



March 21, 2025

VIA STAFF ONLINE FORM

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

RE: Stockholder Proposal Submitted by the Shareholder Association for Research & Education

Ladies and Gentlemen:

Tesla, Inc. (the “Company” or “Tesla”) is submitting this letter to notify the staff of the Division of Corporation Finance (the “Staff”) of the U.S. Securities and Exchange Commission (the “Commission”) of the Company’s intention to exclude a stockholder proposal (the “Proposal”) from its proxy materials to be distributed in connection with its 2025 annual meeting of stockholders (the “Proxy Materials”). The Shareholder Association for Research & Education, on behalf of Richard Krieger (collectively, the “Proponent”), acted as lead filer for the Proposal, and Benedictine Sisters of Mount St. Scholastica, Inc., AP Pension, Friends Fiduciary Corporation, Nordea Asset Management, LD Pensions, AkademikerPension, The Folksam Group, AMF Tjänstepension AB, SOC Investment Group, Storebrand Asset Management, KLP Kapitalforvaltning AS, Triple Eight Capital and Afa Försäkring co-filed the Proposal.

The Company respectfully requests that the Staff advise the Company that it will not recommend any enforcement action to the Commission if the Company excludes the Proposal from its Proxy Materials for the reasons discussed below. In accordance with relevant Staff guidance, the Company is submitting this letter and its attachments to the Staff through the Staff’s online Shareholder Proposal Form. Pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), the Company is simultaneously sending a copy of this letter and its attachments to the Proponent as notice of the Company’s intent to omit the Proposal for its Proxy Materials.

Rule 14a-8(k) and Section E of Staff Legal Bulletin No. 14D (Nov. 7, 2008) (“SLB 14D”) provide that stockholder proponents are required to send companies a copy of any correspondence that the stockholder proponents elect to submit to the Commission or the Staff. Accordingly, we are taking this opportunity to remind the Proponent that if it submits correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should concurrently be furnished to the Company.

Good Cause for Waiver of 80-Day Deadline under Rule 14a-8(j)(1)

Under Rule 14a-8(j), the Staff “may permit the company to make its submission [of a no-action request] 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 Company is filing this letter fewer than 80 days before it intends to file its definitive 2025 Proxy Materials for good cause. As discussed below, Staff Legal Bulletin No. 14M (Feb. 12, 2025) (“SLB 14M”), which was issued after the expiration of the 80-day window for the Company, is central to the legal arguments raised in this letter. As stated in Question 3 of SLB 14M, the Staff “will consider the publication of [SLB 14M] to be ‘good cause’” under Rule 14a-8(j) if SLB 14M relates to the legal arguments made by a later-filed no-action request. Therefore, consistent with Rule 14a-8(j) and SLB 14M, the Company has good cause for filing this letter later than the typical 80-day window.

The Proposal

The Proposal sets forth the following:

RESOLVED: The Board of Directors of Tesla, Inc. shall adopt and disclose a Non-interference Policy (“Policy”) upholding the rights to freedom of association and collective bargaining in its operations, as reflected in the International Labour Organization’s Declaration on Fundamental Principles and Rights at Work (“Fundamental Principles”). The Policy should contain commitments to:

- Non-interference when employees seek to form or join a trade union, and a prohibition against acting to undermine this right or pressure employees not to form or join a trade union;
- Good faith and timely collective bargaining if employees form or join a trade union;
- Uphold the highest standard where national or local law differs from international human rights standards;
- Define processes to identify, prevent, account for, and remedy practices that violate or are inconsistent with the Policy.

A copy of the Proposal is attached hereto as Exhibit A.

Basis for Exclusion

The Company respectfully requests that the Staff concur in our view that, under the Commission's updated guidance in SLB 14M, the Proposal may be excluded from the Proxy Materials pursuant to Rule 14a-8(i)(7) of the Exchange Act, as the Proposal impermissibly seeks to micromanage the Company.

Rule and Analysis

Rule 14a-8(i)(7) allows the omission of a stockholder proposal from a registrant's proxy statement if the proposal "deals with a matter relating to the company's ordinary business operations." As set out in Securities Exchange Act Release No. 34-40018 (May 21, 1998) (the "1998 Release"), there are two "central considerations" underlying the ordinary business exclusion. One is that certain matters are so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight. The other relates to the degree that a proposal seeks to "micro-manage" the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment.

On February 12, 2025, the Staff issued SLB 14M, which (1) rescinded Staff Legal Bulletin No. 14L ("SLB 14L") and (2) reinstated guidance on "micromanagement" under Staff Legal Bulletin No. 14J ("SLB 14J") and Staff Legal Bulletin No. 14K ("SLB 14K") that had been rescinded by SLB 14L. Taken together, SLB 14M and the reinstated guidance under SLB 14J and SLB 14K make clear that the Proposal is excludable under 14a-8(i)(7), because the Proposal impermissibly seeks to micromanage the Company by seeking to impose a specific method for implementing a complex policy.

As noted above, Rule 14a-8(i)(7) allows the omission of a stockholder proposal from a registrant's proxy statement if the proposal seeks to "micro-manage" the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment. Explaining the standard for micromanagement, the Commission noted in the 1998 Release that consideration of complex matters upon which shareholders could not make an informed judgment "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" (footnote omitted).

Under SLB 14K Section B.4, which has been reinstated by SLB 14M, "[w]hen 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." In SLB 14K, the Staff explained that it will focus on the prescriptiveness of a proposal in determining whether a proposal seeks to micromanage the Company or inappropriately limit the discretion of the board or management. Further, SLB 14J Section C.3, which has also been reinstated by SLB 14M, specifically states that, in considering whether a proposal micromanages a company, the Staff "looks only to the degree" and "manner in which a proposal seeks to address an issue."

Consistent with this view, the Staff has permitted the exclusion of stockholder proposals on the basis of micromanagement when the proposals prescribe specific methods for implementing complex policies. In particular, the Staff has consistently found that proposals requiring a company or board to adopt a new policy constitute impermissible micromanagement. *See, e.g., CBRE Group, Inc.* (Feb. 14, 2020)* (permitting exclusion on the basis of micromanagement for a proposal requesting the company adopt a policy to waive its mandatory arbitration requirements for employee claims of sexual harassment); *Johnson & Johnson* (Feb. 12, 2020) (permitting exclusion on the basis of micromanagement for a proposal requesting the company's board of directors adopt a policy that when a financial performance metric is adjusted to exclude "legal or compliance costs" when evaluating performance for purposes of determining the amount or vesting of any senior executive compensation award, it provide an explanation of why the precise exclusion is warranted and a breakdown of the litigation costs).

* Indicates a Staff decision issued without a letter.

In this case, the Proposal probes too deeply into matters of a complex nature because it “seeks to impose specific time-frames or methods for implementing complex policies.” The Proposal is focused on the Company’s approach to managing its global workforce and complex related relationships, obligations, policies and practices. The Proposal seeks to impose extremely specific methods for implementing this complex policy issue, including:

- Requiring the board to adopt and disclose a Non-interference Policy;
- Requiring the policy to reflect the International Labour Organization’s Declaration on Fundamental Principles and Rights at Work;
- Requiring the policy to contain a commitment to “[n]on-interference when employees seek to form or join a trade union, and a prohibition against acting to undermine this right or pressure employees not to form or join a trade union”;
- Requiring the policy to contain a commitment to “[g]ood faith and timely collective bargaining if employees form or join a trade union”;
- Requiring the policy to contain a commitment to “[u]phold the highest standard where national or local law differs from international human rights standard”; and
- Requiring the policy to contain a commitment to “[d]efine processes to identify, prevent, account for, and remedy practices that violate or are inconsistent” with the policy.

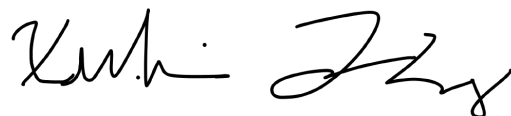
In prescribing these specific actions that the Company’s board must take “without affording [the Company’s board and management] sufficient flexibility or discretion in addressing the complex matter presented by the proposal,” the Proposal further warrants exclusion under SLB 14K Section B.4. Under SLB 14K, “[w]hen 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.”

Tesla is a multinational business that employs over 100,000 employees. The relationship between the Company and its employees in these varied jurisdictions is a complicated and critical component of its day-to-day management. Decisions concerning employee relations and applicable standards are carefully made after considering not only the Company’s employee composition, but local, regional, and national laws and norms, and federal and international regulations. As noted in the Proposal’s supporting statement, the Company maintains a Code of Business Ethics and a Global Human Rights Policy that relate to the issues raised by the Proposal. Therefore, a proposal, such as the Proposal, that prescribes specific actions and policies that the board must take with respect to these issues unduly limits the ability of the Company’s management and board to manage such issues in accordance with relevant laws and with a level of flexibility necessary to fulfill their fiduciary duties to shareholders. Consequently, consistent with SLB 14K and SLB 14M, the Proposal should be excluded under Rule 14a-8(i)(7) on the grounds that it impermissibly seeks to micromanage the Company by imposing a specific method for implementing a complex policy.

Conclusion

The Company respectfully requests that the Staff concur that it will take no action if the Company excludes the Proposal from the Proxy Materials. If the Staff has any questions with respect to the foregoing, or if for any reason the Staff does not agree that the Company may exclude the Proposal from its Proxy Materials, please do not hesitate to contact me at cassie.zhang@tesla.com. In addition, should the Proponent choose to submit any response or other correspondence to the Commission, we request that the Proponent concurrently submit that response or other correspondence to the Company, as required pursuant to Rule 14a-8(k) and SLB 14D, and copy the undersigned.

Sincerely,



Xuehui Cassie Zhang
Associate General Counsel

cc: Shareholder Association for Research & Education

EXHIBIT A



December 2, 2024

Tesla, Inc.
1 Tesla Road
Austin, Texas 78725
Attention: Legal Department — Shareholder Mail

Copy sent by email to shareholdermail@tesla.com

Re: Shareholder proposal for 2025 Annual Shareholder Meeting

To whom it may concern:

I am submitting the attached proposal (the "Proposal") pursuant to the Securities and Exchange Commission's Rule 14a-8 to be included in the proxy statement of Tesla Inc. (the "Company") for its 2025 annual meeting of shareholders. Richard Krieger, represented by the Shareholder Association for Research & Education ("SHARE"), is acting as the lead filer for the Proposal and will be joined by other shareholders as co-filers.

Richard Kriger has continuously beneficially owned at least the minimum required number of shares to satisfy any of the Ownership Requirements as required by Rule 14a-8, as of December 2, 2024. Verification of this ownership will be sent under separate cover. Richard Krieger intends to continue to hold such shares through the date of the Company's 2025 annual meeting of shareholders.

I am available to meet with the Company in person or via teleconference on between December 9, 2024 and December 20, 2024 from 9:30 am to 12:00 pm Pacific Time or an alternative time as mutually agreed. Any co-filers have authorized SHARE on behalf of Richard Krieger to conduct the initial engagement meeting, but may participate subject to their availability.

I can be contacted on [REDACTED] or by email at [REDACTED] to schedule a meeting. Please feel free to contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah".

Sarah Couturier-Tanoh
Director Shareholder Advocacy, SHARE

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- Non-interference when employees seek to form or join a trade union, and a prohibition against acting to undermine this right or pressure employees not to form or join a trade union;
- Good faith and timely collective bargaining if employees form or join a trade union;
- Uphold the highest standard where national or local law differs from international human rights standards;
- Define processes to identify, prevent, account for, and remedy practices that violate or are inconsistent with the Policy.

SUPPORTING STATEMENT: Freedom of association and collective bargaining are fundamental human rights protected by international standards including the Fundamental Principles, United Nation’s Guiding Principles on Business and Human Rights, and United Nation’s Universal Declaration of Human Rights.

Tesla’s policies lack clarity as to which standards will prevail where applicable laws offer protections that fall short of international standards. Tesla’s Business Code of Ethics states that “Tesla is committed to upholding and respecting all internationally recognized human rights...” Yet, its Global Human Rights Policy undermines this commitment by stating Tesla respects labor rights “[i]n conformance with local law,” notably leaving out the commitment to the often more stringent international standards.

There are clear indications that Tesla may not be adhering to international labor rights standards.ⁱ In Sweden, Tesla mechanics represented by IF Metall have been on strike for over a year and Tesla operations have suffered from a number of solidarity strikes after refusing to sign a collective agreement.ⁱⁱ In Germany, Tesla is refusing to bargain with employees represented by IG Metall and has been accused of threatening and firing IG Metall members of the works council according to public reports.ⁱⁱⁱ

Freedom of association and collective bargaining rights enable workers to promote and realize other fundamental labor rights, including the rights to a safe and healthy workplace that is free from discrimination. In the United States, Tesla has faced multiple lawsuits around racial and sexual harassment^{iv} and has had numerous health and safety violations.^v Additionally, Tesla has been accused of unsafe working conditions in Germany.^{vi}

Such reports may represent material reputational, legal, and operational risks to Tesla’s shareholders. For example, under the new German Supply Chain Due Diligence Act, companies can be held legally responsible for human rights abuses in their operations and global supply chains with fines of up to 2% of average annual “turnover” or revenue. Further the European Union’s new Corporate Sustainability Due Diligence Directive establishes a legal duty for companies to identify and address adverse human rights impacts throughout their operations and value chain.

The Policy will add clarity, promote better adherence, and help mitigate risk.

ⁱ <https://www.cnbc.com/2022/06/02/tesla-paid-pr-firm-to-surveil-employees-on-facebook-in-2017-union-push.html>; <https://www.theguardian.com/technology/2018/sep/10/tesla-workers-union-elon-musk>; <https://www.cnbc.com/2017/04/25/workers-involved-in-union-activities-say-tesla-is-illegally-intimidating-them.html>

ⁱⁱ <https://www.bloomberg.com/news/articles/2024-10-01/tesla-faces-widening-strike-in-sweden-as-unions-double-down>

ⁱⁱⁱ <https://www.reuters.com/business/autos-transportation/german-union-slams-aggressive-tesla-firing-works-council-rep-2024-10-14/>;

^{iv} <https://www.law.com/therecorder/2024/06/18/deeply-troubling-tesla-sued-for-creating-racially-hostile-work-environment-amid-surge-of-racial-discrimination-litigation/?slreturn=20241105161518>;

<https://www.thenation.com/article/society/tesla-sexual-harassment-discrimination-austin/>

^v <https://www.theinformation.com/articles/at-teslas-giant-texas-factory-injuries-and-safety-lapses-mount>;

<https://www.texasobserver.org/tesla-texas-worker-death-heat/>;

^{vi} <https://www.reuters.com/business/autos-transportation/tesla-rejects-union-claims-reports-health-safety-issues-german-plant-2023-10-10/>; <https://fortune.com/2024/09/30/tesla-managers-germany-sick-leave-visit-employees-safety-union-elon-musk/>