approach is consistent with Exchange Act Rule 12g5-1 and a 1988 staff no-action letter addressing that rule,[8] under which brokers and banks that are DTC participants are considered to be the record holders of securities on deposit with DTC when calculating the number of record holders for purposes of Sections 12(g) and 15(d) of the Exchange Act.

Companies have occasionally expressed the view that, because DTC's nominee, Cede & Co., appears on the shareholder list as the sole registered owner of securities deposited with DTC by the DTC participants, only DTC or Cede & Co. should be viewed as the "record" holder of the securities held on deposit at DTC for purposes of Rule 14a-8(b)(2)(i). We have never interpreted the rule to require a shareholder to obtain a proof of ownership letter from DTC or Cede & Co., and nothing in this guidance should be construed as changing that view.

How can a shareholder determine whether his or her broker or bank is a DTC participant?

Shareholders and companies can confirm whether a particular broker or bank is a DTC participant by checking DTC's participant list, which is currently available on the Internet at http://www.dtcc.com/~/media/Files/Downloads/client-center/DTC/alpha.ashx.

What if a shareholder's broker or bank is not on DTC's participant list?

The shareholder will need to obtain proof of ownership from the DTC participant through which the securities are held. The shareholder should be able to find out who this DTC participant is by asking the shareholder's broker or bank.[9]

If the DTC participant knows the shareholder's broker or bank's holdings, but does not know the shareholder's holdings, a shareholder could satisfy Rule 14a-8(b)(2)(i) by obtaining and submitting two proof of ownership statements verifying that, at the time the proposal was submitted, the required amount of securities were continuously held for at least one year – one from the shareholder's broker or bank confirming the shareholder's ownership, and the other from the DTC participant confirming the broker or bank's ownership.

How will the staff process no-action requests that argue for exclusion on the basis that the shareholder's proof of ownership is not from a DTC participant?

The staff will grant no-action relief to a company on the basis that the shareholder's proof of ownership is not from a DTC participant only if the company's notice of defect describes the required proof of ownership in a manner that is consistent with the guidance contained in this bulletin. Under Rule 14a-8(f)(1), the shareholder will have an opportunity to obtain the requisite proof of

ownership after receiving the notice of defect.

C. Common errors shareholders can avoid when submitting proof of ownership to companies

In this section, we describe two common errors shareholders make when submitting proof of ownership for purposes of Rule 14a-8(b)(2), and we provide guidance on how to avoid these errors.

First, Rule 14a-8(b) requires a shareholder to provide proof of ownership that he or she has "continuously held at least $2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the meeting for at least one year by the date you submit the proposal" (emphasis added).[10] We note that many proof of ownership letters do not satisfy this requirement because they do not verify the shareholder's beneficial ownership for the entire one-year period preceding and including the date the proposal is submitted. In some cases, the letter speaks as of a date *before* the date the proposal is submitted, thereby leaving a gap between the date of the verification and the date the proposal is submitted. In other cases, the letter speaks as of a date *after* the date the proposal was submitted but covers a period of only one year, thus failing to verify the shareholder's beneficial ownership over the required full one-year period preceding the date of the proposal's submission.

Second, many letters fail to confirm continuous ownership of the securities. This can occur when a broker or bank submits a letter that confirms the shareholder's beneficial ownership only as of a specified date but omits any reference to continuous ownership for a one-year period.

We recognize that the requirements of Rule 14a-8(b) are highly prescriptive and can cause inconvenience for shareholders when submitting proposals. Although our administration of Rule 14a-8(b) is constrained by the terms of the rule, we believe that shareholders can avoid the two errors highlighted above by arranging to have their broker or bank provide the required verification of ownership as of the date they plan to submit the proposal using the following format:

> "As of [date the proposal is submitted], [name of shareholder] held, and has held continuously for at least one year, [number of securities] shares of [company name] [class of securities]."[11]

As discussed above, a shareholder may also need to provide a separate written statement from the DTC participant through which the shareholder's securities are held if the shareholder's broker or bank is not a DTC participant.

D. The submission of revised proposals

On occasion, a shareholder will revise a proposal after submitting it to a company. This section addresses questions we have received regarding revisions to a proposal or supporting statement.

1. A shareholder submits a timely proposal. The shareholder then submits a revised proposal before the company's deadline for receiving proposals. Must the company accept the revisions?

Yes. In this situation, we believe the revised proposal serves as a replacement of the initial proposal. By submitting a revised proposal, the shareholder has effectively withdrawn the initial proposal. Therefore, the shareholder is not in violation of the one-proposal limitation in Rule 14a-8(c).[12] If the company intends to submit a no-action request, it must do so with respect to the revised proposal.

We recognize that in Question and Answer E.2 of SLB No. 14, we indicated that if a shareholder makes revisions to a proposal before the company submits its no-action request, the company can choose whether to accept the revisions. However, this guidance has led some companies to believe that, in cases where shareholders attempt to make changes to an initial proposal, the company is free to ignore such revisions even if the revised proposal is submitted before the company's deadline for receiving shareholder proposals. We are revising our guidance on this issue to make clear that a company may not ignore a revised proposal in this situation.[13]

2. A shareholder submits a timely proposal. After the deadline for receiving proposals, the shareholder submits a revised proposal. Must the company accept the revisions?

No. If a shareholder submits revisions to a proposal after the deadline for receiving proposals under Rule 14a-8(e), the company is not required to accept the revisions. However, if the company does not accept the revisions, it must treat the revised proposal as a second proposal and submit a notice stating its intention to exclude the revised proposal, as required by Rule 14a-8(j). The company's notice may cite Rule 14a-8(e) as the reason for excluding the revised proposal. If the company does not accept the revisions and intends to exclude the initial proposal, it would also need to submit its reasons for excluding the initial proposal.

3. If a shareholder submits a revised proposal, as of which date must the shareholder prove his or her share ownership?

A shareholder must prove ownership as of the date the original proposal is submitted. When the Commission has discussed revisions to proposals,[14] it has not suggested that a revision triggers a requirement to provide proof of ownership a second time. As outlined in Rule 14a-8(b), proving ownership includes providing a written statement that the shareholder intends to continue to hold the securities through the date of the shareholder meeting. Rule 14a-8(f)(2) provides that if the shareholder "fails in [his or her] promise to hold the required number of securities through the date of the meeting of shareholders, then the company will be permitted to exclude all of [the same shareholder's] proposals from its proxy materials for any meeting held in the following two calendar years." With these provisions in mind, we do not interpret Rule 14a-8 as requiring additional proof of ownership when a shareholder submits a revised proposal.[15]

E. Procedures for withdrawing no-action requests for proposals submitted by multiple proponents

We have previously addressed the requirements for withdrawing a Rule 14a-8 no-action request in SLB Nos. 14 and 14C. SLB No. 14 notes that a company should include with a withdrawal letter documentation demonstrating that a shareholder has withdrawn the proposal. In cases where a proposal submitted by multiple shareholders is withdrawn, SLB No. 14C states that, if each shareholder has designated a lead individual to act on its behalf and the company is able to demonstrate that the individual is authorized to act on behalf of all of the proponents, the company need only provide a letter from that lead individual indicating that the lead individual is withdrawing the proposal on behalf of all of the proponents.

Because there is no relief granted by the staff in cases where a no-action request is withdrawn following the withdrawal of the related proposal, we recognize that the threshold for withdrawing a no-action request need not be overly burdensome. Going forward, we will process a withdrawal request if the company provides a letter from the lead filer that includes a representation that the lead filer is authorized to withdraw the proposal on behalf of each proponent identified in the company's no-action request.[16]

F. Use of email to transmit our Rule 14a-8 no-action responses to companies and proponents

To date, the Division has transmitted copies of our Rule 14a-8 no-action responses, including copies of the correspondence we have received in connection with such requests, by U.S. mail to companies and proponents. We also post our response and the related correspondence to the Commission's website shortly after issuance of our response.

In order to accelerate delivery of staff responses to companies and proponents, and to reduce our copying and postage costs, going forward, we intend to transmit our Rule 14a-8 no-action responses by email to companies and proponents. We therefore encourage both companies and proponents to include email contact information in any correspondence to each other and to us. We will use U.S. mail to transmit our no-action response to any company or proponent for which we do not have email contact information.

Given the availability of our responses and the related correspondence on the Commission's website and the requirement under Rule 14a-8 for companies and proponents to copy each other on correspondence submitted to the Commission, we believe it is unnecessary to transmit copies of the related correspondence along with our no-action response. Therefore, we intend to transmit only our staff response and not the correspondence we receive from the parties. We will continue to post to the Commission's website copies of this correspondence at the same time that we post our staff no-action response.

---

[1] *See* Rule 14a-8(b).

[2] For an explanation of the types of share ownership in the U.S., see Concept Release on U.S. Proxy System, Release No. 34-62495 (July 14, 2010) [75 FR 42982] ("Proxy Mechanics Concept Release"), at Section II.A. The term "beneficial owner" does not have a uniform meaning under the federal securities laws. It has a different meaning in this bulletin as compared to "beneficial owner" and "beneficial ownership" in Sections 13 and 16 of the Exchange Act. Our use of the term in this bulletin is not intended to suggest that registered owners are not beneficial owners for purposes of those Exchange Act provisions. *See* Proposed Amendments to Rule 14a-8 under the Securities Exchange Act of 1934 Relating to Proposals by Security Holders, Release No. 34-12598 (July 7, 1976) [41 FR 29982], at n.2 ("The term 'beneficial owner' when used in the context of the proxy rules, and in light of the purposes of those rules, may be interpreted to have a broader meaning than it would for certain other purpose[s] under the federal securities laws, such as reporting pursuant to the Williams Act.").

[3] If a shareholder has filed a Schedule 13D, Schedule 13G, Form 3, Form 4 or Form 5 reflecting ownership of the required amount of shares, the shareholder may instead prove ownership by submitting a copy of such filings and providing the additional

information that is described in Rule 14a-8(b)(2)(ii).

[4] DTC holds the deposited securities in "fungible bulk," meaning that there are no specifically identifiable shares directly owned by the DTC participants. Rather, each DTC participant holds a pro rata interest or position in the aggregate number of shares of a particular issuer held at DTC. Correspondingly, each customer of a DTC participant – such as an individual investor – owns a pro rata interest in the shares in which the DTC participant has a pro rata interest. *See* Proxy Mechanics Concept Release, at Section II.B.2.a.

[5] *See* Exchange Act Rule 17Ad-8.

[6] *See* Net Capital Rule, Release No. 34-31511 (Nov. 24, 1992) [57 FR 56973] ("Net Capital Rule Release"), at Section II.C.

[7] *See KBR Inc. v. Chevedden*, Civil Action No. H-11-0196, 2011 U.S. Dist. LEXIS 36431, 2011 WL 1463611 (S.D. Tex. Apr. 4, 2011); *Apache Corp. v. Chevedden,* 696 F. Supp. 2d 723 (S.D. Tex. 2010). In both cases, the court concluded that a securities intermediary was not a record holder for purposes of Rule 14a-8(b) because it did not appear on a list of the company's non-objecting beneficial owners or on any DTC securities position listing, nor was the intermediary a DTC participant.

[8] *Techne Corp.* (Sept. 20, 1988).

[9] In addition, if the shareholder's broker is an introducing broker, the shareholder's account statements should include the clearing broker's identity and telephone number. *See* Net Capital Rule Release, at Section II.C.(iii). The clearing broker will generally be a DTC participant.

[10] For purposes of Rule 14a-8(b), the submission date of a proposal will generally precede the company's receipt date of the proposal, absent the use of electronic or other means of same-day delivery.

[11] This format is acceptable for purposes of Rule 14a-8(b), but it is not mandatory or exclusive.

[12] As such, it is not appropriate for a company to send a notice of defect for multiple proposals under Rule 14a-8(c) upon receiving a revised proposal.

[13] This position will apply to all proposals submitted after an initial proposal but before the company's deadline for receiving proposals, regardless of whether they are explicitly labeled as "revisions" to an initial proposal, unless the shareholder affirmatively indicates an intent to submit a second, *additional* proposal for inclusion in the company's proxy materials. In that case, the company must send the shareholder a notice of defect pursuant to Rule 14a-8(f)(1) if it intends to exclude either proposal from its proxy materials in reliance on Rule 14a-8(c). In light of this guidance, with respect to proposals or revisions received before a company's deadline for submission, we will no longer follow *Layne Christensen Co.* (Mar. 21, 2011) and other prior staff no-action letters in which we took the view that a proposal would violate the Rule 14a-8(c) one-proposal limitation if such proposal is submitted to a company after the company has either submitted a Rule 14a-8 no-action request to exclude an earlier proposal submitted by the same proponent or notified the proponent that the earlier proposal was excludable under the rule.

[14] *See, e.g.*, Adoption of Amendments Relating to Proposals by Security Holders, Release No. 34-12999 (Nov. 22, 1976) [41 FR 52994].

[15] Because the relevant date for proving ownership under Rule 14a-8(b) is the date the proposal is submitted, a proponent who does not adequately prove ownership in connection with a proposal is not permitted to submit another proposal for the same meeting on a later date.

[16] Nothing in this staff position has any effect on the status of any shareholder proposal that is not withdrawn by the proponent or its authorized representative.

Last Reviewed or Updated: Oct. 18, 2011

Division of Corporation Finance
Securities and Exchange Commission

Action: Publication of CF Staff Legal Bulletin

Date: October 16, 2012

Summary: This staff legal bulletin provides information for companies and shareholders regarding Rule 14a-8 under the Securities Exchange Act of 1934.

Supplementary Information: The statements in this bulletin represent the views of the Division of Corporation Finance (the "Division"). This bulletin is not a rule, regulation or statement of the Securities and Exchange Commission (the "Commission"). Further, the Commission has neither approved nor disapproved its content.

Contacts: For further information, please contact the Division's Office of Chief Counsel by calling (202) 551-3500 or by submitting a web-based request form at https://www.sec.gov/forms/corp_fin_interpretive.

A. The purpose of this bulletin

This bulletin is part of a continuing effort by the Division to provide guidance on important issues arising under Exchange Act Rule 14a-8. Specifically, this bulletin contains information regarding:

- the parties that can provide proof of ownership under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8;
- the manner in which companies should notify proponents of a failure to provide proof of ownership for the one-year period required under Rule 14a-8(b)(1); and
- the use of website references in proposals and supporting statements.

You can find additional guidance regarding Rule 14a-8 in the following bulletins that are available on the Commission's website: SLB No. 14, SLB No. 14A, SLB No. 14B, SLB No. 14C, SLB No. 14D, SLB No. 14E and SLB No. 14F.

B. Parties that can provide proof of ownership under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8

1. Sufficiency of proof of ownership letters provided by affiliates of DTC participants for purposes of Rule 14a-8(b)(2)(i)

To be eligible to submit a proposal under Rule 14a-8, a shareholder must, among other things, provide documentation evidencing that the shareholder has continuously held at least $2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the shareholder meeting for at least one year as of the date the shareholder submits the proposal. If the shareholder is a beneficial owner of the securities, which means that the securities are held in book-entry form through a securities intermediary, Rule 14a-8(b)(2)(i) provides that this documentation can be in the form of a "written statement from the 'record' holder of your securities (usually a broker or bank)…."

In SLB No. 14F, the Division described its view that only securities intermediaries that are participants in the Depository Trust Company ("DTC") should be viewed as "record" holders of securities that are deposited at DTC for purposes of Rule 14a-8(b)(2)(i). Therefore, a beneficial owner must obtain a proof of ownership letter from the DTC participant through which its securities are held at DTC in order to satisfy the proof of ownership requirements in Rule 14a-8.

During the most recent proxy season, some companies questioned the sufficiency of proof of ownership letters from entities that were not themselves DTC participants, but were affiliates of DTC participants.[1] By virtue of the affiliate relationship, we believe that a securities intermediary holding shares through its affiliated DTC participant should be in a position to verify its customers' ownership of securities. Accordingly, we are of the view that, for purposes of Rule 14a-8(b)(2)(i), a proof of ownership letter from an affiliate of a DTC participant satisfies the requirement to provide a proof of ownership letter from a DTC participant.

2. Adequacy of proof of ownership letters from securities intermediaries that are not brokers or

banks

We understand that there are circumstances in which securities intermediaries that are not brokers or banks maintain securities accounts in the ordinary course of their business. A shareholder who holds securities through a securities intermediary that is not a broker or bank can satisfy Rule 14a-8's documentation requirement by submitting a proof of ownership letter from that securities intermediary.[2] If the securities intermediary is not a DTC participant or an affiliate of a DTC participant, then the shareholder will also need to obtain a proof of ownership letter from the DTC participant or an affiliate of a DTC participant that can verify the holdings of the securities intermediary.

C. Manner in which companies should notify proponents of a failure to provide proof of ownership for the one-year period required under Rule 14a-8(b)(1)

As discussed in Section C of SLB No. 14F, a common error in proof of ownership letters is that they do not verify a proponent's beneficial ownership for the entire one-year period preceding and including the date the proposal was submitted, as required by Rule 14a-8(b)(1). In some cases, the letter speaks as of a date *before* the date the proposal was submitted, thereby leaving a gap between the date of verification and the date the proposal was submitted. In other cases, the letter speaks as of a date *after* the date the proposal was submitted but covers a period of only one year, thus failing to verify the proponent's beneficial ownership over the required full one-year period preceding the date of the proposal's submission.

Under Rule 14a-8(f), if a proponent fails to follow one of the eligibility or procedural requirements of the rule, a company may exclude the proposal only if it notifies the proponent of the defect and the proponent fails to correct it. In SLB No. 14 and SLB No. 14B, we explained that companies should provide adequate detail about what a proponent must do to remedy all eligibility or procedural defects.

We are concerned that companies' notices of defect are not adequately describing the defects or explaining what a proponent must do to remedy defects in proof of ownership letters. For example, some companies' notices of defect make no mention of the gap in the period of ownership covered by the proponent's proof of ownership letter or other specific deficiencies that the company has identified. We do not believe that such notices of defect serve the purpose of Rule 14a-8(f).

Accordingly, going forward, we will not concur in the exclusion of a proposal under Rules 14a-8(b) and 14a-8(f) on the basis that a proponent's proof of ownership does not cover the one-year period preceding and including the date the proposal is submitted unless the company provides a notice of defect that identifies the specific date on which the proposal was submitted and explains that the proponent must obtain a new proof of ownership letter verifying continuous ownership of the requisite amount of securities for the one-year period preceding and including such date to cure the defect. We view the proposal's date of submission as the date the proposal is postmarked or transmitted electronically. Identifying in the notice of defect the specific date on which the proposal was submitted will help a proponent better understand how to remedy the defects described above and will be particularly helpful in those instances in which it may be difficult for a proponent to determine the date of submission, such as when the proposal is not postmarked on the same day it is placed in the mail. In addition, companies should include copies of the postmark or evidence of electronic transmission with their no-action requests.

D. Use of website addresses in proposals and supporting statements

Recently, a number of proponents have included in their proposals or in their supporting statements the addresses to websites that provide more information about their proposals. In some cases, companies have sought to exclude either the website address or the entire proposal due to the reference to the website address.

In SLB No. 14, we explained that a reference to a website address in a proposal does not raise the concerns addressed by the 500-word limitation in Rule 14a-8(d). We continue to be of this view and, accordingly, we will continue to count a website address as one word for purposes of Rule 14a-8(d). To the extent that the company seeks the exclusion of a website reference in a proposal, but not the proposal itself, we will continue to follow the guidance stated in SLB No. 14, which provides that references to website addresses in proposals or supporting statements could be subject to exclusion under Rule 14a-8(i)(3) if the information contained on the website is materially false or misleading, irrelevant to the subject matter of the proposal or otherwise in contravention of the proxy rules, including Rule 14a-9.[3]

In light of the growing interest in including references to website addresses in proposals and supporting statements, we are providing additional guidance on the appropriate use of website addresses in proposals and supporting statements.[4]

1. References to website addresses in a proposal or supporting statement and Rule 14a-8(i)(3)

References to websites in a proposal or supporting statement may raise concerns under Rule 14a-8(i)(3). In SLB No. 14B, we

stated that the exclusion of a proposal under Rule 14a-8(i)(3) as vague and indefinite may be appropriate if neither the shareholders voting on the proposal, nor the company in implementing the proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires. In evaluating whether a proposal may be excluded on this basis, we consider only the information contained in the proposal and supporting statement and determine whether, based on that information, shareholders and the company can determine what actions the proposal seeks.

If a proposal or supporting statement refers to a website that provides information necessary for shareholders and the company to understand with reasonable certainty exactly what actions or measures the proposal requires, and such information is not also contained in the proposal or in the supporting statement, then we believe the proposal would raise concerns under Rule 14a-9 and would be subject to exclusion under Rule 14a-8(i)(3) as vague and indefinite. By contrast, if shareholders and the company can understand with reasonable certainty exactly what actions or measures the proposal requires without reviewing the information provided on the website, then we believe that the proposal would not be subject to exclusion under Rule 14a-8(i)(3) on the basis of the reference to the website address. In this case, the information on the website only supplements the information contained in the proposal and in the supporting statement.

2. Providing the company with the materials that will be published on the referenced website

We recognize that if a proposal references a website that is not operational at the time the proposal is submitted, it will be impossible for a company or the staff to evaluate whether the website reference may be excluded. In our view, a reference to a non-operational website in a proposal or supporting statement could be excluded under Rule 14a-8(i)(3) as irrelevant to the subject matter of a proposal. We understand, however, that a proponent may wish to include a reference to a website containing information related to the proposal but wait to activate the website until it becomes clear that the proposal will be included in the company's proxy materials. Therefore, we will not concur that a reference to a website may be excluded as irrelevant under Rule 14a-8(i)(3) on the basis that it is not yet operational if the proponent, at the time the proposal is submitted, provides the company with the materials that are intended for publication on the website and a representation that the website will become operational at, or prior to, the time the company files its definitive proxy materials.

3. Potential issues that may arise if the content of a referenced website changes after the proposal is submitted

To the extent the information on a website changes after submission of a proposal and the company believes the revised information renders the website reference excludable under Rule 14a-8, a company seeking our concurrence that the website reference may be excluded must submit a letter presenting its reasons for doing so. While Rule 14a-8(j) requires a company to submit its reasons for exclusion with the Commission no later than 80 calendar days before it files its definitive proxy materials, we may concur that the changes to the referenced website constitute "good cause" for the company to file its reasons for excluding the website reference after the 80-day deadline and grant the company's request that the 80-day requirement be waived.

---

[1] An entity is an "affiliate" of a DTC participant if such entity directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the DTC participant.

[2] Rule 14a-8(b)(2)(i) itself acknowledges that the record holder is "usually," but not always, a broker or bank.

[3] Rule 14a-9 prohibits statements in proxy materials which, at the time and in the light of the circumstances under which they are made, are false or misleading with respect to any material fact, or which omit to state any material fact necessary in order to make the statements not false or misleading.

[4] A website that provides more information about a shareholder proposal may constitute a proxy solicitation under the proxy rules. Accordingly, we remind shareholders who elect to include website addresses in their proposals to comply with all applicable rules regarding proxy solicitations.

Last Reviewed or Updated: Oct. 16, 2012

Division of Corporation Finance

Securities and Exchange Commission

Action: Publication of CF Staff Legal Bulletin

Date: February 12, 2025

Summary: This staff legal bulletin provides information for companies and shareholders regarding Rule 14a-8 under the Securities Exchange Act of 1934.

Supplementary Information: The statements in this bulletin represent the views of the Division of Corporation Finance (the "Division"). This bulletin is not a rule, regulation or statement of the Securities and Exchange Commission (the "Commission"). Further, the Commission has neither approved nor disapproved its content. This bulletin, like all staff guidance, has no legal force or effect: it does not alter or amend applicable law, and it creates no new or additional obligations for any person.

Contacts: For further information, please contact the Division's Office of Chief Counsel by calling (202) 551-3500 or by submitting a web-based request form at https://www.sec.gov/forms/corp_fin_interpretive.

A. The Purpose of This Bulletin

This bulletin is part of a continuing effort by the Division to provide guidance on important issues arising under Exchange Act Rule 14a-8. Based on a review of Staff Legal Bulletin No. 14L and the staff's experience applying the guidance contained in it, and after re-examining the Commission's statements on the matters addressed in that bulletin, the Division is rescinding Staff Legal Bulletin No. 14L.[1] This bulletin is intended to clarify the Division's views on the scope and application of Rule 14a-8(i)(5) and Rule 14a-8(i)(7). In addition, this bulletin addresses certain other aspects of Rule 14a-8 and provides responses to questions that may arise in light of the timing and content of this bulletin.

When explaining the ordinary business exclusion in Rule 14a-8(i)(7), the Commission has said 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. . . . However, proposals *relating to such matters* but focusing on sufficiently significant social policy issues . . . 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."[2] In addition, the Commission has said that the determination as to whether a proposal deals with a matter relating to a company's ordinary business operations is "made on a *case-by-case* basis, taking into account factors such as the nature of the proposal and the circumstances of the company to which it is directed."[3] In light of these statements, it is the staff's view that a "case-by-case" consideration of a particular company's facts and circumstances is a key factor in the analysis of shareholder proposals that raise significant policy issues. In addition, the text of Rule 14a-8(i)(5) references the relationship of the proposal to the individual company, requiring analysis of whether the proposal is "significantly related to the company's business." Accordingly, where relevant to the arguments raised to the staff by companies and proponents, the staff will consider whether a proposal is otherwise significantly related to a particular company's business, in the case of Rule 14a-8(i)(5), or focuses on a significant policy issue that has a sufficient nexus to a particular company, in the case of Rule 14a-8(i)(7). Our views on the application of both rules are described below.

B. Rule 14a-8(i)(5)[4]

1. Background

Rule 14a-8(i)(5), the "economic relevance" exclusion, is one of the substantive bases for exclusion of a shareholder proposal in Rule 14a-8. It permits a company to exclude a proposal that "relates to operations which account for less than 5 percent of the company's total assets at the end of its most recent fiscal year, and for less than 5 percent of its net earnings and gross sales for its most recent fiscal year, and is not otherwise significantly related to the company's business."

2. History

Prior to adoption of the current version of the exclusion in Rule 14a-8(i)(5), the rule permitted companies to omit any proposal that "deals with a matter that is not significantly related to the issuer's business." In proposing changes to that version of the rule in 1982, the Commission noted that the staff's practice had been to agree with exclusion of proposals that bore no economic relationship to a company's business, but that "where the proposal has reflected social or ethical issues, rather than economic concerns, raised by the issuer's business, and the issuer conducts any such business, no matter how small, the staff has not issued a no-action letter with respect to the omission of the proposal."[5] The Commission stated that this interpretation of the rule may have "unduly limit[ed] the exclusion," and proposed adopting the economic tests that appear in the rule today.[6] In adopting the rule, the Commission characterized it as relating "to proposals concerning the functioning of the economic business of an issuer and not to such matters as shareholders' rights, e.g., cumulative voting."[7]

Shortly after the 1983 amendments, however, the District Court for the District of Columbia in *Lovenheim v. Iroquois Brands, Ltd.*, 618 F. Supp. 554 (D.D.C. 1985) preliminarily enjoined a company from excluding a proposal regarding sales of a product line that represented

only 0.05% of assets, $79,000 in sales and a net loss of ($3,121), compared to the company's total assets of $78 million, annual revenues of $141 million and net earnings of $6 million. The court based its decision to grant the injunction "in light of the ethical and social significance" of the proposal and on "the fact that it implicates significant levels of sales." The Division has, at times, looked to *Lovenheim* when interpreting Rule 14a-8(i)(5); as discussed below, the Division will instead focus on the Commission's prior statements on the rule.

3. Application

The Division's analysis will focus on a proposal's significance to the company's business when it otherwise relates to operations that account for less than 5% of total assets, net earnings and gross sales. Under this framework, proposals that raise issues of social or ethical significance may be excludable, notwithstanding their importance in the abstract, based on the application and analysis of each of the factors of Rule 14a-8(i)(5) in determining the proposal's relevance to the company's business.[8]

Because the rule allows exclusion only when the matter is not "otherwise significantly related to the company," we view the analysis as dependent upon the particular circumstances of the company to which the proposal is submitted. That is, a matter significant to one company may not be significant to another. On the other hand, we would generally view substantive governance matters to be significantly related to almost all companies.

Where a proposal's significance to a company's business is not apparent on its face, the Commission has stated that a proposal may be excludable unless the proponent demonstrates that it is "otherwise significantly related to the company's business."[9] For example, as the Commission has stated, the proponent can provide information demonstrating that the proposal "may have a significant impact on other segments of the issuer's business or subject the issuer to significant contingent liabilities."[10] The proponent could continue to raise social or ethical issues in its arguments, but in accordance with these Commission statements it would need to tie those matters to a significant effect on the company's business. The mere possibility of reputational or economic harm alone will not demonstrate that a proposal is "otherwise significantly related to the company's business." In evaluating whether a proposal is "otherwise significantly related to the company's business," the staff will consider the proposal in light of the "total mix" of information about the issuer.

In addition, the Division's analysis of whether a proposal is "otherwise significantly related" under Rule 14a-8(i)(5) has at times been informed by its analysis under the "ordinary business" exception, Rule 14a-8(i)(7). As a result, the availability or unavailability of Rule 14a-8(i)(7) has at times been largely determinative of the availability or unavailability of Rule 14a-8(i)(5). For clarity, the Division will not look to its analysis under Rule 14a-8(i)(7) when evaluating arguments under Rule 14a-8(i)(5). In our view, applying separate analytical frameworks will ensure that each basis for exclusion serves its intended purpose.

C. Rule 14a-8(i)(7)[11]

1. Background

Rule 14a-8(i)(7), the "ordinary business" exclusion, permits a company to exclude a proposal that "deals with a matter relating to the company's ordinary business operations." The purpose of the 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 problems at an annual shareholders meeting."[12] The Commission has stated that the policy underlying the "ordinary business" exclusion rests on two central considerations.[13] The first relates to the proposal's subject matter; the second relates to the degree to which the proposal "micromanages" the company.

2. Significance

Under the first consideration, proposals that raise matters that 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" relate to a company's "ordinary" business operations.[14] The Commission has stated, however, that proposals relating to such matters but focusing on a significant policy issue generally are not excludable under the first consideration "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."[15] The Commission has also stated that the determination as to whether a proposal deals with a matter relating to a company's ordinary business operations is "made on a case-by-case basis, taking into account factors such as the nature of the proposal and the circumstances of the company to which it is directed."[16] Therefore, whether the significant policy exception applies depends on the particular policy issue raised by the proposal and its significance in relation to the company.[17]

As such, the staff will take a company-specific approach in evaluating significance, rather than focusing solely on whether a proposal raises a policy issue with broad societal impact or whether particular issues or categories of issues are universally "significant." Accordingly, a policy issue that is significant to one company may not be significant to another. The Division's analysis will focus on whether the proposal deals with a matter relating to an individual company's ordinary business operations or raises a policy issue that transcends the individual company's ordinary business operations.

3. Micromanagement and Other Considerations

We are reinstating the following sections of guidance that was previously rescinded by Staff Legal Bulletin No. 14L:

- Staff Legal Bulletin No. 14J Section C.2. Micromanagement
- Staff Legal Bulletin No. 14J Section C.3 The Division's application of Rule 14a-8(i)(7) to proposals that address senior executive

and/or director compensation
- Staff Legal Bulletin No. 14K Section B.4. Micromanagement

Please see Annex A for a verbatim copy of these sections.

D. Board Analysis

Beginning with Staff Legal Bulletin No. 14I and prior to Staff Legal Bulletin No. 14L, the Division encouraged companies to include with their no-action requests under Rules 14a-8(i)(5) and 14a-8(i)(7) a discussion reflecting the board's analysis of the particular policy issue raised and its significance to the company. Based on the staff's experience with board analyses, we have found that in most instances the information needed for the staff's analysis was not included in the board analysis and board analyses did not generally have a dispositive effect. Therefore, the staff will not expect a company's no-action request to include a discussion that reflects the board's analysis of the particular policy issue raised and its significance to the company. A company may submit a board analysis for the staff's consideration if it believes it will help the staff analyze the no-action request.

E. Rule 14a-8(i)(10), Rule 14a-8(i)(11), and Rule 14a-8(i)(12)

On July 13, 2022, the Commission proposed amendments to Rule 14a-8(i)(10), Rule 14a-8(i)(11), and Rule 14a-8(i)(12).[18] The Commission has not adopted those proposed amendments. Accordingly, unless and until the Commission adopts these or other amendments to Rule 14a-8, the staff considers no-action requests and supplemental correspondence in accordance with operative Commission rules and applicable staff guidance.

F. Rule 14a-8(d)[19]

1. Background

Rule 14a-8(d) is one of the procedural bases for exclusion of a shareholder proposal in Rule 14a-8. It provides that a "proposal, including any accompanying supporting statement, may not exceed 500 words."

2. The Use of Images in Shareholder Proposals

The staff has expressed the view that the use of "500 words" and absence of express reference to graphics or images in Rule 14a-8(d) do not prohibit the inclusion of graphs and/or images in proposals.[20] Just as companies include graphics that are not expressly permitted under the disclosure rules, the Division is of the view that Rule 14a-8(d) does not preclude shareholders from using graphics to convey information about their proposals.[21]

The Division recognizes the potential for abuse in this area. The Division believes, however, that these potential abuses can be addressed through other provisions of Rule 14a-8. For example, exclusion of graphs and/or images would be appropriate under Rule 14a-8(i)(3) where they:

- make the proposal materially false or misleading;
- render the proposal so inherently vague or indefinite that neither the stockholders voting on the proposal, nor the company in implementing it, would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires;
- directly or indirectly impugn character, integrity or personal reputation, or directly or indirectly make charges concerning improper, illegal, or immoral conduct or association, without factual foundation; or
- are irrelevant to a consideration of the subject matter of the proposal, such that there is a strong likelihood that a reasonable shareholder would be uncertain as to the matter on which he or she is being asked to vote.[22]

Exclusion would also be appropriate under Rule 14a-8(d) if the total number of words in a proposal, including words in the graphics, exceeds 500.

G. Proof of Ownership Letters[23]

In relevant part, Rule 14a-8(b) provides that a proponent must prove eligibility to submit a proposal by offering proof that it "continuously held" the required amount of securities for the required amount of time.[24]

In Section C of Staff Legal Bulletin No. 14F, we identified two common errors shareholders make when submitting proof of ownership for purposes of satisfying Rule 14a-8(b)(2).[25] In an effort to reduce such errors, we provided a suggested format for shareholders and their brokers or banks to follow when supplying the required verification of ownership. We then updated the suggested format in Staff Legal Bulletin No. 14L to reflect changes to the ownership thresholds made by the Commission's 2020 amendments to Rule 14a-8.[26] We note that brokers and banks are not required to follow this format. The suggested format is as follows:

> "As of [date the proposal is submitted], [name of shareholder] held, and has held continuously for at least [one year] [two years] [three years], [number of securities] shares of [company name] [class of securities].

Some companies apply an overly technical reading of proof of ownership letters as a means to exclude a proposal. We generally do not find arguments along these lines to be persuasive. For example, we have not concurred with the excludability of proposals based on Rule 14a-

8(b) where the proof of ownership letters deviated from the format set forth in Staff Legal Bulletin No. 14F.[27] In those cases, we concluded that the proponent nonetheless had supplied documentary support sufficiently evidencing the requisite minimum ownership requirements, as required by Rule 14a-8(b). We took a plain meaning approach to interpreting the text of the proof of ownership letter, and we expect companies to apply a similar approach in their review of such letters.

While we encourage shareholders and their brokers or banks to use the sample language provided above to avoid errors, such formulation is neither mandatory nor the exclusive means of demonstrating the ownership requirements of Rule 14a-8(b).[28] We recognize that the requirements of Rule 14a-8(b) can be quite technical. Accordingly, companies should not seek to exclude a shareholder proposal based on drafting variances in the proof of ownership letter if the language used in such letter is clear and sufficiently evidences the requisite minimum ownership requirements.

We also do not interpret the 2020 amendments to Rule 14a-8(b)[29] to contemplate a change in how brokers or banks fulfill their role. In our view, they may continue to provide confirmation as to how many shares the proponent held continuously and need not separately calculate the share valuation, which may instead be done by the proponent and presented to the receiving issuer consistent with the 2020 Release.[30] Finally, the staff does not view Rule 14a-8 as requiring a company to send a second deficiency notice to a proponent if the company previously sent an adequate deficiency notice prior to receiving the proponent's proof of ownership and the company believes that the proponent's proof of ownership letter contains a defect.

H. Use of Email[31]

Over the past few years, both proponents and companies have increasingly relied on the use of emails to submit proposals and make other communications. Some companies and proponents have expressed a preference for emails, particularly in cases where offices are closed. Unlike the use of third-party mail delivery that provides the sender with a proof of delivery, parties should keep in mind that methods for the confirmation of email delivery may differ. Email delivery confirmations and company server logs may not be sufficient to prove receipt of emails as they only serve to prove that emails were sent. In addition, spam filters or incorrect email addresses can prevent an email from being delivered to the appropriate recipient. The staff therefore suggests that to prove delivery of an email for purposes of Rule 14a-8, the sender should seek a reply email from the recipient in which the recipient acknowledges receipt of the email. The staff also encourages both companies and shareholder proponents to acknowledge receipt of emails when requested. Email read receipts, if received by the sender, may also help to establish that emails were received. Finally, we encourage companies and proponents to reach out using another method of communication or emailing another contact, if available, if the requested confirmation of receipt is not provided. The staff does not consider screenshots or photos of emails on the sender's device to be proof of delivery to the recipient.

1. Submission of Proposals

Rule 14a-8(e)(1) provides that in order to avoid controversy, shareholders should submit their proposals by means, including electronic means, that permit them to prove the date of delivery. Therefore, where a dispute arises regarding a proposal's timely delivery, shareholder proponents risk exclusion of their proposals if they do not receive a confirmation of receipt from the company in order to prove timely delivery with email submissions. Additionally, in those instances where the company does not disclose in its proxy statement an email address for submitting proposals, we encourage shareholder proponents to contact the company to obtain the correct email address for submitting proposals before doing so, and we encourage companies to provide such email addresses upon request.

2. Delivery of Notices of Defects

Similarly, if companies use email to deliver deficiency notices to proponents, we encourage them to seek a confirmation of receipt from the proponent or the representative in order to prove timely delivery. Rule 14a-8(f)(1) provides that the company must notify the shareholder of any defects within 14 calendar days of receipt of the proposal, and accordingly, the company has the burden to prove timely delivery of the notice.

3. Submitting Responses to Notices of Defects

Rule 14a-8(f)(1) also provides that a shareholder's response to a deficiency notice must be postmarked, or transmitted electronically, no later than 14 days from the date of receipt of the company's notification. If a shareholder uses email to respond to a company's deficiency notice, the burden is on the shareholder or representative to use an appropriate email address (e.g., an email address provided by the company, or the email address of the counsel who sent the deficiency notice), and we encourage the shareholder or representative to seek confirmation of receipt.

I. Frequently Asked Questions

We expect that companies, proponents, and their representatives may have time-sensitive questions regarding the implementation of this bulletin. The staff will continue to consider each no-action request individually; however, the following questions and answers may address some general questions. In addition, please see the Division's Informal Procedures Regarding Shareholder Proposals and other applicable Rule 14a-8 Staff Legal Bulletins.

Question	Answer
	The staff will consider the guidance in place at the time it issues a response. It is important to note that the staff's responses to Rule 14a-8(j) submissions reflect

	only informal, non-binding staff views.
1. I submitted my no-action request prior to the publication of this bulletin. What guidance will the staff consider when assessing my request?	Accordingly, the publication of this bulletin does not in and of itself provide a company with a basis to exclude a proposal. The burden is on the company to demonstrate that it is entitled to exclude the proposal under operative rules. *See* Rule 14a-8(g). If, after considering the views expressed in this bulletin, a company believes that it is entitled to exclude a proposal, it must make a legal argument that clearly lays out the basis for the exclusion in either the initial no-action request or a supplemental correspondence. Previously submitted requests do not need to be resubmitted.
2. Should companies that submitted a no-action request prior to the publication of this bulletin resubmit the request or submit supplemental correspondence in light of this bulletin?	However, if a company wishes to raise new legal arguments in light of this bulletin, such arguments should be submitted as supplemental correspondence via the online portal. Companies and proponents should provide any supplemental correspondence in as timely a manner as possible. As usual, companies and proponents should promptly forward to each other copies of all correspondence provided to the staff in connection with Rule 14a-8 requests. As stated in Rule 14a-8(j)(1), the "staff may permit the company to make its submission later than 80 days before the company files its definitive proxy statement and form of proxy, if the company demonstrates good cause for missing the deadline."
3. In light of this bulletin, can I submit a new no-action request even if the deadline prescribed in Rule 14a-8(j) has passed?	The staff will consider the publication of this bulletin to be "good cause" if it relates to legal arguments made by the new request. The publication of this bulletin will not constitute "good cause" for a new request if it does not relate to the request.
	Companies should endeavor to submit any new requests as soon as possible, with consideration for the print deadline for their definitive proxy statement, as well as the opportunity for proponents to provide supplemental correspondence in response to the new request. The staff will endeavor to meet print deadlines for definitive proxy statements.
4. Will the staff respond by the proxy print deadline provided in my submission?	Depending on the volume and timing of new requests and supplemental correspondence being received, the staff may not be able to respond before the relevant print deadline.
	We encourage companies and proponents to work together to the best of their abilities to resolve submitted proposals prior to print deadlines. If resolved, we encourage the company to withdraw its request.
5. Who do I contact with other questions?	Please email shareholderproposals@sec.gov. The email address is monitored during normal business hours. Note that the staff will not advise companies or proponents regarding legal arguments or strategy.

Annex A

Excerpt from Staff Legal Bulletin No. 14J Section C.2. and C.3.

2. Micromanagement

The Commission has stated that the policy underlying the "ordinary business" exception rests on two central considerations.[32] The first relates to the proposal's subject matter; the second, the degree to which the proposal "micromanages" 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."[33] The Commission has explained that the second consideration "may come into play in a number of circumstances, such as where the proposal involves intricate detail, or seeks to impose specific time-frames or methods for implementing complex policies."[34]

Unlike the first consideration, which looks to a proposal's subject matter, the second consideration looks only to the degree to which a proposal seeks to micromanage. Thus, a proposal that may not be excludable under the first consideration may be excludable under the second if it micromanages the company. Determinations as to excludability of proposals "will be made on a case-by-case basis, taking into account factors such as the nature of the proposal and the circumstances of the company to which it is directed."[35]

As the Commission has explained, a proposal may probe too deeply into matters of a complex nature if it "involves intricate detail, or seeks to impose specific time-frames or methods for implementing complex policies."[36] The Division applies this framework when evaluating whether a proposal micromanages a company and is therefore excludable. For example, the Division agreed that a proposal to generate a plan to reach net-zero greenhouse gas emissions by the year 2030, which sought to impose specific timeframes or methods for implementing complex policies, was excludable on the basis of micromanagement.[37]

This framework also applies to proposals that call for a study or report. For example, a proposal that seeks an intricately detailed study or report may be excluded on micromanagement grounds.[38] In addition, the staff would, consistent with Commission guidance, consider the underlying substance of the matters addressed by the study or report.[39] Thus, for example, a proposal calling for a report may be excludable if the substance of the report relates to the imposition or assumption of specific timeframes or methods for implementing complex policies.[40]

We believe that the above framework is consistent with the Commission's guidance in this area and, accordingly, we will continue to apply it when evaluating whether a proposal micromanages. It is important to note, however, that the staff's concurrence with a company's micromanagement argument does not necessarily mean that the subject matter raised by the proposal is improper for shareholder consideration. Rather, in that case, it is the manner in which a proposal seeks to address an issue that results in exclusion on micromanagement grounds.

3. The Division's application of Rule 14a-8(i)(7) to proposals that address senior executive and/or director compensation

Under Rule 14a-8(i)(7), proposals that raise matters that 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" may be excluded, unless such a proposal focuses on policy issues that are sufficiently significant because they transcend ordinary business and would be appropriate for a shareholder vote. [41] Whether this exception applies depends, in part, on the connection between the issue raised and the company's business operations. [42]

The Commission has said that proposals involving "the management of the workforce, such as the hiring, promotion, and termination of employees," generally relate to ordinary business matters.[43] Consistent with this guidance, proposals that relate to general employee compensation and benefits are excludable under Rule 14a-8(i)(7).[44] On the other hand, proposals that focus on significant aspects of senior executive and/or director compensation generally are not excludable under Rule 14a-8(i)(7).[45] In determining whether the focus of a proposal is senior executive and/or director compensation or, instead, an ordinary business matter, we consider both the resolved clause and supporting statement as a whole.[46]

We are providing the additional guidance below to clarify the Division's views with respect to proposals that implicate senior executive and/or director compensation.

a. Proposals that address senior executive and/or director compensation and ordinary business matters

At issue in some Rule 14a-8(i)(7) requests is whether the focus of a proposal is senior executive and/or director compensation, or whether its underlying concern relates primarily to ordinary business matters that are not sufficiently related to senior executive and/or director compensation. We have concurred in the exclusion of proposals that, while styled as senior executive and/or director compensation proposals, have had as their underlying concern ordinary business matters. For example, the staff agreed with the exclusion of a proposal requesting that the board prohibit payment of incentive compensation to executive officers unless the company first adopted a process to fund the retirement accounts of certain retired employees.[47] In that instance, the staff agreed that the company could exclude the proposal under Rule14a-8(i)(7) on the grounds that the focus of the proposal was on the ordinary business matter of employee benefits, rather than senior executive compensation matters.

In evaluating proposals that raise both ordinary business and senior executive and/or director compensation matters, the staff examines whether the focus of the proposal is an ordinary business matter or aspects of senior executive and/or director compensation. Where the focus appears to be on the ordinary business matter, the proposal may be excludable under Rule 14a-8(i)(7). This framework ensures that form is not elevated over substance and that a proposal is not included simply because it addresses an excludable matter in a manner that is connected to or touches upon senior executive or director compensation matters. Including an aspect of senior executive or director compensation in a proposal that otherwise focuses on an ordinary business matter will not insulate a proposal from exclusion under Rule 14a-8(i)(7).

b. Proposals that address aspects of senior executive and/or director compensation that are also available or applicable to the general workforce

The Division believes that a proposal that addresses senior executive and/or director compensation may be excludable under Rule 14a-8(i)(7) if a primary aspect of the targeted compensation is broadly available or applicable to a company's general workforce and the company demonstrates that the executives' or directors' eligibility to receive the compensation does not implicate significant compensation matters. For example, a proposal that seeks to limit when senior executive officers will receive golden parachutes may be excludable under Rule14a-8(i)(7) if the company's golden parachute provision broadly applies to a significant portion of its general workforce. This is because the availability of certain forms of compensation to senior executives and/or directors that are also broadly available or applicable to the general workforce does not generally raise significant compensation issues that transcend ordinary business matters. In this regard, it is difficult to conclude that a proposal does not relate to a company's ordinary business when it addresses aspects of compensation that are broadly available or applicable to a company's general workforce, even when the proposal is framed in terms of the senior executives and/or directors.

In SLB No. 14A, we took the position that where the focus of a proposal is on aspects of compensation that are available or apply only to the general workforce, companies may generally rely on Rule14a-8(i)(7) to omit the proposal from their proxy materials. Similar to the approach in SLB No. 14A with respect to Rule14a-8(i)(7) submissions concerning proposals that relate to shareholder approval of equity compensation plans, we will take the following approach with respect to proposals that address aspects of senior executive and/or director compensation that are also available or applicable to a company's general workforce:

- *Proposals where the focus is on aspects of compensation that are available or apply only to senior executive officers and/or directors.* Companies may generally not rely on Rule 14a-8(i)(7) to omit these proposals from their proxy materials.
- *Proposals where the focus is on aspects of compensation that are available or apply to senior executive officers, directors, and the general workforce.* Companies may generally rely on Rule 14a-8(i)(7) to omit the proposal from their proxy materials.

c. Proposals that micromanage senior executive and/or director compensation practices

As discussed above, one of the central considerations underlying the "ordinary business" exception "relates to the degree to which the proposal seeks to 'micro-manage' the company."[48] Historically, the Division has not agreed with the exclusion of proposals addressing senior executive and/or director compensation on the basis of micromanagement. We have further considered the Commission's statements on micromanagement discussed above, however, and we do not believe there is a basis for treating executive compensation proposals differently than other types of proposals. Consistent with the Division's treatment of shareholder proposals on other topics, therefore, the Division may agree that proposals addressing senior executive and/or director compensation that seek intricate detail, or seek to impose specific timeframes or methods for implementing complex policies can be excluded under Rule14a-8(i)(7) on the basis of micromanagement. For example, a proposal detailing the eligible expenses covered under a company's relocation expense policy such as the type and duration of temporary living assistance, as well as the scope of eligible participants and amounts covered, could well be excludable on the basis of micromanagement.

As discussed above, micromanagement addresses the manner in which a proposal raises an issue, and not whether a proposal's subject matter itself is proper for a shareholder proposal under Rule 14a-8. Proposals that focus on significant executive and/or director compensation matters and do not micromanage will continue not to be excludable under Rule 14a-8(i)(7).

Excerpt from Staff Legal Bulletin No. 14K Section B.4.

4. Micromanagement

Under the Commission's second consideration, a proposal may be excludable under the "ordinary business" exception if it "micromanages" the company. This prong of the Rule 14a-8(i)(7) analysis rests on an evaluation of the manner in which a proposal seeks to address the subject matter raised, rather than the subject matter itself. As illustrated below, two proposals focusing on the same subject matter may warrant different outcomes based solely on the level of prescriptiveness with which the proposals approach that subject matter.

In considering arguments for exclusion based on micromanagement, and consistent with the Commission's views,[49] we look to whether the proposal seeks intricate detail or imposes a specific strategy, method, action, outcome or timeline for addressing an issue, thereby supplanting the judgment of management and the board. Thus, a proposal framed as a request that the company consider, discuss the feasibility of, or evaluate the potential for a particular issue generally would not be viewed as micromanaging matters of a complex nature. However, a proposal, regardless of its precatory nature, that prescribes specific timeframes or methods for implementing complex policies, consistent with the Commission's guidance,[50] may run afoul of micromanagement. In our view, the precatory nature of a proposal does not bear on the degree to which a proposal micromanages.[51] Following a successful vote on a shareholder proposal, management and the board generally consider whether and how to implement the proposal. Notwithstanding the precatory nature of a proposal, if the method or strategy for implementing the action requested by the proposal is overly prescriptive, thereby potentially limiting the judgment and discretion of the board and management, the proposal may be viewed as micromanaging the company.

For example, this past season we agreed that a proposal seeking annual reporting on "short-, medium- and long-term greenhouse gas targets aligned with the greenhouse gas reduction goals established by the Paris Climate Agreement to keep the increase in global average temperature to well below 2 degrees Celsius and to pursue efforts to limit the increase to 1.5 degrees Celsius" was excludable on the basis of micromanagement.[52] In our view, the proposal micromanaged the company by prescribing the method for addressing reduction of greenhouse gas emissions. We viewed the proposal as effectively requiring the adoption of time-bound targets (short, medium and long) that the company would measure itself against and changes in operations to meet those goals, thereby imposing a specific method for implementing a complex policy.

In contrast, we did not concur with the excludability of a proposal seeking a report "describing if, and how, [a company] plans to reduce its total contribution to climate change and align its operations and investments with the Paris [Climate] Agreement's goal of maintaining global temperatures well below 2 degrees Celsius." The proposal was not excludable because the proposal transcended ordinary business matters and did not seek to micromanage the company to such a degree that exclusion would be appropriate.[53] In our view, the proposal did not seek to micromanage the company because it deferred to management's discretion to consider if and how the company plans to reduce its carbon footprint and asked the company to consider the relative benefits and drawbacks of several actions.

When analyzing a proposal to determine the underlying concern or central purpose of any proposal, we look not only to the resolved clause but to the proposal in its entirety. Thus, if a supporting statement modifies or re-focuses the intent of the resolved clause, or effectively requires some action in order to achieve the proposal's central purpose as set forth in the resolved clause, we take that into account in determining whether the proposal seeks to micromanage the company.

This past season, where we concurred with a company's micromanagement argument, it was not because we viewed the proposal as presenting issues that are too complex for shareholders to understand. Rather, it was based on our assessment of the level of prescriptiveness of the proposal. When a proposal prescribes specific actions that the company's management or the board must undertake without affording them sufficient flexibility or discretion in addressing the complex matter presented by the proposal, the proposal may micromanage the company to such a degree that exclusion of the proposal would be warranted. For example, a proposal urging the board to adopt a policy prohibiting adjusting financial performance metrics to exclude compliance costs when determining executive compensation

would be excludable on micromanagement grounds because such proposal prohibits any such adjustments without regard to specific circumstances or the possibility of reasonable exceptions.[54] When a company asserts the micromanagement prong as a reason to exclude a proposal, we would expect it to include in its analysis how the proposal may unduly limit the ability of management and the board to manage complex matters with a level of flexibility necessary to fulfill their fiduciary duties to shareholders.

---

[1] *See* Release No. 34-12599 (Jul. 7, 1976) ("the staff's views on certain issues may change from time-to-time, in light of re-examination, new considerations, or changing conditions which indicate that its earlier views are no longer in keeping with the objectives of Rule 14a-8").

[2] Release No. 34-40018 (May 21, 1998) (the "1998 Release") (emphasis added).

[3] *Id.* (emphasis added).

[4] This section previously appeared in Staff Legal Bulletin No. 14I (Nov. 1, 2017). It has been updated to reflect the Division's current views.

[5] Release No. 34-19135 (Oct. 14, 1982) (the "1982 Release").

[6] *Id.*

[7] Release No. 34-20091 (Aug. 16, 1983).

[8] 1982 Release.

[9] *See* Release No. 34-39093 (Sep. 18, 1997) ("The proponent carries the burden of demonstrating that the proposal is 'otherwise significantly related.'"), *citing* 1982 Release ("Where the significant relationship is not immediately apparent on the face of the proponent's submission, the proponent . . . could demonstrate the significant relationship supplementally.").

[10] 1982 Release.

[11] This section previously appeared in Staff Legal Bulletin No. 14K (Oct. 16, 2019). It has been updated to reflect the Division's current views.

[12] 1998 Release.

[13] *Id.*

[14] *Id.*

[15] *Id.*

[16] *Id.*

[17] *Id*. *See also* Staff Legal Bulletin No. 14H (Oct. 22, 2015); Staff Legal Bulletin No. 14E (Oct. 27, 2009).

[18] Release No. 34-95267 (Jul. 13, 2022).

[19] This section previously appeared in Staff Legal Bulletin No. 14L (Nov. 3, 2021) and Staff Legal Bulletin No. 14I (Nov. 1, 2017) and is republished here with minor, conforming changes.

[20] *See General Electric Co.* (Feb. 3, 2017, Feb. 23, 2017); *General Electric Co.* (Feb. 23, 2016). These letters were consistent with a longstanding Division position. *See Ferrofluidics Corp.* (Sept. 18, 1992).

[21] Companies should not minimize or otherwise diminish the appearance of a shareholder's graphic. For example, if the company includes its own graphics in its proxy statement, it should give similar prominence to a shareholder's graphics. If a company's proxy statement appears in black and white, however, the shareholder proposal and accompanying graphics may also appear in black and white.

[22] *See General Electric Co.* (Feb. 23, 2017).

[23] This section previously appeared in Staff Legal Bulletin No. 14K (Oct. 16, 2019) and was republished with additional discussion in the last paragraph in Staff Legal Bulletin No. 14L (Nov. 3, 2021). It has been revised further here to remove a footnote discussing the suggested format of the proof of ownership letters prior to the amendments to Rule 14a-8 in 2020 and to replace the final sentence.

[24] Rule 14a-8(b) requires proponents to have continuously held at least $2,000, $15,000, or $25,000 in market value of the company's securities entitled to vote on the proposal for at least three years, two years, or one year, respectively.

[25] Staff Legal Bulletin No. 14F (Oct. 18, 2011).

[26] *See* Release No. 34-89964 (Sept. 23, 2020) (the "2020 Release").

[27] *See Amazon.com, Inc.* (Apr. 3, 2019); *Gilead Sciences, Inc.* (Mar. 7, 2019).

[28] *See* Staff Legal Bulletin No. 14F, n.11.

[29] *See* 2020 Release.

[30] 2020 Release at n.55 ("Due to market fluctuations, the value of a shareholder's investment in a company may vary throughout the applicable holding period before the shareholder submits the proposal. In order to determine whether the shareholder satisfies the relevant ownership threshold, the shareholder should look at whether, on any date within the 60 calendar days before the date the shareholder submits the proposal, the shareholder's investment is valued at the relevant threshold or greater. For these purposes, companies and shareholders should determine the market value by multiplying the number of securities the shareholder continuously held for the relevant period by the highest selling price during the 60 calendar days before the shareholder submitted the proposal. For purposes of this calculation, it is important to note that a security's highest selling price is not necessarily the same as its highest closing price.") (citations omitted).

[31] This section previously appeared in Staff Legal Bulletin No. 14L and is republished here with minor, conforming changes, and two additional sentences at the end of the first paragraph.

[32] Release No. 34-40018 (May 21, 1998).

[33] *Id.*

[34] *Id.*

[35] *Id.*

[36] *Id.*

[37] *Apple Inc.* (Dec. 5, 2016).

[38] *See, e.g., Ford Motor Company* (Mar. 2, 2004).

[39] *See* Release No. 34-20091 (Aug. 16, 1983) ("In the past, the staff has taken the position that proposals requesting issuers to prepare reports on specific aspects of their business or to form special committees to study a segment of their business would not be excludable under Rule 14a-8(c)(7). Because this interpretation raises form over substance and renders the provisions of paragraph (c)(7) largely a nullity . . . , the 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).").

[40] *See*, *e.g.*, *PayPal Holdings, Inc.* (Mar. 6, 2018).

[41] Release No. 34-40018.

[42] *See* Staff Legal Bulletin No. 14I (Nov. 1, 2017) (*citing* Staff Legal Bulletin No. 14H (Oct. 22, 2015), which cites Staff Legal Bulletin No. 14E (Oct. 27, 2009) (*citing* Release No. 34-40018)).

[43] *See* Release No. 34-40018.

[44] *See* Staff Legal Bulletin No. 14A (Jul. 12, 2002).

[45] *See Battle Mountain Gold Company* (Feb. 13, 1992); *see also* Release No. 34-30851 (Jun. 23, 1992) (The Commission observed that "[e]ffective earlier this year, the Commission staff began to require companies to include shareholder proposals on executive compensation submitted pursuant to Rule14a-8 in their proxy statements. While these resolutions are advisory in nature, they allow shareholders to provide direct input to the board on its compensation decisions.").

[46] *Cf.* Staff Legal Bulletin No. 14C (Jun. 28, 2005).

[47] *See Delta Air Lines, Inc.* (Mar. 27, 2012).

[48] Release No. 34-40018.

[49] Release No. 34-40018. The Commission explained that micromanagement "may come into play in a number of circumstances, such as where the proposal involves intricate detail, or seeks to impose specific time-frames or methods for implementing complex policies."

[50] *Id.*

[51] Our Rule 14a-8(i)(7) analysis would be the same if the proposal were mandatory or precatory.

[52] *Devon Energy Corp.* (Mar. 4, 2019).

[53] *Anadarko Petroleum Corp.* (Mar. 4, 2019).

[54] *See, e.g., Johnson & Johnson* (Feb. 14, 2019).

Last Reviewed or Updated: Feb. 12, 2025

EXHIBIT E

September 30, 2025

Dear Customer,

The following is the proof-of-delivery for tracking number: [redacted]

Delivery Information:

Status:	Delivered	**Delivered To:**	Residence
Signed for by:	Signature not required	**Delivery Location:**	
Service type:	FedEx Priority Overnight		
Special Handling:	Deliver Weekday; Residential Delivery		[redacted]
		Delivery date:	Sep 30, 2025 10:39

Shipping Information:

Tracking number:	[redacted]	**Ship Date:**	Sep 29, 2025
		Weight:	0.5 LB/0.23 KG

Recipient:

[redacted]

Shipper:

Los Angeles, CA, US,

Reference 100030.00002.DB24

Proof-of-delivery details appear below; however, no signature is available for this FedEx Express shipment because a signature was not required.

Thank you for choosing FedEx

PAUL
HASTINGS

November 26, 2025

<u>VIA ONLINE SUBMISSION</u>
Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: *Amentum Holdings, Inc.*
Stockholder Proposal of John Chevedden
Securities Exchange Act of 1934 – Rule 14a-8

Ladies and Gentlemen:

This letter and the enclosed materials are submitted by Amentum Holdings, Inc. (the "**Company**") pursuant to the Statement Regarding the Division of Corporation Finance's Role in the Exchange Act Rule 14a-8 Process for the Current Proxy Season issued by the staff of the Division of Corporation Finance (the "**Staff**") on November 17, 2025 (the "**Statement**"). The Company submitted a request for no action relief on October 15, 2025 (the "**No Action Letter**"), on behalf of our client, requesting that the Staff advise the Company that it will not recommend any enforcement action to the Securities and Exchange Commission (the "**Commission**") if the Company excludes a stockholder proposal and statements in support thereof (collectively, the "**Proposal**") received from John Chevedden (the "**Proponent**") from the Company's proxy statement and form of proxy for its 2026 annual meeting of stockholders (collectively, the "**Proxy Materials**") pursuant to Rule 14a-8(b) and Rule 14a-8(f)(l) of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"). A copy of the pending No Action Letter is attached hereto as **<u>Exhibit A</u>**.

This letter is furnished as a notice supplementing the No Action Letter respectfully requesting that the Staff provide a letter in response to this notification indicating that, based solely on the representations contained herein, the Staff will not object if the company omits the proposal from its Proxy Materials.

As counsel to the Company, we hereby represent without qualification that the Company has a reasonable basis to exclude the proposal based on the provisions of Rule 14a-8, prior published guidance, and/or judicial decisions pursuant to 14a-8(b)(1) and 14a-8(f)(1). The Staff has consistently permitted exclusion under Rule 14a-8(f)(1) of stockholder proposals where a proponent failed to show sufficient proof of ownership. As is further noted in the No Action Letter, the Proponent has failed to provide sufficient evidence that the Proponent satisfies the ownership threshold requirements of Rule 14a-8(b)(1)(i) in response to the Company's proper request for that information. Specifically, the Proponent failed to document ownership of

PAUL HASTINGS

Company shares that satisfy the market value tests in Rule 14a-8 and failed to demonstrate the Proponent's continuous ownership of the requisite amount of Company shares. The Proponent provided a broker letter from Fidelity Investments, dated September 23, 2025, indicating ownership of Amentum Holdings Inc. of only $1,677.69 in market value of the Company's shares. The Proponent has not responded to the notice of deficiency the Company sent on September 29, 2025 in compliance with the timing set forth in Rule 14a-8(f) or the No Action Letter.

Pursuant to Exchange Act Rule 14a-8(j) and the Statement, the Company is submitting this letter electronically to the Commission and is concurrently sending a copy to the Proponent. The Company agrees to promptly forward to the Proponent any Staff response to the Company's no-action request that the Staff transmits to the Company by mail, email and/or facsimile. Rule 14a-8(k) and SLB 14D provide that a stockholder proponent is required to send to the Company a copy of any correspondence which the proponent elects to submit to the SEC or the Staff. Accordingly, the Company hereby informs the Proponent that the undersigned on behalf of the Company is entitled to receive from the Proponent a concurrent copy of any additional correspondence submitted to the SEC or the Staff relating to the Proposal.

The Company respectfully request that the Staff provide a letter in response to this notification indicating that, based solely on the representations contained herein, the Staff will not object if the company omits the proposal from its Proxy Materials. We would be happy to provide you with any additional information and answer any questions that you may have regarding this subject. Correspondence regarding this letter should be sent to seandonahue@paulhastings.com. If we can be of any further assistance in this matter, please do not hesitate to call me at (202) 538-3557.

Sincerely,

/s/ Sean Donahue

Sean Donahue

cc: Michele St. Mary, Amentum Holdings, Inc.
John Chevedden

EXHIBIT A

PAUL HASTINGS

October 15, 2025

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

Re: *Amentum Holdings, Inc.*
Stockholder Proposal of John Chevedden
Securities Exchange Act of 1934 – Rule 14a-8

Ladies and Gentlemen:

This letter is to inform you that our client, Amentum Holdings, Inc. (the "**Company**"), intends to omit from its proxy statement and form of proxy for its 2026 annual meeting of stockholders (collectively, the "**Proxy Materials**") a stockholder proposal and statements in support thereof (collectively, the "**Proposal**") received from John Chevedden (the "**Proponent**").

The Company respectfully requests that the staff of the Division of Corporation Finance (the "**Staff**") of the U.S. Securities and Exchange Commission (the "**Commission**") advise the Company that it will not recommend any enforcement action to the Commission if the Company excludes the Proposal from its Proxy Materials pursuant to Rule 14a-8(b) and Rule 14a-8(f)(l) of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), on the basis that the Proponent failed to establish that the Proponent continuously held the requisite amount of the Company's securities entitled to be voted on the Proposal at the Company's 2026 annual meeting of stockholders in response to the Company's proper request for that information.

Pursuant to Exchange Act Rule 14a-8(j) and Staff Legal Bulletin No. 14D (November 7, 2008) ("**SLB 14D**"), the Company is submitting electronically to the Commission this letter, and the Proposal and related correspondence (attached as **Exhibit A** to this letter), and is concurrently sending a copy to the Proponent.

The Company agrees to promptly forward to the Proponent any Staff response to the Company's no-action request that the Staff transmits to the Company by mail, email and/or facsimile. Rule 14a-8(k) and SLB 14D provide that a stockholder proponent is required to send to the Company a copy of any correspondence which the proponent elects to submit to the Commission or the Staff. Accordingly, the Company hereby informs the Proponent that the undersigned on behalf of the Company is entitled to receive from the Proponent a concurrent

copy of any additional correspondence submitted to the Commission or the Staff relating to the Proposal.

The Company intends to mail and file its definitive proxy statement on or about December 24, 2025. This letter is therefore being sent to the Staff fewer than 80 calendar days before such date and accordingly, as described below, the Company requests the Staff to waive the 80-day requirement set forth in Rule 14a-8(j)(1) with respect to this letter.

I. Basis for Exclusion

The Company believes that the Proposal may be properly excluded from the Proxy Materials pursuant to 14a-8(b)(1) and 14a-8(f)(1) because the Proponent has failed to provide sufficient evidence that the Proponent satisfies the ownership threshold requirements of Rule 14a-8(b)(1)(i) in response to the Company's proper request for that information. Specifically, the Proponent failed to document ownership of Company shares that satisfy the market value tests in Rule 14a-8 and failed to demonstrate the Proponent's continuous ownership of the requisite amount of Company shares.

II. Background

The Proposal was submitted to the Company via FedEx and received by the Company on September 17, 2025 (the "**Submission Date**"). See Exhibit A. The Proponent's initial submission did not include any evidence of his ownership of Company shares. The Company reviewed its stock records, which did not indicate that the Proponent was a record owner of Company shares. On September 22, 2025, per instructions from the Proponent in the Proposal, the Company emailed the Proponent requesting documentation showing proof of ownership (attached as **Exhibit B** to this letter). On September 23, 2025, the Proponent responded by email to the Company providing a broker letter from Fidelity Investments, dated September 23, 2025, indicating ownership of Amentum Holdings Inc. of 63 shares since September 6, 2022 through the date of the letter (the "Broker Letter") (attached as **Exhibit C** to this letter). As discussed in detail below, the Broker Letter did not provide verification that the Proponent satisfied one of the three ownership requirements (each an "Ownership Requirement," and collectively the "**Ownership Requirements**") of Rule 14a-8(b) under the Exchange Act because it verified ownership of only $1,677.69 in market value of the Company's shares. Accordingly, and in compliance with the timing set forth in Rule 14a-8(f), the Company sent a notice of deficiency on September 29, 2025 (the "**Notice of Deficiency**") to the Proponent via FedEx and email, which identified proof of ownership as the deficiency with the Proposal and requested that the Proponent remedy such deficiency within 14 calendar days of receiving the Company's request

(attached as **Exhibit D** to this letter). The Proponent received the FedEx delivery of the Notice of Deficiency on September 30, 2025. In relevant part, the Notice of Deficiency identified the Proponent's failure to provide proof of ownership as required by Rule 14a-8(b). The Notice of Deficiency also provided detailed information regarding how to remedy the deficiency. The Proponent's confirmation of overnight delivery of the Deficiency Notice is attached hereto as **Exhibit E**. The 14-day period for the Proponent to respond to the Notice of Deficiency expired on October 14, 2025. As of the date hereof, the Company has not received any proof of stock ownership from the Proponent. We are submitting this no-action request letter to the Staff today, October 15, 2025, which is the first day we can submit such request after the 14 days required by Rule 14a-8(f).

III. Analysis

a. *The Proposal May Be Excluded Under Rule 14a-8(b) And Rule 14a-8(f)(1) Because The Proponent Failed To Establish The Requisite Eligibility To Submit The Proposal.*

Rule 14a-8(b) under the Exchange Act provides, in part, that a stockholder proponent must submit sufficient proof of its continuous ownership of company shares preceding and including the submission date for at least one of the following ownership requirements found in Rule 14a-8(b)(1)(i):

(1) $2,000 in market value of the Company's shares entitled to vote on the Proposal for at least three years;
(2) $15,000 in market value of the Company's shares entitled to vote on the Proposal for at least two years; or
(3) $25,000 in market value of the Company's shares entitled to vote on the Proposal for at least one year (collectively, the "**Ownership Requirements**").

Staff Legal Bulletin No. 14M states that brokers and banks may provide "confirmation as to how many shares the proponent held continuously . . .." Staff Legal Bulletin No. 14M then provides guidance on how to calculate the share valuation by citing Release No. 34-89964 (Sept. 23, 2020):

> In order to determine whether the shareholder satisfies the relevant ownership threshold, the shareholder should look at whether, on any date within the 60 calendar days before the date the shareholder submits the proposal, the shareholder's investment is valued at the relevant threshold or greater. For these

> purposes, companies and shareholders should determine the market value by multiplying the number of securities the shareholder continuously held for the relevant period by the highest selling price during the 60 calendar days before the shareholder submitted the proposal.

The highest price of Company shares during the 60-calendar-days before the Submission Date, was $26.63 per share. Thus, the market value of the Proponent's shares was $1,677.69. In order to meet one of the Ownership Requirements as the holder of 63 shares, the Proponent would need to show a highest selling price during the applicable period in excess of $31.74 per share. Accordingly, the Broker Letter failed to demonstrate that the Proponent met any of the Ownership Requirements, because it verified ownership of only $1,677.69 in market value of the Company's shares, which does not satisfy the requisite amount in any of the Ownership Requirements.

Where a proponent of a stockholder proposal fails to meet the procedural requirement of providing proof of ownership, Rule 14a-8(f) allows a company to exclude the proposal as long as it has provided the proponent with a written notice of the deficiency within 14-calendar-days of receiving the proposal and the proponent does not adequately respond to the written notice within 14-calendar-days of receiving the written notice of deficiency. The Company received the Proposal on September 17, 2025 and submitted to the Proponent the Notice of Deficiency via email and FedEx on September 29, 2025, which is within 14-calendar-days of September 17, 2025. The Proponent received the FedEx delivery of the Notice of Deficiency on September 30, 2025. The Company did not receive a response from the Proponent that demonstrates any additional ownership in Company shares such that the Proponent would be able to meet any of the Ownership Requirements. Accordingly, we believe that the Staff will agree with our conclusion that the Proposal can be excluded from the Company's Proxy Materials in reliance on Rules 14a-8(b)(1)(i) and 14a-8(f)(1).

The Staff has consistently permitted exclusion under Rule 14a-8(f)(1) of stockholder proposals where a proponent failed to show sufficient proof of ownership, including, recently in *Walgreens Boots Alliance, Inc.* (avail. Dec. 9, 2024) where the Staff concurred with the exclusion of a stockholder proposal under Rule 14a-8(b) and Rule 14a-8(f) noting that "the market value of Company securities held by the Proponent did not meet the thresholds set forth in Rule 14a-8(b)(1)(i) and the Company notified the Proponent of this problem" where the Proponent showed ownership of $1,866.00 in market value of company stock. *See also AMC Networks Inc.* (avail. Apr. 4, 2023) (the Staff concurred with the exclusion of a stockholder proposal where the proponent showed ownership of only $1,591.80 in market value of company stock); and *PPL Corp.* (avail. Mar. 12, 2021) (the Staff concurred with the exclusion of a stockholder proposal

where the proponent showed ownership of only $1,498 in market value of company stock).

As in the precedents cited above, the Proponent failed to provide adequate documentary evidence of ownership of Company shares despite proper notice from the Company. Therefore, since the Proponent has not demonstrated eligibility under Rule 14a-8 to submit the Proposal, we ask that the Staff concur that the Company may exclude the Proposal under Rule 14a-8(b) and Rule 14a-8(f)(1).

IV. Waiver of the 80-Day Requirement under Rule 14a-8(j)

Rule 14a-8(j) requires a company to file its no-action letter with the Commission no later than 80 calendar days before such company intends to file its definitive proxy materials for the upcoming annual meeting. However, per Rule 14a-8(j)(l), the Staff may waive the 80-day requirement if the company demonstrates good cause for missing the 80-day deadline. The Company intends to file its definitive Proxy Materials with the Commission on or around December 24, 2025, which is 10 days less than 80 days from the date of this letter. We are submitting this no-action request letter to the Staff today, October 15, 2025, which is the earliest day we can submit such request after the 14 days required by Rule 14a-8(f).

The Staff has previously granted waivers of Rule 14a-8(j)(1) where the reason for the delayed submission of a request was that the company has been waiting for a response from the proponent to correct deficiencies in the proponent's submission. *See, e.g. Toll Brothers, Inc.* (avail. Jan 10, 2006); *Toll Brothers, Inc.* (avail. Jan. 5, 2006); *E*TRADE Group, Inc.* (avail. October 31, 2000). Here the deadline for the Proponent to correct the deficiencies was October 14, 2025. Had the company been aware that the Proponent was not going to communicate any further with the Company on this matter, this request would have been submitted on or before the 80-day deadline. We therefore believe that the Company has acted in good faith and has good cause for its inability to meet the 80-day deadline, and we respectfully request that the Staff waive the 80-day requirement with respect to this letter.[1] If the Staff is unwilling to grant this waiver, the Company will endeavor to file its Proxy Materials on a date that is at least 80 days after the date of this request.

V. Conclusion

For the foregoing reasons, the Company believes that the Proposal may be omitted from

[1] We note that, even if the Staff does not agree there is "good cause" to waive the 80-day requirement, it has noted that it "generally will consider the bases upon which the company intends to exclude a proposal, as [the Staff] believe[s] that is an appropriate exercise of its] responsibilities under rule 14a-8." See Staff Legal Bulletin No. 14B.

PAUL HASTINGS

its Proxy Materials in accordance with Rules 14a-8(b)(1) and 14a-8(f)(1). The Company respectfully requests that the Staff confirm that it will not recommend any enforcement action if the Proposal is excluded from the Company's Proxy Materials.

We would be happy to provide you with any additional information and answer any questions that you may have regarding this subject. Correspondence regarding this letter should be sent to seandonahue@paulhastings.com. If we can be of any further assistance in this matter, please do not hesitate to call me at (202) 538-3557.

Sincerely,

/s/ Sean Donahue

Sean Donahue

Attachments

cc:

Michele St. Mary, Amentum Holdings, Inc.

John Chevedden

EXHIBIT A

JOHN CHEVEDDEN

Mr. Paul W. Cobb, Jr.
Amentum Holdings, Inc. (AMTM)
4800 Westfields Blvd
Suite #400
Chantilly, VA 20151
703 579 0410

Mr. Cobb,

This Rule 14a-8 proposal is respectfully submitted in support of the long-term performance of our company.

This Rule 14a-8 proposal is intended as a low-cost method to improve company performance – especially compared to the substantial capitalization of our company.

This proposal is for the next annual shareholder meeting.

I intend to continue to hold the same requisite amount of Company shares through the date of the Company's next Annual Meeting of Stockholders and beyond as is or will be documented in my ownership proof.

This submitted format, with the shareholder-supplied emphasis, is intended to be used for definitive proxy publication.

Please assign the proper sequential proposal number in each appropriate place.

Please use the title of the proposal in bold in all references to the proposal in the proxy including the table of contents, like Board of Directors proposals, and on the ballot. If there is objection to the title please negotiate or seek no action relief as a last resort.

I expect to forward a broker letter soon so if you acknowledge this proposal in an email message to
it may very well save you from formally requesting a broker letter from me.

Please confirm that this proposal was sent to the correct email address for rule 14a-8 proposals. Per SEC SLB 14L, Section F, the Securities and Exchange Commission Staff "encourages both companies and shareholder proponents to acknowledge receipt of emails when requested." I so request.

Sincerely,

John Chevedden

Date

[AMTM: Rule 14a-8 Proposal, September 14, 2025]
[This line and any line above it – *Not* for publication.]

Proposal 4 – Support for a Simple Majority Vote Standard

Shareholders request that the Board of Directors take each step necessary so that each voting requirement in our charter and bylaws (that is explicit or implicit due to default to state law) that calls for a greater than simple majority vote be replaced by a requirement for a majority of the votes cast for and against applicable proposals, or a simple majority in compliance with applicable laws. If necessary this means the closest standard to a majority of the votes cast for and against such proposals consistent with applicable laws. This proposal includes that Amentum Holdings shall state in its governing documents that it will not have any default super-majority voting standards upon adoption of this proposal.

Shareholders are willing to pay a premium for shares of companies that have excellent corporate governance. The supermajority voting requirements, like those of Amentum Holdings have been found to be one of 6 entrenching mechanisms that are negatively related to company performance according to "What Matters in Corporate Governance" by Lucien Bebchuk, Alma Cohen and Allen Ferrell of the Harvard Law School. Supermajority requirements are used to block initiatives supported by most shareowners but opposed by a status quo management.

This proposal topic won from 74% to 88% support at Weyerhaeuser, Alcoa, Waste Management, Goldman Sachs, FirstEnergy and Macy's. These votes would have been higher than 74% to 88% if more shareholders had access to independent proxy voting advice.

This proposal topic received 98% support each in 2024 at Domino's Pizza, FMC Corporation, ConocoPhillips, Masco Corporation and Power Integrations.

Please vote yes:

Support for a Simple Majority Vote Standard – Proposal 4

[The line above – *Is* for publication. Please assign the correct proposal number in the 2 places.]

Notes:
"Proposal 4" stands in for the final proposal number that management will assign.
The proposal number and title at the top of proposal is the number and title intended for publication in the proxy and on the ballot – word for word with no added words or mixture of shareholder words with management words.

It is critically important that the proponent have control of the ballot title with no words added or subtracted from the title because the title of the proposal may be the only words a voting shareholder sees. If management disagrees then it has the option of negotiating now or asking for no action relief.

This proposal is believed to conform with Staff Legal Bulletin No. 14B (CF), September 15, 2004 including (emphasis added):

Accordingly, going forward, we believe that it would not be appropriate for companies to exclude supporting statement language and/or an entire proposal in reliance on rule 14a-8(l)(3) in the following circumstances:

• the company objects to factual assertions because they are not supported;
• the company objects to factual assertions that, while not materially false or misleading, may be disputed or countered;
• the company objects to factual assertions because those assertions may be interpreted by shareholders in a manner that is unfavorable to the company, its directors, or its officers; and/or
• the company objects to statements because they represent the opinion of the shareholder proponent or a referenced source, but the statements are not identified specifically as such.

We believe that it is appropriate under rule 14a-8 for companies to address these objections in their statements of opposition.

See also: Sun Microsystems, Inc. (July 21, 2005).

The proponent is available for a telephone meeting on the first Monday and Tuesday after 10-days of the proposal submittal date at noon PT.
Please arrange in advance in a separate email message regarding a meeting if needed.

I intend to continue to hold the same requisite amount of Company shares through the date of the Company's next Annual Meeting of Stockholders and beyond as is or will be documented in my ownership proof.

Please acknowledge this proposal promptly by email

The color version of the below graphic is to be published immediately after the bold title line of the proposal at the top of the proposal and be center justified with the title.

FOR *Shareholder Rights*

EXHIBIT B

From: St. Mary, Michele <Michele.StMary@amentum.com>
Sent: Monday, September 22, 2025 6:03 PM
To: [redacted]
Subject: Amentum Holdings, Inc. -- Rule 14a-8 Shareholder Proposal

Mr. Chevedden,
Amentum Holdings, Inc. is in receipt of your Rule 14a-8 shareholder proposal. Please communicate through this email address and to the undersigned going forward. We request that you provide proof of required ownership.
Regards.
Michele St. Mary

Michele St. Mary
Chief Legal Officer and General Counsel
M 571-690-0939
michele.stmary@amentum.com
amentum.com

From: John [redacted]
Sent: Monday, September 22, 2025 9:22 PM
To: St. Mary, Michele
Subject: [EXTERNAL] AMTM

Ms. St. Mary,
Thank you for the acknowledgment.
I will forward the broker letter soon.
John Chevedden

EXHIBIT C

From:	John [redacted]
Sent:	Tuesday, September 23, 2025 8:54 PM
To:	St. Mary, Michele
Subject:	[EXTERNAL] AMTM
Attachments:	Scan2025-09-23_174812(3).pdf

Please see the below broker letter.
Please confirm receipt.
John Chevedden

Personal Investing

P.O. Box 770001
Cincinnati, OH 45277-0045

JOHN R CHEVEDDEN

September 23, 2025

September 23, 2025

Dear Mr. Chevedden,

This letter is provided at the request of Mr. John R. Chevedden, a customer of Fidelity investments.

Please accept this letter as confirmation that as of the start of business on the date of this letter Mr. Chevedden has continuously owned no fewer than the share quantities of the securities shown on the below table since at least September 6, 2022.

Security	Symbol	Share Quantity
AMENTUM HOLDINGS INC	AMTM	63.000

These securities are registered in the name of National Financial Services LLC, a DTC participant (DTC number 0226) a Fidelity Investments subsidiary.

I hope this information is helpful. For any other issues or general inquiries, please contact a Fidelity representative at 800-544-6666. Thank you for choosing Fidelity Investments.

Sincerely,

Curtis Mitchell

Curtis Mitchell
Brokerage Operations

Our File: W210588-23SEP25

EXHIBIT D

From: Donahue, Sean <seandonahue@paulhastings.com>
Sent: Monday, September 29, 2025 5:03 PM
To: [redacted]
Subject: Amentum Holdings, Inc. - Deficiency Letter

Dear Mr. Chevedden,

On behalf of our client, Amentum Holdings, Inc., please find attached a notice of deficiency with respect to the stockholder proposal you submitted. A paper copy of this correspondence is being delivered to you in hard copy as well.

We would appreciate you kindly confirming receipt of this correspondence.

Regards,
Sean Donahue

PAUL HASTINGS

Sean Donahue | Chair, Public Company Advisory Practice
Paul Hastings LLP | 2050 M Street NW, Washington, DC 20036 | Direct: +1.202.551.1704 | Main: +1.202.551.1700 | Mobile: +1.202.538.3557 | seandonahue@paulhastings.com | www.paulhastings.com

PAUL
HASTINGS

September 29, 2025

<u>VIA OVERNIGHT MAIL AND EMAIL</u>
John Chevedden

Dear Mr. Chevedden:

I am writing on behalf of Amentum Holdings, Inc. (the "**Company**"), which received your letter via FedEx on September 17, 2025 (the "**Submission Date**") giving notice of your intent to present a stockholder proposal at the Company's 2026 Annual Meeting of Stockholders (the "**Proposal**") pursuant to Rule 14a-8(b) under the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"). We are also in receipt of your correspondence dated September 23, 2025 providing documentation addressing your ownership of the Company's shares (the "**September 23 Email**"). Please note that the Proposal contains certain procedural deficiencies, which Securities and Exchange Commission ("**SEC**") regulations require us to bring to your attention and which you should correct as described below if the Company is to consider the Proposal as properly submitted.

Proof of Continuous Ownership

Rule 14a-8(b) under the Exchange Act provides that a stockholder proponent must submit sufficient proof of its continuous ownership of company shares preceding and including the submission date for at least one of the following ownership requirements found in Rule 14a-8(b)(1)(i):

(1) $2,000 in market value of the Company's shares entitled to vote on the Proposal for at least three years;
(2) $15,000 in market value of the Company's shares entitled to vote on the Proposal for at least two years; or
(3) $25,000 in market value of the Company's shares entitled to vote on the Proposal for at least one year (collectively, the "**Ownership Requirements**").

The letter from Fidelity Investments dated September 23, 2025 that you provided in the September 23 Email indicates that you have owned no fewer than 63 shares of Amentum Holdings Inc. since at least September 6, 2022 (the "Fidelity Letter"). The Fidelity Letter is insufficient both because (i) it does not evidence that you have held the requisite minimum value of the Company's shares during the time period set forth in any of the Ownership Requirements above and (ii) it does not show you (a) continuously held the requisite amount of Company shares since September 27, 2024 until the Submission Date and (b) through September 27, 2024, continuously held sufficient

shares of Jacobs Solutions Inc. for a sufficient amount of time such that, when combined with the length of time for which you have held Company shares, you satisfy at least one of the Ownership Requirements described above.

Staff Legal Bulletin No. 14M states that brokers and banks may provide "confirmation as to how many shares the proponent held continuously . . .." Staff Legal Bulletin No. 14M then provides guidance on how to calculate the share valuation by citing Release No. 34-89964 (Sept. 23, 2020): "In order to determine whether the shareholder satisfies the relevant ownership threshold, the shareholder should look at whether, on any date within the 60 calendar days before the date the shareholder submits the proposal, the shareholder's investment is valued at the relevant threshold or greater. For these purposes, companies and shareholders should determine the market value by multiplying the number of securities the shareholder continuously held for the relevant period by the highest selling price during the 60 calendar days before the shareholder submitted the proposal." The highest price of Company shares during the 60 calendar days before the Submission Date, was $26.63 per share. Thus, the market value of your Company shares was $1,677.69, which does not meet any of the Ownership Requirements. Further, we were not able to find a selling price during the applicable period at or above the amount required to show the market value of 63 shares that would meet or exceed the $2,000 threshold or $31.74.

Please note that the Company has examined its stock records and has determined that you are not the record owner of sufficient shares to satisfy any of the Ownership Requirements. To remedy these defects, Rule 14a-8(b)(2) and SEC staff guidance requires that you must submit to the Company a new proof of ownership letter verifying that you have satisfied at least one of the Ownership Requirements in the form of either:

(1) a written statement from the "record" holder of your shares (usually a broker or a bank) verifying that, at the time you submitted your proposal (the Submission Date), you continuously held at least $2,000, $15,000, or $25,000 in market value of the company's securities entitled to vote on the proposal for at least three years, two years, or one year, respectively; or

(2) if you have filed a Schedule 13D, Schedule 13G, Form 3, Form 4 or Form 5, or amendments to those documents or updated forms, reflecting ownership of the Company's securities as of or before the date on which the one-year, two-year or three-year eligibility periods begin, a copy of the schedule and/or form, and any subsequent amendments reporting a change in the ownership level and a written statement that you have continuously held the required number of shares for the applicable period.

Moreover, in light of our separation from Jacobs Solutions Inc. on September 27, 2024, in

order to demonstrate continuous ownership of Company shares that satisfies at least one of the Ownership Requirements described above, you must submit proof that shows you (i) continuously held the requisite amount of Company shares since September 27, 2024 until the Submission Date and (ii) through September 27, 2024, continuously held sufficient shares of Jacobs Solutions Inc. for a sufficient amount of time such that, when combined with the length of time for which you have held Company shares, you satisfy at least one of the Ownership Requirements described above. In this regard, the Fidelity Letter only notes ownership of Company shares, it does not provide proof of ownership of the shares of Jacobs Solutions Inc. To remedy this defect, please include proof of ownership of the shares of Jacobs Solutions Inc. in your new proof of ownership letter for the requisite time period.

In order to help shareholders comply with the requirement to prove ownership by providing a written statement from the "record" holder of the shares, the SEC's Division of Corporation Finance published Staff Legal Bulletin 14F in October 2011 and Staff Legal Bulletin 14G in October 2012. As the SEC adopted amendments to Rule 14a-8 that became effective in 2021, note that Staff Legal Bulletin 14F and Staff Legal Bulletin 14G do not reflect those amendments and, to the extent any provisions are inconsistent, Rule 14a-8 governs in all respects.

In Staff Legal Bulletin 14F and Staff Legal Bulletin 14G, the SEC Staff clarified that, for purposes of SEC Rule 14a-8(b)(2)(i), only brokers or banks that are Depository Trust Company ("**DTC**") participants or affiliates of DTC participants will be viewed as "record" holders of securities that are deposited at DTC. An entity is an "affiliate" of a DTC participant if such entity directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the DTC participant.

As a result, you will need to obtain the required written statement from the DTC participant or an affiliate of the DTC participant through which your shares are held. For the purposes of determining if a broker or bank is a DTC participant, you may check the list posted at https://www.dtcc.com/-/media/Files/Downloads/client-center/DTC/DTC-Participant-in-Alphabetical-Listing-1.pdf.

If the DTC participant or an affiliate of the DTC participant knows the holdings of your broker or bank, but does not know your individual holdings, you may satisfy the proof of ownership requirement by obtaining and submitting two proof of ownership statements verifying that, at the time the Proposal was submitted, the required amount of securities was held continuously by you for the requisite holding period – with one statement from the broker or bank confirming your ownership, and the other statement from the DTC participant or an affiliate of the DTC participant confirming the broker's or bank's ownership. In Staff Legal Bulletin 14G, the SEC Staff also clarified that, in situations where a shareholder holds securities through a

securities intermediary that is not a broker or bank, a shareholder can satisfy Rule 14a-8's documentation requirement by submitting a proof of ownership letter from that securities intermediary. If the securities intermediary is not a DTC participant or an affiliate of a DTC participant, then the shareholder will also need to obtain a proof of ownership letter from the DTC participant or an affiliate of a DTC participant that can verify the holdings of the securities intermediary.

Pursuant to Rule 14a-8(f) and SEC Staff Legal Bulletin No. 14M, any response to this letter must be postmarked, or transmitted electronically, no later than 14 days from the date you received this letter. Please address any response to me at Paul Hastings LLP, 2050 M St NW, Washington, DC 20036. You may transmit any response by email to me at seandonahue@paulhastings.com. Please note that the SEC's staff has stated that a proponent is responsible for confirming our receipt of any correspondence transmitted in response to this letter.

If you have any questions with respect to the foregoing, please contact me at (202) 538-3557. For your reference, I enclose a copy of Rule 14a-8, Staff Legal Bulletin No. 14F, SEC Staff Legal Bulletin No. 14G, and SEC Staff Legal Bulletin No. 14M.

Sincerely,

/s/ Sean Donahue

Sean Donahue

Enclosures

§ 240.14a-8 Shareholder proposals.

This section addresses when a company must include a shareholder's proposal in its proxy statement and identify the proposal in its form of proxy when the company holds an annual or special meeting of shareholders. In summary, in order to have your shareholder proposal included on a company's proxy card, and included along with any supporting statement in its proxy statement, you must be eligible and follow certain procedures. Under a few specific circumstances, the company is permitted to exclude your proposal, but only after submitting its reasons to the Commission. We structured this section in a question-and-answer format so that it is easier to understand. The references to “you” are to a shareholder seeking to submit the proposal.

(a) ***Question 1:*** What is a proposal? A shareholder proposal is your recommendation or requirement that the company and/or its board of directors take action, which you intend to present at a meeting of the company's shareholders. Your proposal should state as clearly as possible the course of action that you believe the company should follow. If your proposal is placed on the company's proxy card, the company must also provide in the form of proxy means for shareholders to specify by boxes a choice between approval or disapproval, or abstention. Unless otherwise indicated, the word “proposal” as used in this section refers both to your proposal, and to your corresponding statement in support of your proposal (if any).

(b) ***Question 2:*** Who is eligible to submit a proposal, and how do I demonstrate to the company that I am eligible?

(1) To be eligible to submit a proposal, you must satisfy the following requirements:

(i) You must have continuously held:

(A) At least $2,000 in market value of the company's securities entitled to vote on the proposal for at least three years; or

(B) At least $15,000 in market value of the company's securities entitled to vote on the proposal for at least two years; or

(C) At least $25,000 in market value of the company's securities entitled to vote on the proposal for at least one year; or

(D) The amounts specified in paragraph (b)(3) of this section. This paragraph (b)(1)(i)(D) will expire on the same date that § 240.14a-8(b)(3) expires; and

(ii) You must provide the company with a written statement that you intend to continue to hold the requisite amount of securities, determined in accordance with paragraph (b)(1)(i)(A) through (C) of this section, through the date of the shareholders' meeting for which the proposal is submitted; and

(iii) You must provide the company with a written statement that you are able to meet with the company in person or via teleconference no less than 10 calendar days, nor more than 30 calendar days, after submission of the shareholder proposal. You must include your contact

information as well as business days and specific times that you are available to discuss the proposal with the company. You must identify times that are within the regular business hours of the company's principal executive offices. If these hours are not disclosed in the company's proxy statement for the prior year's annual meeting, you must identify times that are between 9 a.m. and 5:30 p.m. in the time zone of the company's principal executive offices. If you elect to co-file a proposal, all co-filers must either:

(A) Agree to the same dates and times of availability, or

(B) Identify a single lead filer who will provide dates and times of the lead filer's availability to engage on behalf of all co-filers; and

(iv) If you use a representative to submit a shareholder proposal on your behalf, you must provide the company with written documentation that:

(A) Identifies the company to which the proposal is directed;

(B) Identifies the annual or special meeting for which the proposal is submitted;

(C) Identifies you as the proponent and identifies the person acting on your behalf as your representative;

(D) Includes your statement authorizing the designated representative to submit the proposal and otherwise act on your behalf;

(E) Identifies the specific topic of the proposal to be submitted;

(F) Includes your statement supporting the proposal; and

(G) Is signed and dated by you.

(v) The requirements of paragraph (b)(1)(iv) of this section shall not apply to shareholders that are entities so long as the representative's authority to act on the shareholder's behalf is apparent and self-evident such that a reasonable person would understand that the agent has authority to submit the proposal and otherwise act on the shareholder's behalf.

(vi) For purposes of paragraph (b)(1)(i) of this section, you may not aggregate your holdings with those of another shareholder or group of shareholders to meet the requisite amount of securities necessary to be eligible to submit a proposal.

(2) One of the following methods must be used to demonstrate your eligibility to submit a proposal:

(i) If you are the registered holder of your securities, which means that your name appears in the company's records as a shareholder, the company can verify your eligibility on its own, although you will still have to provide the company with a written statement that you intend to continue to hold the requisite amount of securities, determined in accordance with paragraph (b)(1)(i)(A) through (C) of this section, through the date of the meeting of shareholders.

(ii) If, like many shareholders, you are not a registered holder, the company likely does not know that you are a shareholder, or how many shares you own. In this case, at the time you submit your proposal, you must prove your eligibility to the company in one of two ways:

(A) The first way is to submit to the company a written statement from the "record" holder of your securities (usually a broker or bank) verifying that, at the time you submitted your proposal, you continuously held at least $2,000, $15,000, or $25,000 in market value of the company's securities entitled to vote on the proposal for at least three years, two years, or one year, respectively. You must also include your own written statement that you intend to continue to hold the requisite amount of securities, determined in accordance with paragraph (b)(1)(i)(A) through (C) of this section, through the date of the shareholders' meeting for which the proposal is submitted; or

(B) The second way to prove ownership applies only if you were required to file, and filed, a Schedule 13D (§ 240.13d-101), Schedule 13G (§ 240.13d-102), Form 3 (§ 249.103 of this chapter), Form 4 (§ 249.104 of this chapter), and/or Form 5 (§ 249.105 of this chapter), or amendments to those documents or updated forms, demonstrating that you meet at least one of the share ownership requirements under paragraph (b)(1)(i)(A) through (C) of this section. If you have filed one or more of these documents with the SEC, you may demonstrate your eligibility to submit a proposal by submitting to the company:

(***1***) A copy of the schedule(s) and/or form(s), and any subsequent amendments reporting a change in your ownership level;

(***2***) Your written statement that you continuously held at least $2,000, $15,000, or $25,000 in market value of the company's securities entitled to vote on the proposal for at least three years, two years, or one year, respectively; and

(***3***) Your written statement that you intend to continue to hold the requisite amount of securities, determined in accordance with paragraph (b)(1)(i)(A) through (C) of this section, through the date of the company's annual or special meeting.

(c) ***Question 3:*** How many proposals may I submit? Each person may submit no more than one proposal, directly or indirectly, to a company for a particular shareholders' meeting. A person may not rely on the securities holdings of another person for the purpose of meeting the eligibility requirements and submitting multiple proposals for a particular shareholders' meeting.

(d) ***Question 4:*** How long can my proposal be? The proposal, including any accompanying supporting statement, may not exceed 500 words.

(e) ***Question 5:*** What is the deadline for submitting a proposal?

(1) If you are submitting your proposal for the company's annual meeting, you can in most cases find the deadline in last year's proxy statement. However, if the company did not hold an annual meeting last year, or has changed the date of its meeting for this year more than 30 days from last year's meeting, you can usually find the deadline in one of the company's quarterly reports on Form 10-Q (§ 249.308a of this chapter), or in shareholder reports of investment companies under § 270.30d-1 of this chapter of the Investment Company Act of 1940. In order to avoid

controversy, shareholders should submit their proposals by means, including electronic means, that permit them to prove the date of delivery.

(2) The deadline is calculated in the following manner if the proposal is submitted for a regularly scheduled annual meeting. The proposal must be received at the company's principal executive offices not less than 120 calendar days before the date of the company's proxy statement released to shareholders in connection with the previous year's annual meeting. However, if the company did not hold an annual meeting the previous year, or if the date of this year's annual meeting has been changed by more than 30 days from the date of the previous year's meeting, then the deadline is a reasonable time before the company begins to print and send its proxy materials.

(3) If you are submitting your proposal for a meeting of shareholders other than a regularly scheduled annual meeting, the deadline is a reasonable time before the company begins to print and send its proxy materials.

(f) ***Question 6:*** What if I fail to follow one of the eligibility or procedural requirements explained in answers to Questions 1 through 4 of this section?

(1) The company may exclude your proposal, but only after it has notified you of the problem, and you have failed adequately to correct it. Within 14 calendar days of receiving your proposal, the company must notify you in writing of any procedural or eligibility deficiencies, as well as of the time frame for your response. Your response must be postmarked, or transmitted electronically, no later than 14 days from the date you received the company's notification. A company need not provide you such notice of a deficiency if the deficiency cannot be remedied, such as if you fail to submit a proposal by the company's properly determined deadline. If the company intends to exclude the proposal, it will later have to make a submission under § 240.14a-8 and provide you with a copy under Question 10 below, § 240.14a-8(j).

(2) If you fail in your promise to hold the required number of securities through the date of the meeting of shareholders, then the company will be permitted to exclude all of your proposals from its proxy materials for any meeting held in the following two calendar years.

(g) ***Question 7:*** Who has the burden of persuading the Commission or its staff that my proposal can be excluded? Except as otherwise noted, the burden is on the company to demonstrate that it is entitled to exclude a proposal.

(h) ***Question 8:*** Must I appear personally at the shareholders' meeting to present the proposal?

(1) Either you, or your representative who is qualified under state law to present the proposal on your behalf, must attend the meeting to present the proposal. Whether you attend the meeting yourself or send a qualified representative to the meeting in your place, you should make sure that you, or your representative, follow the proper state law procedures for attending the meeting and/or presenting your proposal.

(2) If the company holds its shareholder meeting in whole or in part via electronic media, and the company permits you or your representative to present your proposal via such media, then you may appear through electronic media rather than traveling to the meeting to appear in person.

(3) If you or your qualified representative fail to appear and present the proposal, without good cause, the company will be permitted to exclude all of your proposals from its proxy materials for any meetings held in the following two calendar years.

(i) ***Question 9:*** If I have complied with the procedural requirements, on what other bases may a company rely to exclude my proposal?

(1) Improper under state law: If the proposal is not a proper subject for action by shareholders under the laws of the jurisdiction of the company's organization;

Note to paragraph (i)(1):

Depending on the subject matter, some proposals are not considered proper under state law if they would be binding on the company if approved by shareholders. In our experience, most proposals that are cast as recommendations or requests that the board of directors take specified action are proper under state law. Accordingly, we will assume that a proposal drafted as a recommendation or suggestion is proper unless the company demonstrates otherwise.

(2) ***Violation of law:*** If the proposal would, if implemented, cause the company to violate any state, federal, or foreign law to which it is subject;

Note to paragraph (i)(2):

We will not apply this basis for exclusion to permit exclusion of a proposal on grounds that it would violate foreign law if compliance with the foreign law would result in a violation of any state or federal law.

(3) ***Violation of proxy rules:*** If the proposal or supporting statement is contrary to any of the Commission's proxy rules, including § 240.14a-9, which prohibits materially false or misleading statements in proxy soliciting materials;

(4) ***Personal grievance; special interest:*** If the proposal relates to the redress of a personal claim or grievance against the company or any other person, or if it is designed to result in a benefit to you, or to further a personal interest, which is not shared by the other shareholders at large;

(5) ***Relevance:*** If the proposal relates to operations which account for less than 5 percent of the company's total assets at the end of its most recent fiscal year, and for less than 5 percent of its net earnings and gross sales for its most recent fiscal year, and is not otherwise significantly related to the company's business;

(6) ***Absence of power/authority:*** If the company would lack the power or authority to implement the proposal;

(7) ***Management functions:*** If the proposal deals with a matter relating to the company's ordinary business operations;

(8) ***Director elections:*** If the proposal:

(i) Would disqualify a nominee who is standing for election;

(ii) Would remove a director from office before his or her term expired;

(iii) Questions the competence, business judgment, or character of one or more nominees or directors;

(iv) Seeks to include a specific individual in the company's proxy materials for election to the board of directors; or

(v) Otherwise could affect the outcome of the upcoming election of directors.

(9) ***Conflicts with company's proposal:*** If the proposal directly conflicts with one of the company's own proposals to be submitted to shareholders at the same meeting;

Note to paragraph (i)(9):

A company's submission to the Commission under this section should specify the points of conflict with the company's proposal.

(10) ***Substantially implemented:*** If the company has already substantially implemented the proposal;

Note to paragraph (i)(10):

A company may exclude a shareholder proposal that would provide an advisory vote or seek future advisory votes to approve the compensation of executives as disclosed pursuant to Item 402 of Regulation S-K (§ 229.402 of this chapter) or any successor to Item 402 (a "say-on-pay vote") or that relates to the frequency of say-on-pay votes, provided that in the most recent shareholder vote required by § 240.14a-21(b) of this chapter a single year (***i.e.,*** one, two, or three years) received approval of a majority of votes cast on the matter and the company has adopted a policy on the frequency of say-on-pay votes that is consistent with the choice of the majority of votes cast in the most recent shareholder vote required by § 240.14a-21(b) of this chapter.

(11) ***Duplication:*** If the proposal 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;

(12) ***Resubmissions.*** If the proposal addresses substantially the same subject matter as a proposal, or proposals, previously included in the company's proxy materials within the preceding five calendar years if the most recent vote occurred within the preceding three calendar years and the most recent vote was:

(i) Less than 5 percent of the votes cast if previously voted on once;

(ii) Less than 15 percent of the votes cast if previously voted on twice; or

(iii) Less than 25 percent of the votes cast if previously voted on three or more times.

(13) ***Specific amount of dividends:*** If the proposal relates to specific amounts of cash or stock dividends.

(j) ***Question 10:*** What procedures must the company follow if it intends to exclude my proposal?

(1) If the company intends to exclude a proposal from its proxy materials, it must file its reasons with the Commission no later than 80 calendar days before it files its definitive proxy statement and form of proxy with the Commission. The company must simultaneously provide you with a copy of its submission. The Commission staff may permit the company to make its submission later than 80 days before the company files its definitive proxy statement and form of proxy, if the company demonstrates good cause for missing the deadline.

(2) The company must file six paper copies of the following:

(i) The proposal;

(ii) An explanation of why the company believes that it may exclude the proposal, which should, if possible, refer to the most recent applicable authority, such as prior Division letters issued under the rule; and

(iii) A supporting opinion of counsel when such reasons are based on matters of state or foreign law.

(k) ***Question 11:*** May I submit my own statement to the Commission responding to the company's arguments?

Yes, you may submit a response, but it is not required. You should try to submit any response to us, with a copy to the company, as soon as possible after the company makes its submission. This way, the Commission staff will have time to consider fully your submission before it issues its response. You should submit six paper copies of your response.

(l) ***Question 12:*** If the company includes my shareholder proposal in its proxy materials, what information about me must it include along with the proposal itself?

(1) The company's proxy statement must include your name and address, as well as the number of the company's voting securities that you hold. However, instead of providing that information, the company may instead include a statement that it will provide the information to shareholders promptly upon receiving an oral or written request.

(2) The company is not responsible for the contents of your proposal or supporting statement.

(m) ***Question 13:*** What can I do if the company includes in its proxy statement reasons why it believes shareholders should not vote in favor of my proposal, and I disagree with some of its statements?

(1) The company may elect to include in its proxy statement reasons why it believes shareholders should vote against your proposal. The company is allowed to make arguments reflecting its own

point of view, just as you may express your own point of view in your proposal's supporting statement.

(2) However, if you believe that the company's opposition to your proposal contains materially false or misleading statements that may violate our anti-fraud rule, § 240.14a-9, you should promptly send to the Commission staff and the company a letter explaining the reasons for your view, along with a copy of the company's statements opposing your proposal. To the extent possible, your letter should include specific factual information demonstrating the inaccuracy of the company's claims. Time permitting, you may wish to try to work out your differences with the company by yourself before contacting the Commission staff.

(3) We require the company to send you a copy of its statements opposing your proposal before it sends its proxy materials, so that you may bring to our attention any materially false or misleading statements, under the following timeframes:

(i) If our no-action response requires that you make revisions to your proposal or supporting statement as a condition to requiring the company to include it in its proxy materials, then the company must provide you with a copy of its opposition statements no later than 5 calendar days after the company receives a copy of your revised proposal; or

(ii) In all other cases, the company must provide you with a copy of its opposition statements no later than 30 calendar days before its files definitive copies of its proxy statement and form of proxy under § 240.14a-6.

[63 FR 29119, May 28, 1998; 63 FR 50622, 50623, Sept. 22, 1998, as amended at 72 FR 4168, Jan. 29, 2007; 72 FR 70456, Dec. 11, 2007; 73 FR 977, Jan. 4, 2008; 76 FR 6045, Feb. 2, 2011; 75 FR 56782, Sept. 16, 2010; 85 FR 70294, Nov. 4, 2020]

July 9, 2021

Division of Corporation Finance
Securities and Exchange Commission

Action: Publication of CF Staff Legal Bulletin

Date: October 18, 2011

Summary: This staff legal bulletin provides information for companies and shareholders regarding Rule 14a-8 under the Securities Exchange Act of 1934.

Supplementary Information: The statements in this bulletin represent the views of the Division of Corporation Finance (the "Division"). This bulletin is not a rule, regulation or statement of the Securities and Exchange Commission (the "Commission"). Further, the Commission has neither approved nor disapproved its content.

Contacts: For further information, please contact the Division's Office of Chief Counsel by calling (202) 551-3500 or by submitting a web-based request form at https://www.sec.gov/forms/corp_fin_interpretive.

A. The purpose of this bulletin

This bulletin is part of a continuing effort by the Division to provide guidance on important issues arising under Exchange Act Rule 14a-8. Specifically, this bulletin contains information regarding:

- Brokers and banks that constitute "record" holders under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8;
- Common errors shareholders can avoid when submitting proof of ownership to companies;
- The submission of revised proposals;
- Procedures for withdrawing no-action requests regarding proposals submitted by multiple proponents; and
- The Division's new process for transmitting Rule 14a-8 no-action responses by email.

You can find additional guidance regarding Rule 14a-8 in the following bulletins that are available on the Commission's website: SLB No. 14, SLB No. 14A, SLB No. 14B, SLB No. 14C, SLB No. 14D and SLB No. 14E.

B. The types of brokers and banks that constitute "record" holders under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8

1. Eligibility to submit a proposal under Rule 14a-8

To be eligible to submit a shareholder proposal, a shareholder must have continuously held at least $2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the shareholder meeting for at least one year as of the date the shareholder submits the proposal. The shareholder must also continue to hold the required amount of securities through the date of the meeting and must provide the company with a written statement of intent to do so.[1]

The steps that a shareholder must take to verify his or her eligibility to submit a proposal depend on how the shareholder owns the securities. There are two types of security holders in the U.S.: registered owners and beneficial owners.[2] Registered owners have a direct relationship with the issuer because their ownership of shares is listed on the records maintained by the issuer or its transfer agent. If a shareholder is a registered owner, the company can independently confirm that the shareholder's holdings satisfy Rule 14a-8(b)'s eligibility requirement.

The vast majority of investors in shares issued by U.S. companies, however, are beneficial owners, which means that they hold their securities in book-entry form through a securities intermediary, such as a broker or a bank. Beneficial owners are sometimes referred to as "street name" holders. Rule 14a-8(b)(2)(i) provides that a beneficial owner can provide proof of ownership to support his or her eligibility to submit a proposal by submitting a written statement "from the 'record' holder of [the] securities (usually a broker or bank)," verifying that, at the time the proposal was submitted, the shareholder held the required amount of securities continuously for at least one year.[3]

2. The role of the Depository Trust Company

Most large U.S. brokers and banks deposit their customers' securities with, and hold those securities through, the Depository Trust Company ("DTC"), a registered clearing agency acting as a securities depository. Such brokers and banks are often referred to as "participants" in DTC.[4] The names of these DTC participants, however, do not appear as the registered owners of the securities deposited with DTC on the list of shareholders maintained by the company or, more typically, by its transfer agent. Rather, DTC's nominee, Cede & Co., appears on the shareholder list as the sole registered owner of securities deposited with DTC by the DTC participants. A company can request from DTC a "securities position listing" as of a specified date, which identifies the DTC participants having a position in the company's securities and the number of securities held by each DTC participant on that date.[5]

3. Brokers and banks that constitute "record" holders under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8

In *The Hain Celestial Group, Inc.* (Oct. 1, 2008), we took the position that an introducing broker could be considered a "record" holder for purposes of Rule 14a-8(b)(2)(i). An introducing broker is a broker that engages in sales and other activities involving customer contact, such as opening customer accounts and accepting customer orders, but is not permitted to maintain custody of customer funds and securities.[6] Instead, an introducing broker engages another broker, known as a "clearing broker," to hold custody of client funds and securities, to clear and execute customer trades, and to handle other functions such as issuing confirmations of customer trades and customer account statements. Clearing brokers generally are DTC participants; introducing brokers generally are not. As introducing brokers generally are not DTC participants, and therefore typically do not appear on DTC's securities position listing, *Hain Celestial* has required companies to accept proof of ownership letters from brokers in cases where, unlike the positions of registered owners and brokers and banks that are DTC participants, the company is unable to verify the positions against its own or its transfer agent's records or against DTC's securities position listing.

In light of questions we have received following two recent court cases relating to proof of ownership under Rule 14a-8[7] and in light of the Commission's discussion of registered and beneficial owners in the Proxy Mechanics Concept Release, we have reconsidered our views as to what types of brokers and banks should be considered "record" holders under Rule 14a-8(b)(2)(i). Because of the transparency of DTC participants' positions in a company's securities, we will take the view going forward that, for Rule 14a-8(b)(2)(i) purposes, only DTC participants should be viewed as "record" holders of securities that are deposited at DTC. As a result, we will no longer follow *Hain Celestial*.

We believe that taking this approach as to who constitutes a "record" holder for purposes of Rule 14a-8(b)(2)(i) will provide greater certainty to beneficial owners and companies. We also note that this approach is consistent with Exchange Act Rule 12g5-1 and a 1988 staff no-action letter addressing that rule,[8] under which brokers and banks that are DTC participants are considered to be the record holders of securities on deposit with DTC when calculating the number of record holders for purposes of Sections 12(g) and 15(d) of the Exchange Act.

Companies have occasionally expressed the view that, because DTC's nominee, Cede & Co., appears on the shareholder list as the sole registered owner of securities deposited with DTC by the DTC participants, only DTC or Cede & Co. should be viewed as the "record" holder of the securities held on deposit at DTC for purposes of Rule 14a-8(b)(2)(i). We have never interpreted the rule to require a shareholder to obtain a proof of ownership letter from DTC or Cede & Co., and nothing in this guidance should be construed as changing that view.

How can a shareholder determine whether his or her broker or bank is a DTC participant?

Shareholders and companies can confirm whether a particular broker or bank is a DTC participant by checking DTC's participant list, which is currently available on the Internet at http://www.dtcc.com/~/media/Files/Downloads/client-center/DTC/alpha.ashx.

What if a shareholder's broker or bank is not on DTC's participant list?

The shareholder will need to obtain proof of ownership from the DTC participant through which the securities are held. The shareholder should be able to find out who this DTC participant is by asking the shareholder's broker or bank.[9]

If the DTC participant knows the shareholder's broker or bank's holdings, but does not know the shareholder's holdings, a shareholder could satisfy Rule 14a-8(b)(2)(i) by obtaining and submitting two proof of ownership statements verifying that, at the time the proposal was submitted, the required amount of securities were continuously held for at least one year – one from the shareholder's broker or bank confirming the shareholder's ownership, and the other from the DTC participant confirming the broker or bank's ownership.

How will the staff process no-action requests that argue for exclusion on the basis that the shareholder's proof of ownership is not from a DTC participant?

The staff will grant no-action relief to a company on the basis that the shareholder's proof of ownership is not from a DTC participant only if the company's notice of defect describes the required proof of ownership in a manner that is consistent with the guidance contained in this bulletin. Under Rule 14a-8(f)(1), the shareholder will have an opportunity to obtain the requisite proof of

ownership after receiving the notice of defect.

C. Common errors shareholders can avoid when submitting proof of ownership to companies

In this section, we describe two common errors shareholders make when submitting proof of ownership for purposes of Rule 14a-8(b)(2), and we provide guidance on how to avoid these errors.

First, Rule 14a-8(b) requires a shareholder to provide proof of ownership that he or she has "continuously held at least $2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the meeting for at least one year by the date you submit the proposal" (emphasis added).[10] We note that many proof of ownership letters do not satisfy this requirement because they do not verify the shareholder's beneficial ownership for the entire one-year period preceding and including the date the proposal is submitted. In some cases, the letter speaks as of a date *before* the date the proposal is submitted, thereby leaving a gap between the date of the verification and the date the proposal is submitted. In other cases, the letter speaks as of a date *after* the date the proposal was submitted but covers a period of only one year, thus failing to verify the shareholder's beneficial ownership over the required full one-year period preceding the date of the proposal's submission.

Second, many letters fail to confirm continuous ownership of the securities. This can occur when a broker or bank submits a letter that confirms the shareholder's beneficial ownership only as of a specified date but omits any reference to continuous ownership for a one-year period.

We recognize that the requirements of Rule 14a-8(b) are highly prescriptive and can cause inconvenience for shareholders when submitting proposals. Although our administration of Rule 14a-8(b) is constrained by the terms of the rule, we believe that shareholders can avoid the two errors highlighted above by arranging to have their broker or bank provide the required verification of ownership as of the date they plan to submit the proposal using the following format:

> "As of [date the proposal is submitted], [name of shareholder] held, and has held continuously for at least one year, [number of securities] shares of [company name] [class of securities]."[11]

As discussed above, a shareholder may also need to provide a separate written statement from the DTC participant through which the shareholder's securities are held if the shareholder's broker or bank is not a DTC participant.

D. The submission of revised proposals

On occasion, a shareholder will revise a proposal after submitting it to a company. This section addresses questions we have received regarding revisions to a proposal or supporting statement.

1. A shareholder submits a timely proposal. The shareholder then submits a revised proposal before the company's deadline for receiving proposals. Must the company accept the revisions?

Yes. In this situation, we believe the revised proposal serves as a replacement of the initial proposal. By submitting a revised proposal, the shareholder has effectively withdrawn the initial proposal. Therefore, the shareholder is not in violation of the one-proposal limitation in Rule 14a-8(c).[12] If the company intends to submit a no-action request, it must do so with respect to the revised proposal.

We recognize that in Question and Answer E.2 of SLB No. 14, we indicated that if a shareholder makes revisions to a proposal before the company submits its no-action request, the company can choose whether to accept the revisions. However, this guidance has led some companies to believe that, in cases where shareholders attempt to make changes to an initial proposal, the company is free to ignore such revisions even if the revised proposal is submitted before the company's deadline for receiving shareholder proposals. We are revising our guidance on this issue to make clear that a company may not ignore a revised proposal in this situation.[13]

2. A shareholder submits a timely proposal. After the deadline for receiving proposals, the shareholder submits a revised proposal. Must the company accept the revisions?

No. If a shareholder submits revisions to a proposal after the deadline for receiving proposals under Rule 14a-8(e), the company is not required to accept the revisions. However, if the company does not accept the revisions, it must treat the revised proposal as a second proposal and submit a notice stating its intention to exclude the revised proposal, as required by Rule 14a-8(j). The company's notice may cite Rule 14a-8(e) as the reason for excluding the revised proposal. If the company does not accept the revisions and intends to exclude the initial proposal, it would also need to submit its reasons for excluding the initial proposal.

3. If a shareholder submits a revised proposal, as of which date must the shareholder prove his or her share ownership?

A shareholder must prove ownership as of the date the original proposal is submitted. When the Commission has discussed revisions to proposals,[14] it has not suggested that a revision triggers a requirement to provide proof of ownership a second time. As outlined in Rule 14a-8(b), proving ownership includes providing a written statement that the shareholder intends to continue to hold the securities through the date of the shareholder meeting. Rule 14a-8(f)(2) provides that if the shareholder "fails in [his or her] promise to hold the required number of securities through the date of the meeting of shareholders, then the company will be permitted to exclude all of [the same shareholder's] proposals from its proxy materials for any meeting held in the following two calendar years." With these provisions in mind, we do not interpret Rule 14a-8 as requiring additional proof of ownership when a shareholder submits a revised proposal.[15]

E. Procedures for withdrawing no-action requests for proposals submitted by multiple proponents

We have previously addressed the requirements for withdrawing a Rule 14a-8 no-action request in SLB Nos. 14 and 14C. SLB No. 14 notes that a company should include with a withdrawal letter documentation demonstrating that a shareholder has withdrawn the proposal. In cases where a proposal submitted by multiple shareholders is withdrawn, SLB No. 14C states that, if each shareholder has designated a lead individual to act on its behalf and the company is able to demonstrate that the individual is authorized to act on behalf of all of the proponents, the company need only provide a letter from that lead individual indicating that the lead individual is withdrawing the proposal on behalf of all of the proponents.

Because there is no relief granted by the staff in cases where a no-action request is withdrawn following the withdrawal of the related proposal, we recognize that the threshold for withdrawing a no-action request need not be overly burdensome. Going forward, we will process a withdrawal request if the company provides a letter from the lead filer that includes a representation that the lead filer is authorized to withdraw the proposal on behalf of each proponent identified in the company's no-action request.[16]

F. Use of email to transmit our Rule 14a-8 no-action responses to companies and proponents

To date, the Division has transmitted copies of our Rule 14a-8 no-action responses, including copies of the correspondence we have received in connection with such requests, by U.S. mail to companies and proponents. We also post our response and the related correspondence to the Commission's website shortly after issuance of our response.

In order to accelerate delivery of staff responses to companies and proponents, and to reduce our copying and postage costs, going forward, we intend to transmit our Rule 14a-8 no-action responses by email to companies and proponents. We therefore encourage both companies and proponents to include email contact information in any correspondence to each other and to us. We will use U.S. mail to transmit our no-action response to any company or proponent for which we do not have email contact information.

Given the availability of our responses and the related correspondence on the Commission's website and the requirement under Rule 14a-8 for companies and proponents to copy each other on correspondence submitted to the Commission, we believe it is unnecessary to transmit copies of the related correspondence along with our no-action response. Therefore, we intend to transmit only our staff response and not the correspondence we receive from the parties. We will continue to post to the Commission's website copies of this correspondence at the same time that we post our staff no-action response.

---

[1] *See* Rule 14a-8(b).

[2] For an explanation of the types of share ownership in the U.S., see Concept Release on U.S. Proxy System, Release No. 34-62495 (July 14, 2010) [75 FR 42982] ("Proxy Mechanics Concept Release"), at Section II.A. The term "beneficial owner" does not have a uniform meaning under the federal securities laws. It has a different meaning in this bulletin as compared to "beneficial owner" and "beneficial ownership" in Sections 13 and 16 of the Exchange Act. Our use of the term in this bulletin is not intended to suggest that registered owners are not beneficial owners for purposes of those Exchange Act provisions. *See* Proposed Amendments to Rule 14a-8 under the Securities Exchange Act of 1934 Relating to Proposals by Security Holders, Release No. 34-12598 (July 7, 1976) [41 FR 29982], at n.2 ("The term 'beneficial owner' when used in the context of the proxy rules, and in light of the purposes of those rules, may be interpreted to have a broader meaning than it would for certain other purpose[s] under the federal securities laws, such as reporting pursuant to the Williams Act.").

[3] If a shareholder has filed a Schedule 13D, Schedule 13G, Form 3, Form 4 or Form 5 reflecting ownership of the required amount of shares, the shareholder may instead prove ownership by submitting a copy of such filings and providing the additional

information that is described in Rule 14a-8(b)(2)(ii).

[4] DTC holds the deposited securities in "fungible bulk," meaning that there are no specifically identifiable shares directly owned by the DTC participants. Rather, each DTC participant holds a pro rata interest or position in the aggregate number of shares of a particular issuer held at DTC. Correspondingly, each customer of a DTC participant – such as an individual investor – owns a pro rata interest in the shares in which the DTC participant has a pro rata interest. *See* Proxy Mechanics Concept Release, at Section II.B.2.a.

[5] *See* Exchange Act Rule 17Ad-8.

[6] *See* Net Capital Rule, Release No. 34-31511 (Nov. 24, 1992) [57 FR 56973] ("Net Capital Rule Release"), at Section II.C.

[7] *See KBR Inc. v. Chevedden*, Civil Action No. H-11-0196, 2011 U.S. Dist. LEXIS 36431, 2011 WL 1463611 (S.D. Tex. Apr. 4, 2011); *Apache Corp. v. Chevedden,* 696 F. Supp. 2d 723 (S.D. Tex. 2010). In both cases, the court concluded that a securities intermediary was not a record holder for purposes of Rule 14a-8(b) because it did not appear on a list of the company's non-objecting beneficial owners or on any DTC securities position listing, nor was the intermediary a DTC participant.

[8] *Techne Corp.* (Sept. 20, 1988).

[9] In addition, if the shareholder's broker is an introducing broker, the shareholder's account statements should include the clearing broker's identity and telephone number. *See* Net Capital Rule Release, at Section II.C.(iii). The clearing broker will generally be a DTC participant.

[10] For purposes of Rule 14a-8(b), the submission date of a proposal will generally precede the company's receipt date of the proposal, absent the use of electronic or other means of same-day delivery.

[11] This format is acceptable for purposes of Rule 14a-8(b), but it is not mandatory or exclusive.

[12] As such, it is not appropriate for a company to send a notice of defect for multiple proposals under Rule 14a-8(c) upon receiving a revised proposal.

[13] This position will apply to all proposals submitted after an initial proposal but before the company's deadline for receiving proposals, regardless of whether they are explicitly labeled as "revisions" to an initial proposal, unless the shareholder affirmatively indicates an intent to submit a second, *additional* proposal for inclusion in the company's proxy materials. In that case, the company must send the shareholder a notice of defect pursuant to Rule 14a-8(f)(1) if it intends to exclude either proposal from its proxy materials in reliance on Rule 14a-8(c). In light of this guidance, with respect to proposals or revisions received before a company's deadline for submission, we will no longer follow *Layne Christensen Co.* (Mar. 21, 2011) and other prior staff no-action letters in which we took the view that a proposal would violate the Rule 14a-8(c) one-proposal limitation if such proposal is submitted to a company after the company has either submitted a Rule 14a-8 no-action request to exclude an earlier proposal submitted by the same proponent or notified the proponent that the earlier proposal was excludable under the rule.

[14] *See, e.g.*, Adoption of Amendments Relating to Proposals by Security Holders, Release No. 34-12999 (Nov. 22, 1976) [41 FR 52994].

[15] Because the relevant date for proving ownership under Rule 14a-8(b) is the date the proposal is submitted, a proponent who does not adequately prove ownership in connection with a proposal is not permitted to submit another proposal for the same meeting on a later date.

[16] Nothing in this staff position has any effect on the status of any shareholder proposal that is not withdrawn by the proponent or its authorized representative.

Last Reviewed or Updated: Oct. 18, 2011

Division of Corporation Finance
Securities and Exchange Commission

Action: Publication of CF Staff Legal Bulletin

Date: October 16, 2012

Summary: This staff legal bulletin provides information for companies and shareholders regarding Rule 14a-8 under the Securities Exchange Act of 1934.

Supplementary Information: The statements in this bulletin represent the views of the Division of Corporation Finance (the "Division"). This bulletin is not a rule, regulation or statement of the Securities and Exchange Commission (the "Commission"). Further, the Commission has neither approved nor disapproved its content.

Contacts: For further information, please contact the Division's Office of Chief Counsel by calling (202) 551-3500 or by submitting a web-based request form at https://www.sec.gov/forms/corp_fin_interpretive.

A. The purpose of this bulletin

This bulletin is part of a continuing effort by the Division to provide guidance on important issues arising under Exchange Act Rule 14a-8. Specifically, this bulletin contains information regarding:

- the parties that can provide proof of ownership under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8;
- the manner in which companies should notify proponents of a failure to provide proof of ownership for the one-year period required under Rule 14a-8(b)(1); and
- the use of website references in proposals and supporting statements.

You can find additional guidance regarding Rule 14a-8 in the following bulletins that are available on the Commission's website: SLB No. 14, SLB No. 14A, SLB No. 14B, SLB No. 14C, SLB No. 14D, SLB No. 14E and SLB No. 14F.

B. Parties that can provide proof of ownership under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8

1. Sufficiency of proof of ownership letters provided by affiliates of DTC participants for purposes of Rule 14a-8(b)(2)(i)

To be eligible to submit a proposal under Rule 14a-8, a shareholder must, among other things, provide documentation evidencing that the shareholder has continuously held at least $2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the shareholder meeting for at least one year as of the date the shareholder submits the proposal. If the shareholder is a beneficial owner of the securities, which means that the securities are held in book-entry form through a securities intermediary, Rule 14a-8(b)(2)(i) provides that this documentation can be in the form of a "written statement from the 'record' holder of your securities (usually a broker or bank)…."

In SLB No. 14F, the Division described its view that only securities intermediaries that are participants in the Depository Trust Company ("DTC") should be viewed as "record" holders of securities that are deposited at DTC for purposes of Rule 14a-8(b)(2)(i). Therefore, a beneficial owner must obtain a proof of ownership letter from the DTC participant through which its securities are held at DTC in order to satisfy the proof of ownership requirements in Rule 14a-8.

During the most recent proxy season, some companies questioned the sufficiency of proof of ownership letters from entities that were not themselves DTC participants, but were affiliates of DTC participants.[1] By virtue of the affiliate relationship, we believe that a securities intermediary holding shares through its affiliated DTC participant should be in a position to verify its customers' ownership of securities. Accordingly, we are of the view that, for purposes of Rule 14a-8(b)(2)(i), a proof of ownership letter from an affiliate of a DTC participant satisfies the requirement to provide a proof of ownership letter from a DTC participant.

2. Adequacy of proof of ownership letters from securities intermediaries that are not brokers or

banks

We understand that there are circumstances in which securities intermediaries that are not brokers or banks maintain securities accounts in the ordinary course of their business. A shareholder who holds securities through a securities intermediary that is not a broker or bank can satisfy Rule 14a-8's documentation requirement by submitting a proof of ownership letter from that securities intermediary.[2] If the securities intermediary is not a DTC participant or an affiliate of a DTC participant, then the shareholder will also need to obtain a proof of ownership letter from the DTC participant or an affiliate of a DTC participant that can verify the holdings of the securities intermediary.

C. Manner in which companies should notify proponents of a failure to provide proof of ownership for the one-year period required under Rule 14a-8(b)(1)

As discussed in Section C of SLB No. 14F, a common error in proof of ownership letters is that they do not verify a proponent's beneficial ownership for the entire one-year period preceding and including the date the proposal was submitted, as required by Rule 14a-8(b)(1). In some cases, the letter speaks as of a date *before* the date the proposal was submitted, thereby leaving a gap between the date of verification and the date the proposal was submitted. In other cases, the letter speaks as of a date *after* the date the proposal was submitted but covers a period of only one year, thus failing to verify the proponent's beneficial ownership over the required full one-year period preceding the date of the proposal's submission.

Under Rule 14a-8(f), if a proponent fails to follow one of the eligibility or procedural requirements of the rule, a company may exclude the proposal only if it notifies the proponent of the defect and the proponent fails to correct it. In SLB No. 14 and SLB No. 14B, we explained that companies should provide adequate detail about what a proponent must do to remedy all eligibility or procedural defects.

We are concerned that companies' notices of defect are not adequately describing the defects or explaining what a proponent must do to remedy defects in proof of ownership letters. For example, some companies' notices of defect make no mention of the gap in the period of ownership covered by the proponent's proof of ownership letter or other specific deficiencies that the company has identified. We do not believe that such notices of defect serve the purpose of Rule 14a-8(f).

Accordingly, going forward, we will not concur in the exclusion of a proposal under Rules 14a-8(b) and 14a-8(f) on the basis that a proponent's proof of ownership does not cover the one-year period preceding and including the date the proposal is submitted unless the company provides a notice of defect that identifies the specific date on which the proposal was submitted and explains that the proponent must obtain a new proof of ownership letter verifying continuous ownership of the requisite amount of securities for the one-year period preceding and including such date to cure the defect. We view the proposal's date of submission as the date the proposal is postmarked or transmitted electronically. Identifying in the notice of defect the specific date on which the proposal was submitted will help a proponent better understand how to remedy the defects described above and will be particularly helpful in those instances in which it may be difficult for a proponent to determine the date of submission, such as when the proposal is not postmarked on the same day it is placed in the mail. In addition, companies should include copies of the postmark or evidence of electronic transmission with their no-action requests.

D. Use of website addresses in proposals and supporting statements

Recently, a number of proponents have included in their proposals or in their supporting statements the addresses to websites that provide more information about their proposals. In some cases, companies have sought to exclude either the website address or the entire proposal due to the reference to the website address.

In SLB No. 14, we explained that a reference to a website address in a proposal does not raise the concerns addressed by the 500-word limitation in Rule 14a-8(d). We continue to be of this view and, accordingly, we will continue to count a website address as one word for purposes of Rule 14a-8(d). To the extent that the company seeks the exclusion of a website reference in a proposal, but not the proposal itself, we will continue to follow the guidance stated in SLB No. 14, which provides that references to website addresses in proposals or supporting statements could be subject to exclusion under Rule 14a-8(i)(3) if the information contained on the website is materially false or misleading, irrelevant to the subject matter of the proposal or otherwise in contravention of the proxy rules, including Rule 14a-9.[3]

In light of the growing interest in including references to website addresses in proposals and supporting statements, we are providing additional guidance on the appropriate use of website addresses in proposals and supporting statements.[4]

1. References to website addresses in a proposal or supporting statement and Rule 14a-8(i)(3)

References to websites in a proposal or supporting statement may raise concerns under Rule 14a-8(i)(3). In SLB No. 14B, we

stated that the exclusion of a proposal under Rule 14a-8(i)(3) as vague and indefinite may be appropriate if neither the shareholders voting on the proposal, nor the company in implementing the proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires. In evaluating whether a proposal may be excluded on this basis, we consider only the information contained in the proposal and supporting statement and determine whether, based on that information, shareholders and the company can determine what actions the proposal seeks.

If a proposal or supporting statement refers to a website that provides information necessary for shareholders and the company to understand with reasonable certainty exactly what actions or measures the proposal requires, and such information is not also contained in the proposal or in the supporting statement, then we believe the proposal would raise concerns under Rule 14a-9 and would be subject to exclusion under Rule 14a-8(i)(3) as vague and indefinite. By contrast, if shareholders and the company can understand with reasonable certainty exactly what actions or measures the proposal requires without reviewing the information provided on the website, then we believe that the proposal would not be subject to exclusion under Rule 14a-8(i)(3) on the basis of the reference to the website address. In this case, the information on the website only supplements the information contained in the proposal and in the supporting statement.

2. Providing the company with the materials that will be published on the referenced website

We recognize that if a proposal references a website that is not operational at the time the proposal is submitted, it will be impossible for a company or the staff to evaluate whether the website reference may be excluded. In our view, a reference to a non-operational website in a proposal or supporting statement could be excluded under Rule 14a-8(i)(3) as irrelevant to the subject matter of a proposal. We understand, however, that a proponent may wish to include a reference to a website containing information related to the proposal but wait to activate the website until it becomes clear that the proposal will be included in the company's proxy materials. Therefore, we will not concur that a reference to a website may be excluded as irrelevant under Rule 14a-8(i)(3) on the basis that it is not yet operational if the proponent, at the time the proposal is submitted, provides the company with the materials that are intended for publication on the website and a representation that the website will become operational at, or prior to, the time the company files its definitive proxy materials.

3. Potential issues that may arise if the content of a referenced website changes after the proposal is submitted

To the extent the information on a website changes after submission of a proposal and the company believes the revised information renders the website reference excludable under Rule 14a-8, a company seeking our concurrence that the website reference may be excluded must submit a letter presenting its reasons for doing so. While Rule 14a-8(j) requires a company to submit its reasons for exclusion with the Commission no later than 80 calendar days before it files its definitive proxy materials, we may concur that the changes to the referenced website constitute "good cause" for the company to file its reasons for excluding the website reference after the 80-day deadline and grant the company's request that the 80-day requirement be waived.

---

[1] An entity is an "affiliate" of a DTC participant if such entity directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the DTC participant.

[2] Rule 14a-8(b)(2)(i) itself acknowledges that the record holder is "usually," but not always, a broker or bank.

[3] Rule 14a-9 prohibits statements in proxy materials which, at the time and in the light of the circumstances under which they are made, are false or misleading with respect to any material fact, or which omit to state any material fact necessary in order to make the statements not false or misleading.

[4] A website that provides more information about a shareholder proposal may constitute a proxy solicitation under the proxy rules. Accordingly, we remind shareholders who elect to include website addresses in their proposals to comply with all applicable rules regarding proxy solicitations.

Last Reviewed or Updated: Oct. 16, 2012

Division of Corporation Finance

Securities and Exchange Commission

Action: Publication of CF Staff Legal Bulletin

Date: February 12, 2025

Summary: This staff legal bulletin provides information for companies and shareholders regarding Rule 14a-8 under the Securities Exchange Act of 1934.

Supplementary Information: The statements in this bulletin represent the views of the Division of Corporation Finance (the "Division"). This bulletin is not a rule, regulation or statement of the Securities and Exchange Commission (the "Commission"). Further, the Commission has neither approved nor disapproved its content. This bulletin, like all staff guidance, has no legal force or effect: it does not alter or amend applicable law, and it creates no new or additional obligations for any person.

Contacts: For further information, please contact the Division's Office of Chief Counsel by calling (202) 551-3500 or by submitting a web-based request form at https://www.sec.gov/forms/corp_fin_interpretive.

A. The Purpose of This Bulletin

This bulletin is part of a continuing effort by the Division to provide guidance on important issues arising under Exchange Act Rule 14a-8. Based on a review of Staff Legal Bulletin No. 14L and the staff's experience applying the guidance contained in it, and after re-examining the Commission's statements on the matters addressed in that bulletin, the Division is rescinding Staff Legal Bulletin No. 14L.[1] This bulletin is intended to clarify the Division's views on the scope and application of Rule 14a-8(i)(5) and Rule 14a-8(i)(7). In addition, this bulletin addresses certain other aspects of Rule 14a-8 and provides responses to questions that may arise in light of the timing and content of this bulletin.

When explaining the ordinary business exclusion in Rule 14a-8(i)(7), the Commission has said 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. . . . However, proposals *relating to such matters* but focusing on sufficiently significant social policy issues . . . 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."[2] In addition, the Commission has said that the determination as to whether a proposal deals with a matter relating to a company's ordinary business operations is "made on a *case-by-case* basis, taking into account factors such as the nature of the proposal and the circumstances of the company to which it is directed."[3] In light of these statements, it is the staff's view that a "case-by-case" consideration of a particular company's facts and circumstances is a key factor in the analysis of shareholder proposals that raise significant policy issues. In addition, the text of Rule 14a-8(i)(5) references the relationship of the proposal to the individual company, requiring analysis of whether the proposal is "significantly related to the company's business." Accordingly, where relevant to the arguments raised to the staff by companies and proponents, the staff will consider whether a proposal is otherwise significantly related to a particular company's business, in the case of Rule 14a-8(i)(5), or focuses on a significant policy issue that has a sufficient nexus to a particular company, in the case of Rule 14a-8(i)(7). Our views on the application of both rules are described below.

B. Rule 14a-8(i)(5)[4]

1. Background

Rule 14a-8(i)(5), the "economic relevance" exclusion, is one of the substantive bases for exclusion of a shareholder proposal in Rule 14a-8. It permits a company to exclude a proposal that "relates to operations which account for less than 5 percent of the company's total assets at the end of its most recent fiscal year, and for less than 5 percent of its net earnings and gross sales for its most recent fiscal year, and is not otherwise significantly related to the company's business."

2. History

Prior to adoption of the current version of the exclusion in Rule 14a-8(i)(5), the rule permitted companies to omit any proposal that "deals with a matter that is not significantly related to the issuer's business." In proposing changes to that version of the rule in 1982, the Commission noted that the staff's practice had been to agree with exclusion of proposals that bore no economic relationship to a company's business, but that "where the proposal has reflected social or ethical issues, rather than economic concerns, raised by the issuer's business, and the issuer conducts any such business, no matter how small, the staff has not issued a no-action letter with respect to the omission of the proposal."[5] The Commission stated that this interpretation of the rule may have "unduly limit[ed] the exclusion," and proposed adopting the economic tests that appear in the rule today.[6] In adopting the rule, the Commission characterized it as relating "to proposals concerning the functioning of the economic business of an issuer and not to such matters as shareholders' rights, e.g., cumulative voting."[7]

Shortly after the 1983 amendments, however, the District Court for the District of Columbia in *Lovenheim v. Iroquois Brands, Ltd.*, 618 F. Supp. 554 (D.D.C. 1985) preliminarily enjoined a company from excluding a proposal regarding sales of a product line that represented

only 0.05% of assets, $79,000 in sales and a net loss of ($3,121), compared to the company's total assets of $78 million, annual revenues of $141 million and net earnings of $6 million. The court based its decision to grant the injunction "in light of the ethical and social significance" of the proposal and on "the fact that it implicates significant levels of sales." The Division has, at times, looked to *Lovenheim* when interpreting Rule 14a-8(i)(5); as discussed below, the Division will instead focus on the Commission's prior statements on the rule.

3. Application

The Division's analysis will focus on a proposal's significance to the company's business when it otherwise relates to operations that account for less than 5% of total assets, net earnings and gross sales. Under this framework, proposals that raise issues of social or ethical significance may be excludable, notwithstanding their importance in the abstract, based on the application and analysis of each of the factors of Rule 14a-8(i)(5) in determining the proposal's relevance to the company's business.[8]

Because the rule allows exclusion only when the matter is not "otherwise significantly related to the company," we view the analysis as dependent upon the particular circumstances of the company to which the proposal is submitted. That is, a matter significant to one company may not be significant to another. On the other hand, we would generally view substantive governance matters to be significantly related to almost all companies.

Where a proposal's significance to a company's business is not apparent on its face, the Commission has stated that a proposal may be excludable unless the proponent demonstrates that it is "otherwise significantly related to the company's business."[9] For example, as the Commission has stated, the proponent can provide information demonstrating that the proposal "may have a significant impact on other segments of the issuer's business or subject the issuer to significant contingent liabilities."[10] The proponent could continue to raise social or ethical issues in its arguments, but in accordance with these Commission statements it would need to tie those matters to a significant effect on the company's business. The mere possibility of reputational or economic harm alone will not demonstrate that a proposal is "otherwise significantly related to the company's business." In evaluating whether a proposal is "otherwise significantly related to the company's business," the staff will consider the proposal in light of the "total mix" of information about the issuer.

In addition, the Division's analysis of whether a proposal is "otherwise significantly related" under Rule 14a-8(i)(5) has at times been informed by its analysis under the "ordinary business" exception, Rule 14a-8(i)(7). As a result, the availability or unavailability of Rule 14a-8(i)(7) has at times been largely determinative of the availability or unavailability of Rule 14a-8(i)(5). For clarity, the Division will not look to its analysis under Rule 14a-8(i)(7) when evaluating arguments under Rule 14a-8(i)(5). In our view, applying separate analytical frameworks will ensure that each basis for exclusion serves its intended purpose.

C. Rule 14a-8(i)(7)[11]

1. Background

Rule 14a-8(i)(7), the "ordinary business" exclusion, permits a company to exclude a proposal that "deals with a matter relating to the company's ordinary business operations." The purpose of the 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 problems at an annual shareholders meeting."[12] The Commission has stated that the policy underlying the "ordinary business" exclusion rests on two central considerations.[13] The first relates to the proposal's subject matter; the second relates to the degree to which the proposal "micromanages" the company.

2. Significance

Under the first consideration, proposals that raise matters that 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" relate to a company's "ordinary" business operations.[14] The Commission has stated, however, that proposals relating to such matters but focusing on a significant policy issue generally are not excludable under the first consideration "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."[15] The Commission has also stated that the determination as to whether a proposal deals with a matter relating to a company's ordinary business operations is "made on a case-by-case basis, taking into account factors such as the nature of the proposal and the circumstances of the company to which it is directed."[16] Therefore, whether the significant policy exception applies depends on the particular policy issue raised by the proposal and its significance in relation to the company.[17]

As such, the staff will take a company-specific approach in evaluating significance, rather than focusing solely on whether a proposal raises a policy issue with broad societal impact or whether particular issues or categories of issues are universally "significant." Accordingly, a policy issue that is significant to one company may not be significant to another. The Division's analysis will focus on whether the proposal deals with a matter relating to an individual company's ordinary business operations or raises a policy issue that transcends the individual company's ordinary business operations.

3. Micromanagement and Other Considerations

We are reinstating the following sections of guidance that was previously rescinded by Staff Legal Bulletin No. 14L:

- Staff Legal Bulletin No. 14J Section C.2. Micromanagement
- Staff Legal Bulletin No. 14J Section C.3 The Division's application of Rule 14a-8(i)(7) to proposals that address senior executive

and/or director compensation

- Staff Legal Bulletin No. 14K Section B.4. Micromanagement

Please see Annex A for a verbatim copy of these sections.

D. Board Analysis

Beginning with Staff Legal Bulletin No. 14I and prior to Staff Legal Bulletin No. 14L, the Division encouraged companies to include with their no-action requests under Rules 14a-8(i)(5) and 14a-8(i)(7) a discussion reflecting the board's analysis of the particular policy issue raised and its significance to the company. Based on the staff's experience with board analyses, we have found that in most instances the information needed for the staff's analysis was not included in the board analysis and board analyses did not generally have a dispositive effect. Therefore, the staff will not expect a company's no-action request to include a discussion that reflects the board's analysis of the particular policy issue raised and its significance to the company. A company may submit a board analysis for the staff's consideration if it believes it will help the staff analyze the no-action request.

E. Rule 14a-8(i)(10), Rule 14a-8(i)(11), and Rule 14a-8(i)(12)

On July 13, 2022, the Commission proposed amendments to Rule 14a-8(i)(10), Rule 14a-8(i)(11), and Rule 14a-8(i)(12).[18] The Commission has not adopted those proposed amendments. Accordingly, unless and until the Commission adopts these or other amendments to Rule 14a-8, the staff considers no-action requests and supplemental correspondence in accordance with operative Commission rules and applicable staff guidance.

F. Rule 14a-8(d)[19]

1. Background

Rule 14a-8(d) is one of the procedural bases for exclusion of a shareholder proposal in Rule 14a-8. It provides that a "proposal, including any accompanying supporting statement, may not exceed 500 words."

2. The Use of Images in Shareholder Proposals

The staff has expressed the view that the use of "500 words" and absence of express reference to graphics or images in Rule 14a-8(d) do not prohibit the inclusion of graphs and/or images in proposals.[20] Just as companies include graphics that are not expressly permitted under the disclosure rules, the Division is of the view that Rule 14a-8(d) does not preclude shareholders from using graphics to convey information about their proposals.[21]

The Division recognizes the potential for abuse in this area. The Division believes, however, that these potential abuses can be addressed through other provisions of Rule 14a-8. For example, exclusion of graphs and/or images would be appropriate under Rule 14a-8(i)(3) where they:

- make the proposal materially false or misleading;
- render the proposal so inherently vague or indefinite that neither the stockholders voting on the proposal, nor the company in implementing it, would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires;
- directly or indirectly impugn character, integrity or personal reputation, or directly or indirectly make charges concerning improper, illegal, or immoral conduct or association, without factual foundation; or
- are irrelevant to a consideration of the subject matter of the proposal, such that there is a strong likelihood that a reasonable shareholder would be uncertain as to the matter on which he or she is being asked to vote.[22]

Exclusion would also be appropriate under Rule 14a-8(d) if the total number of words in a proposal, including words in the graphics, exceeds 500.

G. Proof of Ownership Letters[23]

In relevant part, Rule 14a-8(b) provides that a proponent must prove eligibility to submit a proposal by offering proof that it "continuously held" the required amount of securities for the required amount of time.[24]

In Section C of Staff Legal Bulletin No. 14F, we identified two common errors shareholders make when submitting proof of ownership for purposes of satisfying Rule 14a-8(b)(2).[25] In an effort to reduce such errors, we provided a suggested format for shareholders and their brokers or banks to follow when supplying the required verification of ownership. We then updated the suggested format in Staff Legal Bulletin No. 14L to reflect changes to the ownership thresholds made by the Commission's 2020 amendments to Rule 14a-8.[26] We note that brokers and banks are not required to follow this format. The suggested format is as follows:

> "As of [date the proposal is submitted], [name of shareholder] held, and has held continuously for at least [one year] [two years] [three years], [number of securities] shares of [company name] [class of securities].

Some companies apply an overly technical reading of proof of ownership letters as a means to exclude a proposal. We generally do not find arguments along these lines to be persuasive. For example, we have not concurred with the excludability of proposals based on Rule 14a-

8(b) where the proof of ownership letters deviated from the format set forth in Staff Legal Bulletin No. 14F.[27] In those cases, we concluded that the proponent nonetheless had supplied documentary support sufficiently evidencing the requisite minimum ownership requirements, as required by Rule 14a-8(b). We took a plain meaning approach to interpreting the text of the proof of ownership letter, and we expect companies to apply a similar approach in their review of such letters.

While we encourage shareholders and their brokers or banks to use the sample language provided above to avoid errors, such formulation is neither mandatory nor the exclusive means of demonstrating the ownership requirements of Rule 14a-8(b).[28] We recognize that the requirements of Rule 14a-8(b) can be quite technical. Accordingly, companies should not seek to exclude a shareholder proposal based on drafting variances in the proof of ownership letter if the language used in such letter is clear and sufficiently evidences the requisite minimum ownership requirements.

We also do not interpret the 2020 amendments to Rule 14a-8(b)[29] to contemplate a change in how brokers or banks fulfill their role. In our view, they may continue to provide confirmation as to how many shares the proponent held continuously and need not separately calculate the share valuation, which may instead be done by the proponent and presented to the receiving issuer consistent with the 2020 Release.[30] Finally, the staff does not view Rule 14a-8 as requiring a company to send a second deficiency notice to a proponent if the company previously sent an adequate deficiency notice prior to receiving the proponent's proof of ownership and the company believes that the proponent's proof of ownership letter contains a defect.

H. Use of Email[31]

Over the past few years, both proponents and companies have increasingly relied on the use of emails to submit proposals and make other communications. Some companies and proponents have expressed a preference for emails, particularly in cases where offices are closed. Unlike the use of third-party mail delivery that provides the sender with a proof of delivery, parties should keep in mind that methods for the confirmation of email delivery may differ. Email delivery confirmations and company server logs may not be sufficient to prove receipt of emails as they only serve to prove that emails were sent. In addition, spam filters or incorrect email addresses can prevent an email from being delivered to the appropriate recipient. The staff therefore suggests that to prove delivery of an email for purposes of Rule 14a-8, the sender should seek a reply email from the recipient in which the recipient acknowledges receipt of the email. The staff also encourages both companies and shareholder proponents to acknowledge receipt of emails when requested. Email read receipts, if received by the sender, may also help to establish that emails were received. Finally, we encourage companies and proponents to reach out using another method of communication or emailing another contact, if available, if the requested confirmation of receipt is not provided. The staff does not consider screenshots or photos of emails on the sender's device to be proof of delivery to the recipient.

1. Submission of Proposals

Rule 14a-8(e)(1) provides that in order to avoid controversy, shareholders should submit their proposals by means, including electronic means, that permit them to prove the date of delivery. Therefore, where a dispute arises regarding a proposal's timely delivery, shareholder proponents risk exclusion of their proposals if they do not receive a confirmation of receipt from the company in order to prove timely delivery with email submissions. Additionally, in those instances where the company does not disclose in its proxy statement an email address for submitting proposals, we encourage shareholder proponents to contact the company to obtain the correct email address for submitting proposals before doing so, and we encourage companies to provide such email addresses upon request.

2. Delivery of Notices of Defects

Similarly, if companies use email to deliver deficiency notices to proponents, we encourage them to seek a confirmation of receipt from the proponent or the representative in order to prove timely delivery. Rule 14a-8(f)(1) provides that the company must notify the shareholder of any defects within 14 calendar days of receipt of the proposal, and accordingly, the company has the burden to prove timely delivery of the notice.

3. Submitting Responses to Notices of Defects

Rule 14a-8(f)(1) also provides that a shareholder's response to a deficiency notice must be postmarked, or transmitted electronically, no later than 14 days from the date of receipt of the company's notification. If a shareholder uses email to respond to a company's deficiency notice, the burden is on the shareholder or representative to use an appropriate email address (e.g., an email address provided by the company, or the email address of the counsel who sent the deficiency notice), and we encourage the shareholder or representative to seek confirmation of receipt.

I. Frequently Asked Questions

We expect that companies, proponents, and their representatives may have time-sensitive questions regarding the implementation of this bulletin. The staff will continue to consider each no-action request individually; however, the following questions and answers may address some general questions. In addition, please see the Division's Informal Procedures Regarding Shareholder Proposals and other applicable Rule 14a-8 Staff Legal Bulletins.

Question	Answer
	The staff will consider the guidance in place at the time it issues a response. It is important to note that the staff's responses to Rule 14a-8(j) submissions reflect

	only informal, non-binding staff views.
1. I submitted my no-action request prior to the publication of this bulletin. What guidance will the staff consider when assessing my request?	Accordingly, the publication of this bulletin does not in and of itself provide a company with a basis to exclude a proposal. The burden is on the company to demonstrate that it is entitled to exclude the proposal under operative rules. *See* Rule 14a-8(g). If, after considering the views expressed in this bulletin, a company believes that it is entitled to exclude a proposal, it must make a legal argument that clearly lays out the basis for the exclusion in either the initial no-action request or a supplemental correspondence.
2. Should companies that submitted a no-action request prior to the publication of this bulletin resubmit the request or submit supplemental correspondence in light of this bulletin?	Previously submitted requests do not need to be resubmitted. However, if a company wishes to raise new legal arguments in light of this bulletin, such arguments should be submitted as supplemental correspondence via the online portal. Companies and proponents should provide any supplemental correspondence in as timely a manner as possible. As usual, companies and proponents should promptly forward to each other copies of all correspondence provided to the staff in connection with Rule 14a-8 requests.
3. In light of this bulletin, can I submit a new no-action request even if the deadline prescribed in Rule 14a-8(j) has passed?	As stated in Rule 14a-8(j)(1), the "staff may permit the company to make its submission later than 80 days before the company files its definitive proxy statement and form of proxy, if the company demonstrates good cause for missing the deadline." The staff will consider the publication of this bulletin to be "good cause" if it relates to legal arguments made by the new request. The publication of this bulletin will not constitute "good cause" for a new request if it does not relate to the request. Companies should endeavor to submit any new requests as soon as possible, with consideration for the print deadline for their definitive proxy statement, as well as the opportunity for proponents to provide supplemental correspondence in response to the new request.
4. Will the staff respond by the proxy print deadline provided in my submission?	The staff will endeavor to meet print deadlines for definitive proxy statements. Depending on the volume and timing of new requests and supplemental correspondence being received, the staff may not be able to respond before the relevant print deadline. We encourage companies and proponents to work together to the best of their abilities to resolve submitted proposals prior to print deadlines. If resolved, we encourage the company to withdraw its request.
5. Who do I contact with other questions?	Please email shareholderproposals@sec.gov. The email address is monitored during normal business hours. Note that the staff will not advise companies or proponents regarding legal arguments or strategy.

Annex A

Excerpt from Staff Legal Bulletin No. 14J Section C.2. and C.3.

2. Micromanagement

The Commission has stated that the policy underlying the "ordinary business" exception rests on two central considerations.[32] The first relates to the proposal's subject matter; the second, the degree to which the proposal "micromanages" 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."[33] The Commission has explained that the second consideration "may come into play in a number of circumstances, such as where the proposal involves intricate detail, or seeks to impose specific time-frames or methods for implementing complex policies."[34]

Unlike the first consideration, which looks to a proposal's subject matter, the second consideration looks only to the degree to which a proposal seeks to micromanage. Thus, a proposal that may not be excludable under the first consideration may be excludable under the second if it micromanages the company. Determinations as to excludability of proposals "will be made on a case-by-case basis, taking into account factors such as the nature of the proposal and the circumstances of the company to which it is directed."[35]

As the Commission has explained, a proposal may probe too deeply into matters of a complex nature if it "involves intricate detail, or seeks to impose specific time-frames or methods for implementing complex policies."[36] The Division applies this framework when evaluating whether a proposal micromanages a company and is therefore excludable. For example, the Division agreed that a proposal to generate a plan to reach net-zero greenhouse gas emissions by the year 2030, which sought to impose specific timeframes or methods for implementing complex policies, was excludable on the basis of micromanagement.[37]

This framework also applies to proposals that call for a study or report. For example, a proposal that seeks an intricately detailed study or report may be excluded on micromanagement grounds.[38] In addition, the staff would, consistent with Commission guidance, consider the underlying substance of the matters addressed by the study or report.[39] Thus, for example, a proposal calling for a report may be excludable if the substance of the report relates to the imposition or assumption of specific timeframes or methods for implementing complex policies.[40]

We believe that the above framework is consistent with the Commission's guidance in this area and, accordingly, we will continue to apply it when evaluating whether a proposal micromanages. It is important to note, however, that the staff's concurrence with a company's micromanagement argument does not necessarily mean that the subject matter raised by the proposal is improper for shareholder consideration. Rather, in that case, it is the manner in which a proposal seeks to address an issue that results in exclusion on micromanagement grounds.

3. The Division's application of Rule 14a-8(i)(7) to proposals that address senior executive and/or director compensation

Under Rule 14a-8(i)(7), proposals that raise matters that 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" may be excluded, unless such a proposal focuses on policy issues that are sufficiently significant because they transcend ordinary business and would be appropriate for a shareholder vote. [41] Whether this exception applies depends, in part, on the connection between the issue raised and the company's business operations. [42]

The Commission has said that proposals involving "the management of the workforce, such as the hiring, promotion, and termination of employees," generally relate to ordinary business matters.[43] Consistent with this guidance, proposals that relate to general employee compensation and benefits are excludable under Rule 14a-8(i)(7).[44] On the other hand, proposals that focus on significant aspects of senior executive and/or director compensation generally are not excludable under Rule 14a-8(i)(7).[45] In determining whether the focus of a proposal is senior executive and/or director compensation or, instead, an ordinary business matter, we consider both the resolved clause and supporting statement as a whole.[46]

We are providing the additional guidance below to clarify the Division's views with respect to proposals that implicate senior executive and/or director compensation.

a. Proposals that address senior executive and/or director compensation and ordinary business matters

At issue in some Rule 14a-8(i)(7) requests is whether the focus of a proposal is senior executive and/or director compensation, or whether its underlying concern relates primarily to ordinary business matters that are not sufficiently related to senior executive and/or director compensation. We have concurred in the exclusion of proposals that, while styled as senior executive and/or director compensation proposals, have had as their underlying concern ordinary business matters. For example, the staff agreed with the exclusion of a proposal requesting that the board prohibit payment of incentive compensation to executive officers unless the company first adopted a process to fund the retirement accounts of certain retired employees.[47] In that instance, the staff agreed that the company could exclude the proposal under Rule14a-8(i)(7) on the grounds that the focus of the proposal was on the ordinary business matter of employee benefits, rather than senior executive compensation matters.

In evaluating proposals that raise both ordinary business and senior executive and/or director compensation matters, the staff examines whether the focus of the proposal is an ordinary business matter or aspects of senior executive and/or director compensation. Where the focus appears to be on the ordinary business matter, the proposal may be excludable under Rule 14a-8(i)(7). This framework ensures that form is not elevated over substance and that a proposal is not included simply because it addresses an excludable matter in a manner that is connected to or touches upon senior executive or director compensation matters. Including an aspect of senior executive or director compensation in a proposal that otherwise focuses on an ordinary business matter will not insulate a proposal from exclusion under Rule 14a-8(i)(7).

b. Proposals that address aspects of senior executive and/or director compensation that are also available or applicable to the general workforce

The Division believes that a proposal that addresses senior executive and/or director compensation may be excludable under Rule 14a-8(i)(7) if a primary aspect of the targeted compensation is broadly available or applicable to a company's general workforce and the company demonstrates that the executives' or directors' eligibility to receive the compensation does not implicate significant compensation matters. For example, a proposal that seeks to limit when senior executive officers will receive golden parachutes may be excludable under Rule14a-8(i)(7) if the company's golden parachute provision broadly applies to a significant portion of its general workforce. This is because the availability of certain forms of compensation to senior executives and/or directors that are also broadly available or applicable to the general workforce does not generally raise significant compensation issues that transcend ordinary business matters. In this regard, it is difficult to conclude that a proposal does not relate to a company's ordinary business when it addresses aspects of compensation that are broadly available or applicable to a company's general workforce, even when the proposal is framed in terms of the senior executives and/or directors.

In SLB No. 14A, we took the position that where the focus of a proposal is on aspects of compensation that are available or apply only to the general workforce, companies may generally rely on Rule14a-8(i)(7) to omit the proposal from their proxy materials. Similar to the approach in SLB No. 14A with respect to Rule14a-8(i)(7) submissions concerning proposals that relate to shareholder approval of equity compensation plans, we will take the following approach with respect to proposals that address aspects of senior executive and/or director compensation that are also available or applicable to a company's general workforce:

- *Proposals where the focus is on aspects of compensation that are available or apply only to senior executive officers and/or directors.* Companies may generally not rely on Rule 14a-8(i)(7) to omit these proposals from their proxy materials.
- *Proposals where the focus is on aspects of compensation that are available or apply to senior executive officers, directors, and the general workforce.* Companies may generally rely on Rule 14a-8(i)(7) to omit the proposal from their proxy materials.

c. Proposals that micromanage senior executive and/or director compensation practices

As discussed above, one of the central considerations underlying the "ordinary business" exception "relates to the degree to which the proposal seeks to 'micro-manage' the company."[48] Historically, the Division has not agreed with the exclusion of proposals addressing senior executive and/or director compensation on the basis of micromanagement. We have further considered the Commission's statements on micromanagement discussed above, however, and we do not believe there is a basis for treating executive compensation proposals differently than other types of proposals. Consistent with the Division's treatment of shareholder proposals on other topics, therefore, the Division may agree that proposals addressing senior executive and/or director compensation that seek intricate detail, or seek to impose specific timeframes or methods for implementing complex policies can be excluded under Rule14a-8(i)(7) on the basis of micromanagement. For example, a proposal detailing the eligible expenses covered under a company's relocation expense policy such as the type and duration of temporary living assistance, as well as the scope of eligible participants and amounts covered, could well be excludable on the basis of micromanagement.

As discussed above, micromanagement addresses the manner in which a proposal raises an issue, and not whether a proposal's subject matter itself is proper for a shareholder proposal under Rule 14a-8. Proposals that focus on significant executive and/or director compensation matters and do not micromanage will continue not to be excludable under Rule 14a-8(i)(7).

Excerpt from Staff Legal Bulletin No. 14K Section B.4.

4. Micromanagement

Under the Commission's second consideration, a proposal may be excludable under the "ordinary business" exception if it "micromanages" the company. This prong of the Rule 14a-8(i)(7) analysis rests on an evaluation of the manner in which a proposal seeks to address the subject matter raised, rather than the subject matter itself. As illustrated below, two proposals focusing on the same subject matter may warrant different outcomes based solely on the level of prescriptiveness with which the proposals approach that subject matter.

In considering arguments for exclusion based on micromanagement, and consistent with the Commission's views,[49] we look to whether the proposal seeks intricate detail or imposes a specific strategy, method, action, outcome or timeline for addressing an issue, thereby supplanting the judgment of management and the board. Thus, a proposal framed as a request that the company consider, discuss the feasibility of, or evaluate the potential for a particular issue generally would not be viewed as micromanaging matters of a complex nature. However, a proposal, regardless of its precatory nature, that prescribes specific timeframes or methods for implementing complex policies, consistent with the Commission's guidance,[50] may run afoul of micromanagement. In our view, the precatory nature of a proposal does not bear on the degree to which a proposal micromanages.[51] Following a successful vote on a shareholder proposal, management and the board generally consider whether and how to implement the proposal. Notwithstanding the precatory nature of a proposal, if the method or strategy for implementing the action requested by the proposal is overly prescriptive, thereby potentially limiting the judgment and discretion of the board and management, the proposal may be viewed as micromanaging the company.

For example, this past season we agreed that a proposal seeking annual reporting on "short-, medium- and long-term greenhouse gas targets aligned with the greenhouse gas reduction goals established by the Paris Climate Agreement to keep the increase in global average temperature to well below 2 degrees Celsius and to pursue efforts to limit the increase to 1.5 degrees Celsius" was excludable on the basis of micromanagement.[52] In our view, the proposal micromanaged the company by prescribing the method for addressing reduction of greenhouse gas emissions. We viewed the proposal as effectively requiring the adoption of time-bound targets (short, medium and long) that the company would measure itself against and changes in operations to meet those goals, thereby imposing a specific method for implementing a complex policy.

In contrast, we did not concur with the excludability of a proposal seeking a report "describing if, and how, [a company] plans to reduce its total contribution to climate change and align its operations and investments with the Paris [Climate] Agreement's goal of maintaining global temperatures well below 2 degrees Celsius." The proposal was not excludable because the proposal transcended ordinary business matters and did not seek to micromanage the company to such a degree that exclusion would be appropriate.[53] In our view, the proposal did not seek to micromanage the company because it deferred to management's discretion to consider if and how the company plans to reduce its carbon footprint and asked the company to consider the relative benefits and drawbacks of several actions.

When analyzing a proposal to determine the underlying concern or central purpose of any proposal, we look not only to the resolved clause but to the proposal in its entirety. Thus, if a supporting statement modifies or re-focuses the intent of the resolved clause, or effectively requires some action in order to achieve the proposal's central purpose as set forth in the resolved clause, we take that into account in determining whether the proposal seeks to micromanage the company.

This past season, where we concurred with a company's micromanagement argument, it was not because we viewed the proposal as presenting issues that are too complex for shareholders to understand. Rather, it was based on our assessment of the level of prescriptiveness of the proposal. When a proposal prescribes specific actions that the company's management or the board must undertake without affording them sufficient flexibility or discretion in addressing the complex matter presented by the proposal, the proposal may micromanage the company to such a degree that exclusion of the proposal would be warranted. For example, a proposal urging the board to adopt a policy prohibiting adjusting financial performance metrics to exclude compliance costs when determining executive compensation

would be excludable on micromanagement grounds because such proposal prohibits any such adjustments without regard to specific circumstances or the possibility of reasonable exceptions.[54] When a company asserts the micromanagement prong as a reason to exclude a proposal, we would expect it to include in its analysis how the proposal may unduly limit the ability of management and the board to manage complex matters with a level of flexibility necessary to fulfill their fiduciary duties to shareholders.

---

[1] *See* Release No. 34-12599 (Jul. 7, 1976) ("the staff's views on certain issues may change from time-to-time, in light of re-examination, new considerations, or changing conditions which indicate that its earlier views are no longer in keeping with the objectives of Rule 14a-8").

[2] Release No. 34-40018 (May 21, 1998) (the "1998 Release") (emphasis added).

[3] *Id.* (emphasis added).

[4] This section previously appeared in Staff Legal Bulletin No. 14I (Nov. 1, 2017). It has been updated to reflect the Division's current views.

[5] Release No. 34-19135 (Oct. 14, 1982) (the "1982 Release").

[6] *Id.*

[7] Release No. 34-20091 (Aug. 16, 1983).

[8] 1982 Release.

[9] *See* Release No. 34-39093 (Sep. 18, 1997) ("The proponent carries the burden of demonstrating that the proposal is 'otherwise significantly related.'"), *citing* 1982 Release ("Where the significant relationship is not immediately apparent on the face of the proponent's submission, the proponent . . . could demonstrate the significant relationship supplementally.").

[10] 1982 Release.

[11] This section previously appeared in Staff Legal Bulletin No. 14K (Oct. 16, 2019). It has been updated to reflect the Division's current views.

[12] 1998 Release.

[13] *Id.*

[14] *Id.*

[15] *Id.*

[16] *Id.*

[17] *Id*. *See also* Staff Legal Bulletin No. 14H (Oct. 22, 2015); Staff Legal Bulletin No. 14E (Oct. 27, 2009).

[18] Release No. 34-95267 (Jul. 13, 2022).

[19] This section previously appeared in Staff Legal Bulletin No. 14L (Nov. 3, 2021) and Staff Legal Bulletin No. 14I (Nov. 1, 2017) and is republished here with minor, conforming changes.

[20] *See General Electric Co.* (Feb. 3, 2017, Feb. 23, 2017); *General Electric Co.* (Feb. 23, 2016). These letters were consistent with a longstanding Division position. *See Ferrofluidics Corp.* (Sept. 18, 1992).

[21] Companies should not minimize or otherwise diminish the appearance of a shareholder's graphic. For example, if the company includes its own graphics in its proxy statement, it should give similar prominence to a shareholder's graphics. If a company's proxy statement appears in black and white, however, the shareholder proposal and accompanying graphics may also appear in black and white.

[22] *See General Electric Co.* (Feb. 23, 2017).

[23] This section previously appeared in Staff Legal Bulletin No. 14K (Oct. 16, 2019) and was republished with additional discussion in the last paragraph in Staff Legal Bulletin No. 14L (Nov. 3, 2021). It has been revised further here to remove a footnote discussing the suggested format of the proof of ownership letters prior to the amendments to Rule 14a-8 in 2020 and to replace the final sentence.

[24] Rule 14a-8(b) requires proponents to have continuously held at least $2,000, $15,000, or $25,000 in market value of the company's securities entitled to vote on the proposal for at least three years, two years, or one year, respectively.

[25] Staff Legal Bulletin No. 14F (Oct. 18, 2011).

[26] *See* Release No. 34-89964 (Sept. 23, 2020) (the "2020 Release").

[27] *See Amazon.com, Inc.* (Apr. 3, 2019); *Gilead Sciences, Inc.* (Mar. 7, 2019).

[28] *See* Staff Legal Bulletin No. 14F, n.11.

[29] *See* 2020 Release.

[30] 2020 Release at n.55 ("Due to market fluctuations, the value of a shareholder's investment in a company may vary throughout the applicable holding period before the shareholder submits the proposal. In order to determine whether the shareholder satisfies the relevant ownership threshold, the shareholder should look at whether, on any date within the 60 calendar days before the date the shareholder submits the proposal, the shareholder's investment is valued at the relevant threshold or greater. For these purposes, companies and shareholders should determine the market value by multiplying the number of securities the shareholder continuously held for the relevant period by the highest selling price during the 60 calendar days before the shareholder submitted the proposal. For purposes of this calculation, it is important to note that a security's highest selling price is not necessarily the same as its highest closing price.") (citations omitted).

[31] This section previously appeared in Staff Legal Bulletin No. 14L and is republished here with minor, conforming changes, and two additional sentences at the end of the first paragraph.

[32] Release No. 34-40018 (May 21, 1998).

[33] *Id.*

[34] *Id.*

[35] *Id.*

[36] *Id.*

[37] *Apple Inc.* (Dec. 5, 2016).

[38] *See, e.g., Ford Motor Company* (Mar. 2, 2004).

[39] *See* Release No. 34-20091 (Aug. 16, 1983) ("In the past, the staff has taken the position that proposals requesting issuers to prepare reports on specific aspects of their business or to form special committees to study a segment of their business would not be excludable under Rule 14a-8(c)(7). Because this interpretation raises form over substance and renders the provisions of paragraph (c)(7) largely a nullity . . . , the 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).").

[40] *See*, *e.g.*, *PayPal Holdings, Inc.* (Mar. 6, 2018).

[41] Release No. 34-40018.

[42] *See* Staff Legal Bulletin No. 14I (Nov. 1, 2017) (*citing* Staff Legal Bulletin No. 14H (Oct. 22, 2015), which cites Staff Legal Bulletin No. 14E (Oct. 27, 2009) (*citing* Release No. 34-40018)).

[43] *See* Release No. 34-40018.

[44] *See* Staff Legal Bulletin No. 14A (Jul. 12, 2002).

[45] *See Battle Mountain Gold Company* (Feb. 13, 1992); *see also* Release No. 34-30851 (Jun. 23, 1992) (The Commission observed that "[e]ffective earlier this year, the Commission staff began to require companies to include shareholder proposals on executive compensation submitted pursuant to Rule14a-8 in their proxy statements. While these resolutions are advisory in nature, they allow shareholders to provide direct input to the board on its compensation decisions.").

[46] *Cf.* Staff Legal Bulletin No. 14C (Jun. 28, 2005).

[47] *See Delta Air Lines, Inc.* (Mar. 27, 2012).

[48] Release No. 34-40018.

[49] Release No. 34-40018. The Commission explained that micromanagement "may come into play in a number of circumstances, such as where the proposal involves intricate detail, or seeks to impose specific time-frames or methods for implementing complex policies."

[50] *Id.*

[51] Our Rule 14a-8(i)(7) analysis would be the same if the proposal were mandatory or precatory.

[52] *Devon Energy Corp.* (Mar. 4, 2019).

[53] *Anadarko Petroleum Corp.* (Mar. 4, 2019).

[54] *See, e.g., Johnson & Johnson* (Feb. 14, 2019).

Last Reviewed or Updated: Feb. 12, 2025

EXHIBIT E

September 30, 2025

Dear Customer,

The following is the proof-of-delivery for tracking [redacted]

Delivery Information:

Status:	Delivered	**Delivered To:**	Residence
Signed for by:	Signature not required	**Delivery Location:**	
Service type:	FedEx Priority Overnight		
Special Handling:	Deliver Weekday; Residential Delivery		[redacted]
		Delivery date:	Sep 30, 2025 10:39

Shipping Information:

Tracking number:	[redacted]	**Ship Date:**	Sep 29, 2025
		Weight:	0.5 LB/0.23 KG

Recipient:

[redacted]

Shipper:

Los Angeles, CA, US,

Reference 100030.00002.DB24

Proof-of-delivery details appear below; however, no signature is available for this FedEx Express shipment because a signature was not required.

Thank you for choosing FedEx