



DIVISION OF
CORPORATION FINANCE

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

March 20, 2024

Louis Goldberg
Davis Polk & Wardwell LLP

Re: Exxon Mobil Corporation (the "Company")
Incoming letter dated January 22, 2024

Dear Louis Goldberg:

This letter is in response to your correspondence concerning the shareholder proposal (the "Proposal") submitted to the Company by As You Sow on behalf of Suzanne B & Guy L Tr (Nat Resources) for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders.

The Proposal requests that the Company annually report on divestitures of assets with material climate impact, including whether each asset purchaser discloses its GHG emissions and has 1.5°C-aligned or other greenhouse gas reduction targets.

There appears to be some basis for your view that the Company may exclude the Proposal under Rule 14a-8(i)(7). In our view, the Proposal seeks to micromanage the Company. Accordingly, we will not recommend enforcement action to the Commission if the Company omits the Proposal from its proxy materials in reliance on Rule 14a-8(i)(7). In reaching this position, we have not found it necessary to address the alternative basis for omission upon which the Company relies.

Copies of all of the correspondence on which this response is based will be made available on our website at <https://www.sec.gov/corpfin/2023-2024-shareholder-proposals-no-action>.

Sincerely,

Rule 14a-8 Review Team

cc: Luke Morgan
As You Sow

January 22, 2024

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

RE: Exxon Mobil Corporation
Exclusion of Shareholder Proposal – As You Sow/Suzanne B & Guy L Tr (Nat Resources)
Securities Exchange Act of 1934 – Rule 14a-8

Ladies and Gentlemen:

On behalf of Exxon Mobil Corporation, a New Jersey corporation (the “**Company**”), and in accordance with Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), we are filing this letter with respect to the shareholder proposal (the “**Proposal**”) submitted by As You Sow on behalf of Suzanne B & Guy L Tr (Nat Resources) (the “**Proponent**”) for inclusion in the proxy materials the Company intends to distribute in connection with its 2024 Annual Meeting of Shareholders (the “**2024 Proxy Materials**”). The Proposal and related correspondence are attached hereto as Exhibit A.

We hereby request confirmation that the Staff of the Division of Corporation Finance (the “**Staff**”) will not recommend any enforcement action if, in reliance on Rule 14a-8, the Company omits the Proposal from the 2024 Proxy Materials.

In accordance with relevant Staff guidance, we are submitting this letter and its attachments to the Staff through the Staff’s online Shareholder Proposal Form. In accordance with Rule 14a-8(j), we are simultaneously sending a copy of this letter and its attachments to the Proponent as notice of the Company’s intent to omit the Proposal from the 2024 Proxy Materials. This letter constitutes the Company’s statement of the reasons it deems the omission of the Proposal to be proper. We have been advised by the Company as to the factual matters set forth herein.

THE PROPOSAL

The Proposal states:

RESOLVED: Shareholders request that ExxonMobil annually report on divestitures of assets with material climate impact, including whether each asset purchaser discloses its GHG emissions and has 1.5°C-aligned or other greenhouse gas reduction targets.

REASON FOR EXCLUSION OF THE PROPOSAL

The Company believes that the Proposal may be properly omitted from the 2024 Proxy Materials pursuant to:

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1. Rule 14a-8(i)(7): The Proposal deals with matters related to the Company's ordinary business operations; and
2. Rule 14a-8(c): As You Sow submitted two shareholder proposals at the same shareholder meeting.

The Proposal May Be Excluded Under Rule 14a-8(i)(7) Because the Proposal Deals with Matters Related to the Company's Ordinary Business Operations.

Rule 14a-8(i)(7) allows a company to omit a shareholder proposal from its proxy materials if such proposal deals with a matter relating to the company's ordinary business operations. The policy underlying the ordinary business exception is based on two central considerations: (i) 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" and (ii) the "degree to which the proposal seeks to 'micro-manage' the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment." See Exchange Act Release No. 34-40018 (May 21, 1998) (the "1998 Release"); see also Staff Legal Bulletin No. 14L (Nov. 3, 2021) ("SLB 14L").

A. The Proposal Seeks to Micromanage the Company by Imposing Specific Methods for the Divestitures of Assets.

Based on the second policy consideration underlying the ordinary business exclusion and as reiterated by SLB 14L, the Company believes it may omit the Proposal pursuant to Rule 14a-8(i)(7) because it impermissibly seeks to micromanage the Company by imposing specific methods on management for the divestiture of Company assets.

B. The Level of Granularity Sought in the Proposal Inappropriately Limits the Company's Discretion.

According to SLB 14L, the determination of whether a proposal impermissibly micromanages the Company "will focus on the level of granularity sought in the proposal and whether and to what extent it inappropriately limits discretion of the board or management." SLB 14L. The Staff further clarified that this approach is "consistent with the Commission's views on the ordinary business exclusion, which is designed to preserve management's discretion on ordinary business matters but not prevent shareholders from providing high-level direction on large strategic corporate matters." The Staff has consistently concurred with the exclusion of proposals that inappropriately limit management's discretion. See, e.g. *The Kroger Co.* (Apr. 25, 2023) (concurring with exclusion of a proposal requesting the company's pilot participation in the Fair Food Program for tomato purchases in order to mitigate severe risks of forced labor and other human rights violations in the company's produce supply chain); *Amazon.com, Inc.* (Apr. 7, 2023) (concurring that a proposal requiring the company to measure and disclose scope 3 greenhouse gas emissions from its full value chain and all products that it sells directly and by third party vendors micromanaged the company); *Chubb Limited* (Mar. 27, 2023) (concurring with exclusion of a proposal that would require the board to adopt and disclose a policy for the timebound phase out of underwriting risks associated with new fossil fuel exploration and development projects); *AT&T Inc.* (Mar. 15, 2023) (concurring with exclusion of a proposal requesting the board adopt a policy of obtaining shareholder approval for any future "golden coffin" arrangements); *JPMorgan Chase & Co.* (Mar. 26, 2021) (permitting exclusion of a proposal requesting a study on the costs created by the company in underwriting multi-class equity offerings); *JPMorgan Chase & Co.* (Mar. 19, 2019) (permitting exclusion of a proposal requesting a report examining the "politics, economics and engineering for the construction of a sea-based canal through the Tehuantepec isthmus of Mexico"); *Royal Caribbean Cruises Ltd.* (Mar. 14, 2019) (permitting exclusion of a proposal that would

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require the company to receive stockholder approval for each new share repurchase program and all stock buybacks); and *Abbott Laboratories* (Feb. 28, 2019) (same).

The Company has a long-standing asset management and divestment program, where the Company regularly reviews its existing asset portfolio for opportunities to sell assets. This program is significant and complex and covers the Company's assets globally. In 2021, the divestment program generated proceeds of over \$3 billion. In 2022, it generated proceeds over \$5 billion, and in the first three quarters of 2023, the Company divested assets that resulted in proceeds of over \$3 billion. In addition to this divestment activity, the Corporation has executed or announced acquisitions of approximately \$65 billion in 2023 alone. This portfolio management activity involves a high number of prospective counterparties for each potential divestment. During this time period the divestment program covered different types of assets, at different locations around the world, including the U.S., Iraq, Argentina, Italy, Thailand, Nigeria, Canada, Romania, Singapore, Australia, Chad, the North Sea, Hong Kong, Norway, Kurdistan, Cameroon, and Yemen.

A divestment program covering locations throughout the world with multiple transactions in many jurisdictions is, of necessity, a decentralized process that can be run differently according to local laws, cultural norms and asset profiles. This process can vary within countries as much as between them. For example, selling an asset in California will be a very different process than selling an asset in Texas. While the Proposal takes the approach of asking for just a report rather than asking the Company to explicitly take specific action, the only way the Company can comply with the request is by altering its standard operating procedures in each locale with respect to its divestiture program and implementing this Proposal throughout these numerous and varied locations and across these separate teams and processes. Implementing the Proposal would mean that the Company must, as a threshold matter, evaluate each of dozens of potential transactions with multiple potential counterparties for each transaction with respect to the GHG emissions impact of such counterparty's approach to the transaction in order to make an initial determination of whether any asset sale represents a "material climate impact," simply to assess whether the transaction would be included in the report. The criteria that would be used to determine whether a divestiture is likely to have a "material climate impact" is left unaddressed by the Proposal. As such, the Company is left to interpret the intent of the Proposal from the supporting statement which frames the problem in terms of total asset transfers, meaning each individual asset may qualify as it contributes to this total. As in *Abbott Laboratories*, *Walgreens Boots Alliance* and *Royal Caribbean Cruises*, the Proposal would effectively require the Company to make hundreds of individual evaluations on a prospective basis, one for each and every counterparty for each asset divestiture it considers making (including small dollar asset sales), a requirement that would significantly burden the operation of its ordinary course M&A activity all over the world and limit management's discretion in conducting these processes.

These costs will impact not just ExxonMobil but also prospective counterparties. Under the proposal, the Company would be required to alter its due diligence procedures worldwide (including on prospective buyers) in order to obtain the additional information the Proposal requests about the potential impact of the transaction (and each prospective buyer) on climate change, including an analysis of whether the buyers already have GHG emissions reduction targets and whether those targets include the potential impact of each prospective buyer's plans for the asset after the transaction itself. We believe it is unlikely the buyer will be willing to share this competitively sensitive information of their plans as this directly affects their valuation of the asset they are seeking to buy. As a result, we will be required to forecast things we cannot forecast. For example, what are the buyer's planned maintenance programs? Their desire to grow or expand future investment on the asset? What is the length of time they plan to operate the asset? Lacking any real ability to estimate this, any report we are required to make will likely be meaningless. This is because the report is not limited in any way to only those purchasers who already have disclosed public targets, and instead inappropriately limits the Company's discretion by forcing it to consider whether transactions with any and all purchasers of assets, including those that do not have GHG emissions targets or have not made them public, would cause the transaction to have a "material climate impact."

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Furthermore, disclosure of such information relating to prospective buyers is typically prohibited by confidentiality agreements entered into with bidders in connection with such sale processes, and the Proposal does not have any exception for such prohibitions.

These counterparties, especially smaller or private counterparties, may simply chose not to negotiate with ExxonMobil should we try to impose these types of off market restrictions and disclosure requirements, resulting in even further restrictions in the company's ability to manage our portfolio and sales processes, and even in restraints in competition and trade by restricting the manner of our sales processes. In addition, it is crucial to understand the scope of the proposal to acknowledge that for almost all assets outside the U.S., which represent a significant portion of ExxonMobil as a global company, the host government must approve the buyer of any assets that are transferred. These governments, and their local regulators which may also set relevant policy with respect to divestitures, with their own priorities, may eliminate the only parties who have disclosed public targets, forcing ExxonMobil into guessing at the assumptions and plans of the buyer as described above. The Proposal thus imposes a methodology on the Company's due diligence and execution process for asset divestitures that further limits management's discretion in complex and multi-faceted processes and negotiations and may even eliminate management's ability to engage in portfolio management in foreign jurisdictions. For these reasons, the Proposal inappropriately limits the Company's flexibility in conducting such a sale process, may have anti-competitive effects in limiting the buyer universe for such a sale process, and overall limits the Company's discretion with respect to its core business operations. The result of all of this is sub-optimization of value for ExxonMobil and resulting harm to shareholders.

C. The Proposal Probes Matters "Too Complex" for Shareholders, as a Group, to Make an Informed Judgment.

The micromanagement element of the ordinary business exception under Rule 14a-8(i)(7) is also based on whether a proposal probes matters "too complex" for shareholders, as a group, to make an informed judgement. SLB 14L, citing the 1998 Release. According to SLB 14L, in making this determination as to whether a proposal probes matters "too complex" for shareholders, the Staff may consider "the sophistication of investors generally on the matter, the availability of data, and the robustness of public discussion and analysis on the topic," as well as "references to well-established national or international frameworks when assessing proposals related to disclosure, target setting, and timeframes as indicative of topics that shareholders are well-equipped to evaluate." The Staff has consistently granted no-action relief for shareholder proposals that probe matters too complex for shareholders. *See, e.g. GameStop Corp.* (Apr. 25, 2023) (concurring with exclusion of a proposal requesting the company to create a service and provide a daily report on certain shareholding information, a service that was not related to any existing business offering of the company); *Phillips 66* (Mar. 20, 2023) (concurring with exclusion of a proposal requesting the company to disclose specific and detailed information related to the undiscounted expected value to settle obligations for asset retirement obligations with indeterminate settlement dates); and *Valero Energy Corporation* (Mar. 20, 2023) (same).

The Proposal's term "material climate impact" is a clear signal of the complexity of this request. The Proponent did not define this term. Perhaps they would suggest it is to give ExxonMobil discretion, but we believe this term is too complex for us to define in the context of the proposal, which is why we interpreted the intent as every transaction for the sake of this discussion. There are a number of questions that make the complexity of this term clear. What model would the proponent suggest we use to determine the impact of an individual asset transfer on the global climate? At what point would that be material to the global climate? How is materiality of any change in a single asset's management to be understood in judging materiality to the global climate? Is it not materiality to the climate as suggested in the wording but materiality to something else? If so, what? We do not have answers to these questions in the context of

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this Proposal and do not believe the Proponent does either given the complexity of climate modeling and the size of global emissions each year in comparison to any of our asset divestitures.

Additionally, no single divestiture by the Company is the same. The decision by management of whether to divest an asset is a multi-factor process that balances portfolio management and due diligence with anticipated value to shareholders and alignment with the Company's broader business strategy. As written, the Proposal would draw shareholders deep into those complex managerial and, in some cases, board-level decisions. Like *Phillips 66* and *Valero*, where the Staff permitted the exclusion of proposals requiring the Company to produce detailed accounting information for shareholders, so too here the Proposal would require the Company to follow a specific method for its due diligence procedures for these sales processes about each of its prospective divestiture counterparties and to disclose detailed and potentially confidential and proprietary information for annual shareholder review.

Finally, it is unnecessary for shareholders to make any determination here as ExxonMobil already discloses significant divestment activities in quarterly earnings releases, including the identity of buyers in connection with significant sales.

The Proposal May Be Excluded Under Rule 14a-8(c) Because As You Sow Submitted Two Shareholder Proposals at the Same Meeting.

The Proposal may be excluded because As You Sow impermissibly submitted two proposals, each as the representative of a shareholder proponent, in contravention of the "one proposal rule" and such deficiency was not remedied following the Company's clear notification that such submissions violated Rule 14a-8(c). Rule 14a-8(c), as amended, states, "[e]ach person may submit no more than one proposal, directly or indirectly, to a company for a particular shareholders' meeting" (the "**One Proposal Rule**").

By email sent on December 22, 2023, within 14 days of the submission of the Proposal, the Company notified Yagan Family Foundation (the "**Original Proponent**") as required by Rule 14a-8(f) that the Proponent must demonstrate eligibility under Rule 14a-8 (the "**First Deficiency Notice**," which is included as [Exhibit B](#)). The First Deficiency Notice specifically advised the Original Proponent that each person cannot submit more than one proposal to a company, either directly or indirectly, and that the Company believed that the Original Proponent had submitted multiple proposals in violation of that rule. As required by Rule 14a-8(f), the First Deficiency Notice advised the Original Proponent that a response addressing the deficiencies noted must be postmarked or transmitted electronically to the Company no later than 14 calendar days from the date the Original Proponent received the notice.

On January 3, 2024, As You Sow acknowledged receipt of the First Deficiency Notice on behalf of the Original Proponent, noting that "remaining deficiencies will be addressed before January 5, 2024." On January 5, 2024, As You Sow notified the Company that it formally withdrew the Original Proponent as the proponent of the Proposal and replaced the Original Proponent with the Proponent, the original co-filer of the Proposal. On the same day, As You Sow sent a letter on behalf of the Proponent disputing the Company's argument that the Proponent had submitted multiple proposals. See [Exhibit C](#).

On January 8, 2024, the Company sent the Proponent the second deficiency notice (the "**Second Deficiency Notice**," which is included as [Exhibit D](#)), re-iterating that the Proposal still contains the multiple proposal deficiency and explaining the steps the Proponent could take to cure such deficiency. To date, the Proponent has not responded to the Second Deficiency Notice.

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A. Background

Almost a half century ago, the Commission adopted a limit on the number of proposals that a shareholder was permitted to submit under Rule 14a-8 to address the concern that some “proponents . . . [exceed] the bounds of reasonableness . . . by submitting excessive numbers of proposals.” See Exchange Act Release No. 34-12999 (Nov. 22, 1976), at 52996 (the “**1976 Release**”). The Commission further stated that “[s]uch practices are inappropriate under Rule 14a-8 not only because they constitute an unreasonable exercise of the right to submit proposals at the expense of other shareholders but also because they tend to obscure other material matters in the proxy statements of issuers, thereby reducing the effectiveness of such documents.” *Id.* Thus, the Commission adopted a two-proposal limitation (subsequently amended to a one-proposal limit) but presciently warned of the “possibility that some proponents may attempt to evade the [rule’s] limitations through various maneuvers.” *Id.* The Commission went on to warn that “such tactics” could result in the granting of no-action requests permitting exclusion of multiple proposals.

In 1982, when the Commission proposed amendments to Rule 14a-8 to reduce the proposal limit from two proposals to one proposal, it stated that its changes to the Rule and the interpretations thereunder were in part due to “the susceptibility of certain provisions of the rule and the Staff’s interpretations thereunder to abuse by a few proponents and issuers.” See Exchange Act Release No. 34-19135, at 47421 (Oct. 14, 1982). Subsequently, in adopting the One Proposal Rule, it stated, “[t]he Commission believes that this change is one way to reduce issuer costs and to improve the readability of proxy statements without substantially limiting the ability of proponents to bring important issues to the shareholder body at large.” See Exchange Act Release No. 34-20091 (Aug. 16, 1983).

In 2020, the Commission approved further amendments to Rule 14a-8 to apply the One Proposal Rule to “each person” rather than “each shareholder” and clarified that the Rule applies to proposals submitted “directly or indirectly” by such person. See Exchange Act Release No. 34-89964 (Sept. 23, 2020), at 57-58 (the “**2020 Release**”). The Commission further explained that the amendments would not prevent a stockholder from seeking assistance from a representative or other person, but stated, “[h]owever, to the extent that the provider of such services submits a proposal, either as a proponent **or as a representative**, it will be subject to the one-proposal limit and will not be permitted to submit more than one proposal in total to the same company for the same meeting.” *Id.* at 59 (emphasis added).

The Commission’s long-standing and well-founded concern regarding certain shareholders submitting multiple proposals at the expense of other shareholders remains an important concern, if not more so, today. For example, a proponent, who is only required to hold a de minimis amount of a company’s securities, that submits multiple proposals under Rule 14a-8 would incur relatively little cost, but a company’s shareholders would indirectly bear the cost for each additional proposal, which can range higher than \$20,000–\$150,000 per proposal. See Exchange Act Release No. 34-95267 (July 13, 2022), at 51 (estimating that the direct costs associated with addressing a single shareholder proposal can exceed the \$20,000–\$150,000 range provided in the 2020 Release). Furthermore, allowing persons to submit more than one proposal obfuscates the Company’s proxy statement with many different issues, as certain registrants, including the Company, are regularly required to place ten or more Rule 14a-8 shareholder proposals on their proxy statement each year. Accordingly, the amendments adopted in the 2020 Release focused on “representatives” and “persons,” instead of “shareholders,” precisely to curb the circumvention of the One Proposal Rule by persons or entities that relied upon nominal shareholders to include two or more proposals on a company’s proxy statement.

B. As You Sow is the “Representative” for Two Proposals.

First, As You Sow is the Proponent’s representative for the Proposal. The materials submitted with the Proposal include a letter from the Proponent that clearly states that As You Sow represents the Proponent

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as to “any and all aspects of the shareholder resolution . . . and all other forms of representation necessary in moving the [Proposal].” See [Exhibit A](#).

Second, two employees of As You Sow—Conrad MacKerron and Genevieve Abedon—were appointed by another shareholder proponent, United Church Funds, as the “agents” to handle all communications, engagements and presentation of a proposal relating to the Company’s report on petrochemicals (the “**Petrochemicals Proposal**”). See the Company’s letter dated January 22, 2024 requesting that the Staff concur in the exclusion of the Petrochemicals Proposal, as submitted to the SEC Office of Corporation Finance in the same manner as the Proposal.

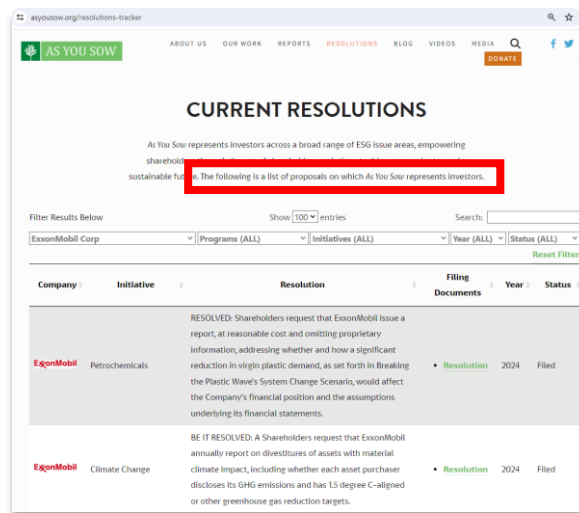
Even though United Church Funds did not use the word “representative” or its derivatives to describe Mr. MacKerron’s and Ms. Abedon’s authority in its initial communications with respect to the Petrochemicals Proposal, the words “agent” and “representative” are synonymous in this context, as both terms suggest a broad delegation of authority. Furthermore, United Church Fund’s delegation of authority to Mr. MacKerron and Ms. Abedon “to act as [its] agents regarding the [Petrochemicals Proposal], including engagement, and presentation at the [2024 Annual Meeting]” and request to the Company to “direct all future communications regarding” the Petrochemicals Proposal to Mr. MacKerron and Ms. Abedon represent the type of delegation of power the amendments in the 2020 Release sought to address. See Exchange Act Release No. 34-89964 (Sept. 23, 2020), at 58. And because “entities and all persons under their control, **including employees**, [are] treated as a ‘person’” under Rule 14a-8(c), Mr. MacKerron and Ms. Abedon and As You Sow are one and the same “person” for purposes of Rule 14a-8(c). *Id.* at 61 (emphasis added).

As You Sow also states on its website that it is acting as a representative of United Church Funds in connection with the Petrochemicals Proposal. The website states that it “represents investors” in a long list of proposals via its “Current Resolutions” tracker, and the Petrochemicals Proposal and the Proposal are each included within that list.

For these reasons, As You Sow is the representative of both the Proposal and the Petrochemicals Proposal.

As You Sow Resolutions Tracker

<https://www.asyousow.org/resolutions-tracker>¹



The screenshot shows the 'CURRENT RESOLUTIONS' page on the As You Sow website. The page features a navigation bar with links for 'ABOUT US', 'OUR WORK', 'REPORTS', 'RESOLUTIONS', 'BLOG', 'VIDEOS', 'MEDIA', and 'DONATE'. Below the navigation bar, there is a search bar and a 'DONATE' button. The main content area is titled 'CURRENT RESOLUTIONS' and includes a sub-header: 'As You Sow represents investors across a broad range of ESG issue areas, empowering shareholders to drive positive change in the companies they invest in. The following is a list of proposals on which As You Sow represents investors.' Below this, there is a filter section with dropdown menus for 'Filter Results Below', 'Show 100 entries', 'Search', 'EcoconMobil Corp', 'Programs (ALL)', 'Initiatives (ALL)', 'Year (ALL)', and 'Status (ALL)'. The main table lists resolutions with columns for 'Company', 'Initiative', 'Resolution', 'Filing Documents', 'Year', and 'Status'.

Company	Initiative	Resolution	Filing Documents	Year	Status
EcoconMobil	Petrochemicals	RESOLVED: Shareholders request that EcoconMobil issue a report, at reasonable cost and omitting proprietary information, addressing whether and how a significant reduction in virgin plastic demand, as set forth in Breaking the Plastic Wave's System Change Scenario, would affect the Company's financial position and the assumptions underlying its financial statements.	Resolution	2024	Filed
EcoconMobil	Climate Change	BE IT RESOLVED: A Shareholders request that EcoconMobil annually report on divestitures of assets with material climate impact, including whether each asset purchaser discloses its GHG emissions and has 1.5 degree C-aligned or other greenhouse gas reduction targets.	Resolution	2024	Filed

¹ Each of the websites cited herein were last visited on January 18, 2024.

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C. As You Sow Violated the One Proposal Rule And This Deficiency Was Not Corrected After Proper Notice.

The facts described above demonstrate that As You Sow submitted, as representative, more than one proposal to the Company for the 2024 Annual Meeting in contravention of the One Proposal Rule, and, therefore, the Proposal may be excluded from the 2024 Proxy Materials.

The 2020 Release makes clear that Rule 14a-8(c) “applies equally to representatives who submit proposals on behalf of shareholders they represent.” See Exchange Act Release No. 34-89964 (Sept. 23, 2020), at 58. Further, it states that “a representative will not be permitted to submit more than one proposal to be considered at the same meeting, **even if the representative were to submit each proposal on behalf of different shareholders.**” *Id.* (emphasis added). This guidance acknowledges that a representative serves a substantive role in the shareholder proposal process—if the representative did not serve a substantive role in the shareholder proposal process, it would be allowed to submit an unlimited number of proposals at each meeting.

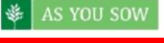
Notwithstanding the above, we recognize that if “a shareholder’s representative of choice is unable to submit a proposal for the shareholder,” because the proponent’s representative makes a separate submission to the company, “the representative could still **assist** the shareholder with drafting the proposal, **advising** on steps in the submission process, and engaging with the company” and generally “navigating the shareholder-proposal process.” See Release No. 34-89964 (Sept. 23, 2020) (emphasis added), at 46, 59. However, the authority delegated to As You Sow by the Proponent and United Church Funds for the Proposal and the Petrochemicals Proposal, respectively, go beyond mere “assisting” or “advising” and, instead, reach a level of authority that is equal to that of a proponent.

As the Staff is aware, As You Sow submits dozens of shareholder proposals each proxy season, sometimes as a “shareholder” and sometimes as a “representative.” For example, As You Sow has submitted two or more proposals, directly or indirectly, to the Company in all but one of the proxy seasons in the past decade. Regardless of whether As You Sow is titled the “shareholder” or the “representative,” they engage with the Company in the exact same manner – handling all correspondence (other than any initial submission by the shareholder, if As You Sow is serving as representative), discussing the proposal directly with the Company and filing exempt solicitations pursuant to Rule 14a-6(g)(1) on As You Sow letterhead, even where As You Sow is “merely” the representative. Compare the following exempt solicitations filed pursuant to Rule 14a-6(g)(1) for the Company’s 2023 annual meeting. The first filing relates to a proposal where As You Sow is the “shareholder.” The second filing relates to a proposal where As You Sow is the “representative” of Andrew Behar, the CEO of As You Sow. The filings look identical and the As You Sow letterhead makes it clear: As You Sow is the authoritative voice behind each proposal.

As You Sow’s Proposal

<https://www.sec.gov/Archives/edgar/data/34088/000121465923006550/z54230px14a6g.htm>

PX14A6G 1 z54230px14a6g.htm

	Main Post Office, P.O. Box 751 Berkeley, CA 94704	www.asyousow.org BUILDING A SAFE, JUST, AND SUSTAINABLE WORLD SINCE 1992
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Notice of Exempt Solicitation Pursuant to Rule 14a-103

Name of the Registrant: Exxon Mobil Corporation (XOM)
Name of persons relying on exemption: As You Sow
Address of persons relying on exemption: Main Post Office, P.O. Box 751, Berkeley, CA 94704

Written materials are submitted pursuant to Rule 14a-6(g)(1) promulgated under the Securities Exchange Act of 1934. Submission is not required of this filer in the interest of public disclosure and consideration of these important issues.


Exxon Mobil Corporation (XOM)
Vote Yes: Item #13 – Shareholder Proposal on Single-Use Plastics
Annual Meeting, May 21, 2024

CONTACT: Conrad MacKerron | mack@asyousow.org

Mr. Behar's Proposal

<https://www.sec.gov/Archives/edgar/data/34088/000121465923005620/j419230px14a6g.htm>

PX14A6G 1 j419230px14a6g.htm

	Main Post Office, P.O. Box 751 Berkeley, CA 94704	WWW.ASYOUSOW.ORG BUILDING A SAFE, JUST, AND SUSTAINABLE WORLD SINCE 1991
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Notice of Exempt Solicitation Pursuant to Rule 14a-103

Name of the Registrant: ExxonMobil Corporation (EXXON)
Name of persons relying on exemption: As You Sow on behalf of Andrew Behar
Address of persons relying on exemption: 1419230px14a6g.htm, Berkeley, CA 94704

Written materials are submitted pursuant to Rule 14a-6(g)(1) promulgated under the Securities Exchange Act of 1934. Submission is not required of this filer in the interest of public disclosure and consideration of these important issues.

ExxonMobil Corporation (XOM)
Vote Yes: Item #11 – GHG Reporting on Adjusted Basis
Report Impact of Asset Transfers on Disclosed Greenhouse Gas Emissions

CONTACT: Danielle Fugere | dfugere@asyousow.org

By representing two proposals simultaneously, As You Sow has indirectly submitted two proposals and has not rectified the Rule 14a-8(c) deficiency by withdrawing as representative from either the Proposal or the Petrochemicals Proposal.

D. Construing the Term “Submit” Literally Contradicts the Commission’s Goal of Reducing Abuse of the One Proposal Rule.

The Commission’s recent interpretations of the word “submit” in the One Proposal Rule suggest that it views the word “submit” as synonymous with “press send.” For example, the Commission has granted no-action relief where a proponent submitted a letter on its own behalf and also “pressed send” on a second proposal where it served as a representative. Had the proponent enlisted the proponent of the second proposal to press send on the submission instead, the second proposal would have been valid – even though the proponent was the mastermind behind the second proposal. See *Bank of America* (March 1, 2022). Similarly, the Commission has denied no-action relief where a proponent submitted a letter on its own behalf while also serving as representative in a second proposal, simply because the proponent of the second proposal “pressed send.” See *IQVIA Holdings Inc.* (Nov. 18, 2021); see also *Baxter International Inc.* (Jan. 12, 2022) (denying no-action relief where proponent submitted a letter on its own behalf and also “pressed send” on a second proposal to the company where it served as representative, but cured the deficiency by being removed as representative).

In substance, these fact patterns are identical – a single person is directly or indirectly submitting two proposals. In form, however, the application of the One Proposal Rule turns on who “presses send.” Accordingly, using a second proponent as a Trojan horse to “press send” on a proposal is enough to shield the first proponent from the One Proposal Rule.

By reading “submit” to mean who “presses send” on a proposal stretches the One Proposal Rule past its boundaries and frustrates the policy objectives underpinning the One Proposal Rule. If the definition of “submit” was as simple as identifying who “presses send” on a proposal to a company without regard to the substantive authority granted to a representative, there would be no need for the Commission to have included the words “or indirectly” in Rule 14a-8(c) in the 2020 Release. The term “submit” in Rule 14a-8(c) cannot be construed so narrowly as to shield a representative from the One Proposal Rule simply by having a proponent send the letter to a company where such representative is given authority to act on the proponent’s behalf. If that were the case, the amendments adopted in the 2020 Release, which were enacted to curb evasions from the One Proposal Rule, would be useless against persons using other

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shareholders' names to send more than one proposal for consideration at the same meeting. The 2020 Release focuses on "representatives" and "persons," instead of "shareholders," precisely to prohibit precisely the scenario at hand: where one person is, in substance, submitting more than one shareholder proposal by standing behind another persons' stock ownership and indirectly making a submission.

By being identified as the point of contact for future communications and, most importantly, being named as the agent on behalf of United Church Funds, As You Sow has been granted authority with respect to the Proposal. The plain meaning of being appointed as an "agent" (i.e., conferring power to act on behalf of the proponent) and the lack of limitation on such appointment suggest that As You Sow's role is not just one of "assistance" to United Church Funds, but rather a role of substance. Furthermore, as discussed above, As You Sow touts the Petrochemicals Proposal as a resolution that it is representing, implying that As You Sow exercises some authorship and control over the Petrochemicals Proposal. This substantive authority over the Petrochemicals Proposal means that As You Sow is a person who has indirectly caused the Petrochemicals Proposal to be submitted for inclusion in the 2024 Proxy Materials.

Therefore, even though United Church Funds "pressed send" and transmitted the Petrochemicals Proposal to the Company, As You Sow has also indirectly submitted the Petrochemicals Proposal given its authority as representative. Direct and indirect submissions are not mutually exclusive.

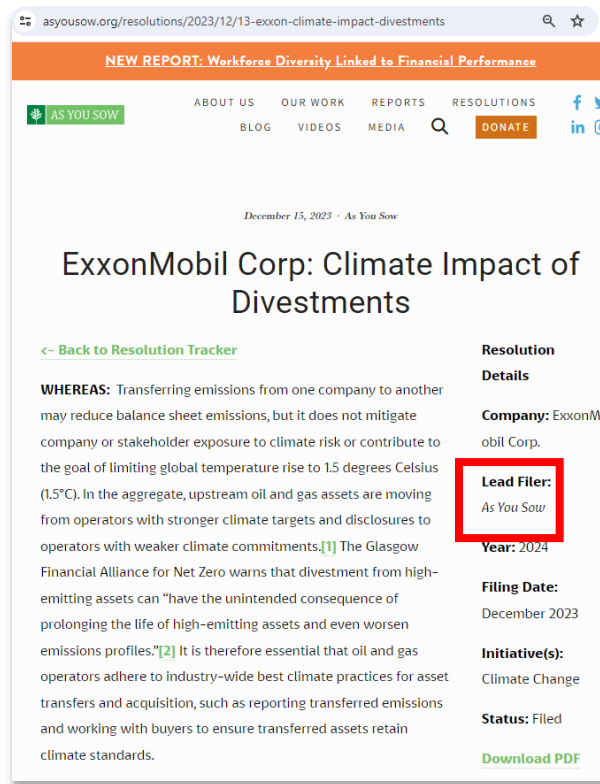
Therefore, the Proposal may be excluded under Rule 14a-8(c) because, as demonstrated above, As You Sow directly submitted the Proposal and indirectly submitted the Petrochemicals Proposal, thereby "giv[ing] rise to the same concerns about the expense and obscuring effect of including multiple proposals in the company's proxy materials, [and] undermining the purpose of the one-proposal limit." See Exchange Act Release No. 34-89964 (Sept. 23, 2020), at 58. The Proposal may properly be excluded from the Company's 2024 Proxy Materials.

The Proposal May Be Excluded Under Rule 14a-8(c) Because As You Sow Is Impermissibly Relying on the Proponent's Shares to Submit the Proposal.

In the submission of the Proposal, As You Sow calls itself the Proponent's representative. However, on its website, As You Sow calls itself the "Lead Filer" of the Proposal. These facts alone are not unique but are just a small snapshot of a larger problem. As You Sow has repeatedly utilized nominal shareholders, including its own employees, to purportedly meet the ownership requirements related to shareholder proposals on the Company's proxy statements. In fact, As You Sow submitted similar proposals to both the Proposal and the Petrochemical Proposal last proxy season, including having its CEO, Andrew Behar, submit the predecessor to this Proposal. The underlying proponents change, but As You Sow keeps submitting the proposals each year, giving insight to why As You Sow calls itself the "Lead Filer." In reality, As You Sow, through its "representation" of the nominal shareholders year after year, is the entity that actually controls the communication and the creation, submission and presentation of the proposals it seeks to include in the proxy statements of companies. From a practical perspective as well as under Rule 14a-8(c), these are As You Sow's proposals.

As You Sow's Description of the Proposal

<https://www.asyousow.org/resolutions/2023/12/13-exxon-climate-impact-divestments>



While “lead filer” is not defined in Rule 14a-8, commentary in the 2020 Release makes clear that a “lead filer” is not merely a shareholder representative, but rather a shareholder proponent. For example, the 2020 Release states that shareholders may co-file proposals as a group if each proponent meets an eligibility requirement. See Release No. 34-89964 (Sept. 23, 2020), at 9. Further, “lead filer” status is discussed in the “Ownership Requirements” section of the 2020 Release, suggesting that a “lead filer” is a co-filer of proposals, necessitating the requisite de facto owners of securities in accordance with Rule 14a-8. *Id.*

By calling itself the “lead filer” of the Proposal, As You Sow confirms that it is the actual proponent of the Proposal and not merely a representative. Yet, As You Sow has not provided proof that it meets any eligibility requirement under Rule 14a-8(b) and instead relies on the Proponent’s shares to indirectly submit the Proposal to the Company. This is, again, a clear violation of Rule 14a-8(c) that states that “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.” This method has proven to be common for As You Sow and other proxy organizations who wish to circumvent the One Proposal Rule. So long as they are “representing” the shareholder, they are free to utilize the shareholder’s eligibility to manipulate the proposal process without boundaries.

Because As You Sow has not submitted any proof of holdings in the Company for which it markets itself as “Lead Filer,” it is impermissibly relying on the Proponent’s shares to meet the shareholder eligibility requirements and should be viewed as having submitted the Proposal as a proponent itself.

The Proposal May Be Excluded under Rule 14a-8(c) Because As You Sow and Proxy Impact Are Acting in Concert as a Single “Person” and Have Submitted More Than One Proposal.

Under Rule 14a-8(c), a person cannot submit more than one proposal to a company, either directly or indirectly. As detailed above, As You Sow submitted two proposals for inclusion in the 2024 Proxy Materials. In addition, Michael Passoff, the CEO of Proxy Impact, submitted a Racial and Gender Pay Gap

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proposal on behalf of Broz Family Investments LLC on December 15, 2023 for inclusion in the 2024 Proxy Materials. See the Company's letter dated January 22, 2024 requesting that the Staff concur in the exclusion of the Racial and Gender Pay Gap proposal, as submitted to the SEC Office of Corporation Finance in the same manner as the Proposal. As You Sow and Proxy Impact are acting in concert as a single person to further their shareholder proposal goals and, as a result, they have submitted more than one proposal for inclusion in the 2024 Proxy Materials. This violates Rule 14a-8(c) and the Proposal may be excluded.

For nine consecutive years, As You Sow and Proxy Impact have worked in concert to publish "Proxy Preview," an annual report and related webinar that analyzes the shareholder proposals submitted each proxy season. As You Sow and Proxy Impact in their own words describe Proxy Preview as a "unique collaboration" between their two organizations that is designed to help shareholders "successfully vote [their] shares."

Webinar: Proxy Preview 2023 Press Release

<https://www.asyousow.org/community-calendar/proxy-preview-2023>

Proxy Preview is a **unique collaboration** between **As You Sow**, the **Sustainable Investments Institute (Si2)**, and **Proxy Impact**.

wide range of shareholder voices. Over 30 guest authors provide analysis and expert insight to **help you navigate the issues** and **successfully vote your shares**.

This "unique collaboration" between the two entities starts at the top. The leaders of As You Sow and Proxy Impact identify themselves as having key roles in the publication of Proxy Preview:

- Andrew Behar, CEO of As You Sow, pens the publication's introductory letter and is listed as the "Publisher." He also leads the webinar associated with Proxy Preview.
- Michael Passoff, Founder and CEO of Proxy Impact, is listed in the publication as one of the two primary authors of Proxy Preview. In other publications that Mr. Passoff authors, his biographies state that he also "founded" Proxy Preview.

2023 Proxy Preview

2023 Proxy Preview downloadable at <https://www.proxypreview.org/>

AS YOU SOW
30 YEARS 1992 - 2022

Sustainable Investments Institute

PROXY IMPACT

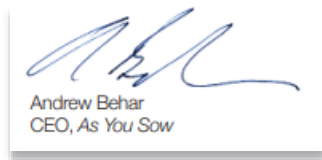
LETTER FROM THE PUBLISHER

ABOUT THE AUTHORS

Heidi Welsh, the founding executive director of the Sustainable Investments Institute (Si2), has analyzed corporate responsibility for over 30 years. Starting at the Investor Responsibility Research Center in 1987, she provided detailed coverage of shareholder advocacy and compliance with a fair employment code in Northern Ireland for 16 years. In addition, she co-authored CDP's S&P 500 report in 2007, research within a unit of what is now MSCI, and consulting on Global Reporting Initiative guidelines. Welsh is the lead author of several books on corporate political activity governance and spending. She received her B.A. from Carleton College, cum laude, and an M.S. from the University of Michigan. She is currently an Adjunct Professor of Analysis and Resolution at George Mason University.

Michael Passoff is the founder and CEO of Proxy Impact, a shareholder advocacy and proxy voting service for sustainable investors. He has over 25 years of experience in corporate social responsibility, shareholder advocacy, and philanthropy. For more than 10 years, he has served as the Senior Program Director for the As You Sow Foundation's Corporate Social Responsibility Program. In 2005 he founded the first of its kind, alert foundations, SFRs, pension funds, labor, and faith-based communities to upcoming shareholder resolutions that are relevant to their interests. He has led and participated in more than 400 shareholder dialogues and resolutions on environmental, social and governance issues. His work led him to be named as one of 2009's "100 Most Influential People in Business Ethics" by Ethisphere Magazine and he has received a Change Business Journal award for a shareholder campaign that achieved the first majority vote for a climate resolution and greenhouse gas emission reductions and renewable energy development at public utilities.

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The ties go beyond leadership. As You Sow also appears to control the assets and funding of Proxy Preview. For example, Proxy Preview includes a trademark that belongs to As You Sow, and donations to Proxy Preview are directed first to As You Sow.

Trademark Ownership stated in Proxy Preview

2023 Proxy Preview downloadable at
<https://www.proxypreview.org/>

Proxy Preview and As You Sow are trademarks of As You Sow

Funding from As You Sow

<https://www.proxypreview.org/donate>

Make a Donation

Please donate to support our efforts. (Donations received on ProxyPreview.org will be used solely for Proxy Preview.)
We are a 501(c)(3) nonprofit. Your gifts are tax-deductible to the maximum extent allowed by law. Our Federal Tax ID# is 94-1234567. [View our IRS Form 990 here.](#)
Donate online: *please scroll down*
Donate by mail: **make checks payable to As You Sow** and mail to:
As You Sow
ATTN: Proxy Preview
Main Post Office
PO Box 751
Berkeley, CA 94701
Please make your check payable to "As You Sow" and in the memo line write "Proxy Preview".

Accordingly, Proxy Preview is merely an extension of the collective views and goals of As You Sow and Proxy Impact.

Another way in which As You Sow and Proxy Impact collaborate is that they publish and promote the As You Vote Proxy Voting Guidelines (the “**As You Vote Guidelines**”), a “comprehensive set of guidelines”² intended to “inform all investors on how to vote in an ESG-aligned way.”³

The As You Vote Guidelines are not a mere expression or publication of As You Sow’s and Proxy Impact’s viewpoints. Rather, the As You Vote Guidelines are wielded by As You Sow and Proxy Impact to solicit proxies from shareholders and vote such shareholders’ ballots according to the As You Vote Guidelines. This is accomplished via an online shareholder voting platform called “As You Vote.” The voting platform was created by As You Sow (in partnership with Iconik) and allows shareholders to virtually send their ballots to As You Vote to vote on their behalf, consistent with the recommendations contained in the As You Vote Guidelines. When a shareholder signs up for the service, the platform pre-populates the As You Vote Guidelines’ voting recommendations into each ballot. Unless the shareholder changes the pre-populated votes on a ballot-by-ballot basis, As You Vote will vote the ballots according to the preferences in the As You Vote Guidelines.

The As You Vote Guidelines and voting platform address and facilitate more than just the voting for non-binding shareholder resolutions. They provide detailed guidance to shareholders about how to vote for director nominees, and do not limit the advice to uncontested elections. For example, the As You Vote

² <https://www.iconikapp.com/as-you-sow>

³ <https://www.asyousow.org/reports/proxy-voting-guidelines-2023>

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Guidelines indicate when shareholders should oppose and withhold votes against director nominees. They also apply an “additional level of scrutiny on director votes for about two dozen companies that are major contributors to climate change.” Unsurprisingly, the list of companies includes ExxonMobil.

As You Vote Platform

<https://www.iconikapp.com/as-you-sow>



WE VOTE EVERY BALLOT ITEM: DIRECTOR NOMINATIONS, AUDITOR, CEO PAY, AND SHAREHOLDER RESOLUTIONS

Your proxy ballot contains many critical items to vote including selecting the Board of Directors, CEO Pay, auditors, as well as shareholder resolutions. AS YOU VOTE is a comprehensive set of guidelines that not only votes for every item, we do it in an interlocked and synergistic way.

As You Vote Proxy Voting Guidelines

<https://www.asyousow.org/reports/proxy-voting-guidelines-2023>

AS YOU VOTE

As You Sow, in partnership with Proxy Impact has introduced AS YOU VOTE, an environmental, social and governance (ESG) proxy voting service for institutional and retail shareholders. AS YOU VOTE offers a simple way to incorporate ESG guidelines into your proxy voting. Shareholders can opt to use this as a resource for their own voting decisions or have these automatically set as their default vote (which can be adapted or customized with your own guidelines).

AS YOU VOTE guidelines were developed to be automated “rules based” votes available for institutional investors on the Broadridge Proxy Edge platform. This year we are also offering our services for retail investors through Iconik and for pass-thru with Tumelo platform.

Rules Based Voting

Rules-based automated voting follows the simple premise that we can set standard recommendations in response to standard proxy items. Rules apply to information reported on a company’s proxy. For example, AS YOU VOTE recommends a vote against the CEO if they also serve as board chair. That information is easily identifiable in the proxy and a rule can be set for it; some exceptions apply.

Case-By-Case Recommendations

Proxy items on issues such as mergers, acquisitions and contested elections are beyond the scope of standardized rules. Consequently, those recommendations will be listed as case-by-case and left to the subscriber to vote. Similarly, there are rare occurrences of items (generally on international proxies) that are written in a way that are not identifiable under our rules. These too would be listed as case-by-case votes.

Additional ESG Screens

We do incorporate selected outside research that enhances our ESG vote guidelines. For example, we go beyond automated rules and apply an additional level of scrutiny on director votes for about two dozen companies that are major contributors to climate change. These companies, as identified by Majority Action, encompass industry leaders from the electrical utility, oil and gas, bank and insurance, and forestry sectors. We also vote against anti-ESG resolutions (see page 18) and we utilize As You Sow’s annual reports “Pay for Climate Performance” and “The 100 Most Overpaid CEOs 2022” in making recommendations for about 150 overpaid compensation.

Accountability

We oppose the election of a director when:

Independence

- The board is not majority independent;
- The CEO serves as the board chair.

Poor attendance

- Board members attend less than 75% of board meetings without a valid reason for their absence.

In those cases where we disagree with management’s vote recommendation, we may also vote against the corresponding committee members responsible for the action we are opposing

For example, we withhold votes for:

Nominating committee members

- If they nominate the CEO to serve as board chair;
- If they nominate a slate of candidates that lacks gender or racial diversity (note: NASDAQ 5605(f) Board Diversity Rule is available in proxy statements but not yet actionable on the As You Vote platform);
- If they nominate a board that is not majority independent.

Compensation committee members

- If executive compensation exceeds 75% of its peer group;
- If there is more than a 100:1 CEO to median worker pay ratio;
- If company CEO has been listed among 100 Most Overpaid CEOs and have not changed practices.

As recently explained by the Staff in Exchange Act Release Nos. 33-11253; 34-98704 (Oct. 10, 2023) (the “2023 Beneficial Ownership Final Rules”), shareholders who merely express how they intend to vote and the reasons why, *without more*, are unlikely to engage in conduct that would give rise to group formation under Section 13 (emphasis added). Even “vote no” campaigns against individual directors in uncontested elections may not give rise to group behavior, so long as the strategy is not control related. *Id.* at 134.

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In describing the As You Vote voting platform, As You Sow does not mince words when expressing its goal of controlling companies through its voting recommendations and voting platform. It describes its work as “**compell[ing]** climate action” and states that its “data **empowers real change**.” Most telling, it states that it seeks to “empower individuals to **change corporations for good**.”⁴

By incorporating the As You Vote Guidelines into the voting platform, As You Sow and Proxy Impact go beyond making a simple and straightforward communication intended to inform investors as to how they would vote shares. Rather, As You Sow’s and Proxy Impact’s viewpoints are published with the intent to incorporate those viewpoints into solicited ballots that are then voted with the goal of compelling action and change at the Company. Accordingly, As You Sow and Proxy Impact are soliciting proxies with an intent to control the Company via its director nominations and all other matters put to a shareholder vote.

As You Sow and Proxy Impact have a history of working together to influence shareholder votes and, particularly, director nominations. In 2013, As You Sow and Proxy Impact jointly posted a video to show on-screen, live voting of an ExxonMobil voting form to demonstrate the voting process. In 2021, As You Sow and Proxy Impact campaigned together against the Company’s director nominees in the Engine No. 1 proxy fight through their membership in Coalition United for a Responsible Exxon (“**CURE**”). The CURE website also stated that As You Sow “operat[ed]” CURE, suggesting it controlled the group.

As You Vote Website

<https://www.asyousow.org/proxy-voting-video>

U SOW ABOUT US OUR WORK REPORTS RESOLUTIONS BLOG VIDEOS MEDIA Q DONATE f t i n

PROXY VOTING: VIDEO

... means “written authorization to act in place of another.” The proxy statement is the document used by companies seeking approval from shareholders on issues relating to corporate governance, recognizing that most shareholders will be voting remotely “by proxy” rather than in person at each annual meeting.

Lead companies are required by law to report to shareholders. They do this through a variety of means, most notably by inviting shareholders to attend the annual meeting. Prior to the annual meeting, shareholders are sent documents known as proxy statements that include details about the annual meeting, shareholder structure, executive compensation and details on other issues that will be voted on at the annual meeting.

RESOLUTIONS ADOPTED IN SEPTEMBER 2020 ARE NOW IN EFFECT FOR ALL ANNUAL GENERAL MEETINGS OCCURRING AFTER JANUARY 7, 2022.

... resolutions are being challenged in court, on behalf of shareholders generally, by the As You Sow Foundation, and Jim McRitchie. The resolutions currently in effect are as follows:

- ... of stock needed to file has been raised to \$25,000 if shares have been held for one year, \$15,000 if held two years, and \$2,000 if held three or more years. There is a mechanism in effect for 2022 such that, if a shareholder has held \$2,000 worth of shares before January 4, 2020, they will be allowed to file a proposal to be heard at the Annual Meeting in 2022.
- ... on thresholds have been increased. Effective immediately, to proceed with the proposal in a following year, a proposal will need to have earned a vote of 5% support in the first year, 10% in the second year, and at least 25% in year three. These requirements are an increase from the prior resubmission thresholds of 3%, 6%, and 10%.
- ... on filing. Effective immediately, shareholders wishing to authorize an issue to be discussed by the board of directors, or other person or organization to represent them in a Shareholder Meeting, must provide dates when they are available to meet with the company during a Shareholder Meeting. This information must be provided in a post-filing.
- ... immediately, any single person or entity is limited to filing only one shareholder proposal at a given AGM, even if they represent separate shareholders.
- ... process in using shareholder advocacy is built on a larger body of work by a broad coalition of investors that have, over time, created environmental, social, and governance principles for investing in companies. These principles are built on a stakeholder-centric approach which recognizes that negative company impacts to people and planet will reduce company value and reduce its value over time. ESG and stakeholder engagement have been endorsed by the World Economic Forum’s 2020 Manifesto and the 2020 CEO Letter.

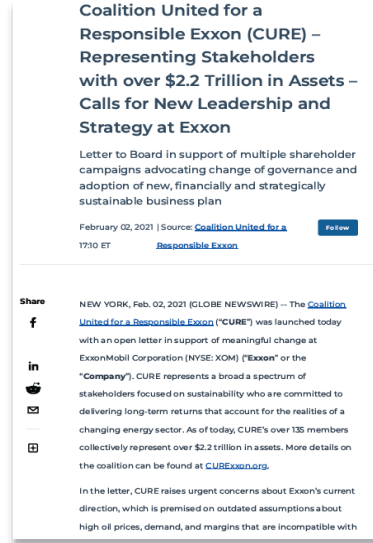
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This webinar is presented by **Jon Scott**, President, Singing Field Foundation; **Andrew Behar**, As You Sow Foundation; **Michael Passoff**, Proxy Impact; and **Shelley Alpern**, Clean Yield Asset Management. It is not an academic discussion. It features: - **A hands-on look at ExxonMobil’s 2013 proxy ballot** - “How and why” discussion on proxy voting - Special issues on the ballot via shareholder initiative - **On-screen, live voting of an ExxonMobil proxy voting form**

⁴ <https://vimeo.com/821443970>

CURE Press Release

<https://www.globenewswire.com/news-release/2021/02/02/2168665/0/en/Coalition-United-for-a-Responsible-Exxon-CURE-Representing-Stakeholders-with-over-2-2-Trillion-in-Assets-Calls-for-New-Leadership-and-Strategy-at-Exxon.html>



CURE Website

<https://curexson.org/privacy-policy/> via <https://web.archive.org/>



It is important to note the connection between Proxy Preview and the As You Vote Guidelines and voting platform. Proxy Preview serves as the first step of a continuous plan to lay the groundwork for soliciting ballots through the As You Vote Guidelines and voting platform.⁵ For example, in 2023, Proxy Preview

⁵ A "solicitation" under Regulation 14A is broadly characterized as a "communication that is furnished to security holders under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy..." See Rule 14a-1(l)(1)(iii). To note, one can "solicit" a proxy even if not specifically requesting a proxy. The Second Circuit has held that the proxy rules are applicable to initial steps which are part of "a continuous plan" intended to end in solicitation and to prepare the way for success." *Trans World Corp. v. Odyssey Partners*, 561 F. Supp. 1315, 1319 (S.D.N.Y. 1983) (quoting *SEC v. Okin*, 132 F.2d 784, 786 (2d Cir. 1943)); see also *Gas Nat. Inc. v. Osborne*, 624 F. App'x 944, 950–51 (6th Cir. 2015) (adopting the

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conducted a “Review” of the proxy season, hosting a webinar to summarize the proxy season’s key votes and trends. In the webinar, Mr. Behar promoted the “As You Vote” voting platform by directing investors to the As You Vote website and stating, “we actually offer a free retail proxy voting, you can click on it, and As You Sow has an ESG aligned proxy voting policy that will be **voted on your behalf** if you should choose to, so have a look at asyouvote.org, we also have an institutional [inaudible], we work closely with Michael [Passoff] at Proxy Impact.”

Accordingly, each of Proxy Preview, the As You Vote Guidelines and the voting platform are a joint solicitation made by As You Sow and Proxy Impact.

2023 Proxy Preview Review

<https://www.proxypreview.org/review/2023-webinar>



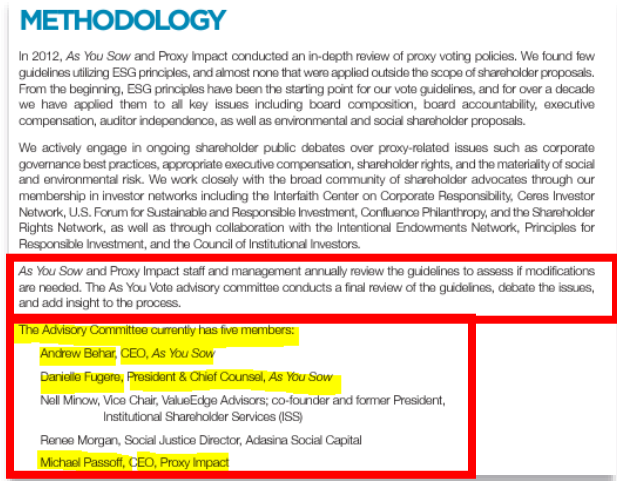
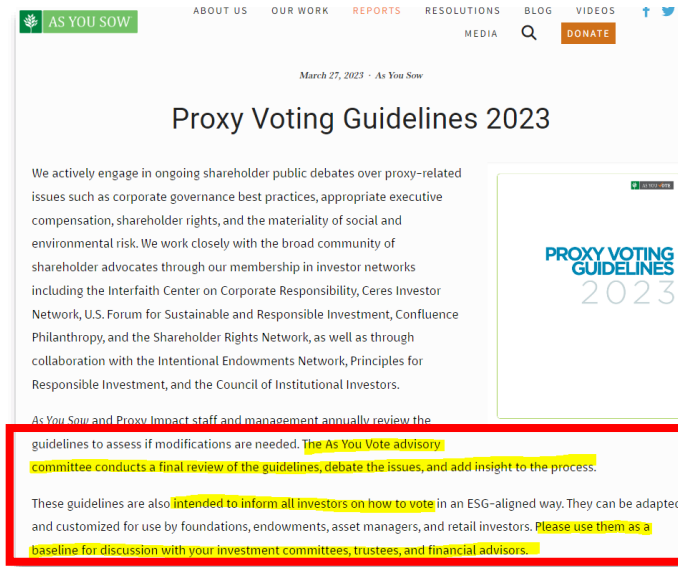
In addition to showing As You Sow’s and Proxy Impact’s intent to control the Company and solicit votes, the As You Vote Guidelines and related voting platform also demonstrate concerted group behavior between As You Sow and Proxy Impact. Together, they have authored and published the As You Vote Guidelines for the past eight years. The introductory letter to the As You Vote Guidelines is signed by both Mr. Behar of As You Sow and Mr. Passoff of Proxy Impact.

The As You Vote Guidelines are also “audited” by the As You Vote “advisory committee,” which consists of five members. Two of the members are executives of As You Sow (Mr. Behar and Danielle Fugere, the President and Chief Counsel of As You Sow) and one of the members is a representative from Proxy Impact (Mr. Passoff). Therefore, a majority of the As You Vote advisory committee is comprised of individuals from As You Sow and Proxy Impact, evidencing not just coordination between As You Sow and Proxy Impact, but also their joint control.

Second Circuit’s construction of solicitation to mean a “continuous plan”). Proxy Preview and the Guidelines are the joint and coordinated soliciting materials that serve as the initial steps in As You Sow and Proxy Impact’s “continuous plan” to request the Company’s shareholders’ proxies via As You Vote. The question as to whether their solicitation materials are exempt from the Regulation 14A filing requirements is not addressed here.

As You Vote Proxy Voting Guidelines

<https://www.asyousow.org/reports/proxy-voting-guidelines-2023>

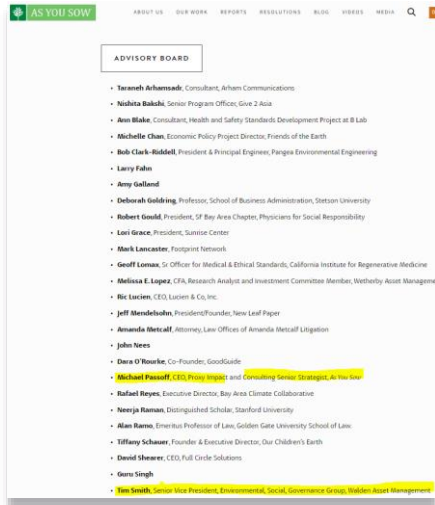


Finally, the connections between As You Sow and Proxy Impact are not limited to their joint conduct through Proxy Preview and the As You Vote Guidelines and voting platform. There is also substantial leadership overlap between As You Sow and Proxy Impact. For example, Mr. Passoff is a member of As You Sow's Advisory Board, as well as a Consulting Senior Strategist for As You Sow.

As for Proxy Impact, 50% of its advisory board is controlled by, or affiliated with, As You Sow. The interlocking relationship between As You Sow and Proxy Impact is further evidence of that As You Sow and Proxy Impact are acting as one.

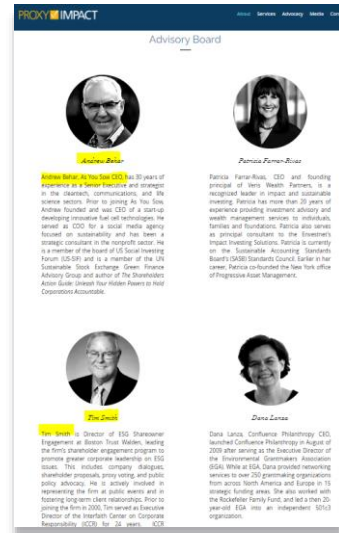
As You Vote Website

<https://www.asyousow.org/about-us/staff/board-of-directors>



Proxy Impact Website

<https://www.proxyimpact.com/about>



Congress and the SEC have long been concerned about the effects of this type of coordinated and concerted action by groups that try to pass themselves off as independent actors. Parallel statutory schemes under the Exchange Act reflect the notion that multiple people who act as a coordinated group or take concerted actions may be treated as a single person.

For example, under Rule 14a-8, if a person indirectly submits a proposal in reliance upon another person's securities, they are together considered one "person." Similarly, a group, such as individuals employed at the same entity, is treated as the same "person" and may only submit one proposal. See Exchange Act Release No. 34-89964 (Sept. 23, 2020), at 61.

Further, the Staff has specifically addressed what constitutes group behavior with respect to shareholder proposals. See 2023 Beneficial Ownership Final Rules. For example, the Staff has stated that:

- Shareholders may only discuss their views in a "public forum" without satisfying the "acting as a group" standard if the discussion only "involves an **independent and free exchange** of ideas and views among shareholders, **alone and without more.**" *Id.* at 134 (emphasis added). As shown above, As You Sow and Proxy Impact are not merely expressing their views in a public forum—Proxy Preview and As You Vote are proprietary tools used by As You Sow and Proxy Impact to promote a singular viewpoint.
- Behavior that "**extend[s] beyond**" the types of permitted communications outlined above, such as "consenting or committing to a course of action" or the "**joint or coordinated publication of soliciting materials** with an activist investor," might indicate group formation. *Id.* at 136-137. As shown above, Proxy Preview and the As You Vote Guidelines are "joint or coordinated publication of soliciting materials" and the As You Vote voting platform is, of course, a straightforward joint solicitation of proxies.
- Unless joint conduct by shareholders is "**limited** to the creation, submission, and/or presentation of a **non-binding** proposal," such behavior is considered "group" behavior. See Exchange Act Release Nos. 33-11253; 34-98704 (Oct. 10, 2023), at 134 (emphasis added). As shown, As You Sow and Proxy Impact acted in concert to solicit proxies from the Company's shareholders, going far beyond the

Davis Polk

creation, submission, and/or presentation of a non-binding proposal. Also, As You Sow and Proxy Impact sought to influence director elections—both contested and uncontested—which are binding on the Company.

As You Sow and Proxy Impact do not merely coordinate to submit shareholder proposals or provide information for shareholders to vote their own shares in an informed way. Rather, they are coordinating a continuous plan of concerted efforts to solicit proxies from the Company's shareholders for both shareholder proposals and director elections. These joint solicitations render As You Sow and Proxy Impact a "group" and therefore a "person" under Rule 14a-8(c).

Under Rule 14a-8(f)(1), it is permissible to exclude proposals submitted by a proponent who fails to satisfy the eligibility requirements under Rule 14a-8(c). Therefore, pursuant to Rules 14a-8(c) and 14a-8(f)(1), the Company believes that it may exclude the Proposal from its 2024 Proxy Materials.

CONCLUSION

The Proposal micromanages the Company by imposing precise, granular requirements for assessing and publishing specific information on the Company's M&A due diligence function, which improperly limits the board and management's discretion over ordinary business matters and probes matters too complex for shareholders to make an informed judgment upon.

Further, the Proposal is excludable because As You Sow claims to serve as representative of multiple proposals. It also impermissibly relies on the Proponent's shares, rendering it the de facto proponent while also serving as a representative of another proposal. Therefore, As You Sow has improperly submitted multiple proposals.

Lastly, the Proposal is excludable given As You Sow's coordinated actions with Proxy Impact should cause them to be treated as the same "person" who have impermissibly submitted a total of three proposals.

For each of the reasons set forth above, the Company believes that the Proposal may be excluded from its 2024 Proxy Materials pursuant to Rule 14a-8(i)(7) and Rule 14a-8(c).

We would be happy to provide you with any additional information and answer any questions that you may have regarding this request. Please do not hesitate to call me at (212) 450-4539 or James Parsons at james.e.parsons@exxonmobil.com. If the Staff does not concur with the Company's position, we would appreciate an opportunity to confer with the Staff concerning these matters prior to the issuance of its response.

Respectfully yours,



Louis Goldberg

Attachment

cc w/ att: James E. Parsons, Exxon Mobil Corporation
Danielle Fugure, President and Chief Counsel, As You Sow
Parker Caswell, Climate and Energy Associate, As You Sow

Proposal

WHEREAS: Transferring emissions from one company to another may reduce balance sheet emissions, but it does not mitigate company or stakeholder exposure to climate risk or contribute to the goal of limiting global temperature rise to 1.5 degrees Celsius (1.5°C). In the aggregate, upstream oil and gas assets are moving from operators with stronger climate targets and disclosures to operators with weaker climate commitments.¹ The Glasgow Financial Alliance for Net Zero warns that divestment from high-emitting assets can “have the unintended consequence of prolonging the life of high-emitting assets and even worsen emissions profiles.”² It is therefore essential that oil and gas operators adhere to industry-wide best climate practices for asset transfers and acquisition, such as reporting transferred emissions and working with buyers to ensure transferred assets retain climate standards.

ExxonMobil reports an operational emissions reduction of 5.4% on an equity basis and 12.5% on an operated basis since 2016.³ However, between 2017 and 2021, Exxon sold more assets than any other American oil and gas company except Chevron, ranking fourth globally among sellers.⁴ Exxon does not disclose the climate impacts of its divestments. This reporting gap leaves investors with an incomplete understanding of Exxon’s actions to mitigate its contribution to climate change.

To address this issue, Exxon should follow best practices for divestitures, including conducting climate-related due diligence on acquirers, including an evaluation of purchasers’ emissions reporting and reduction targets. Doing so would allow Exxon to ensure that purchasers maintain or enhance existing climate standards for divested assets, reducing the likelihood that transferred assets would result in higher emissions.⁵

By increasing transparency and providing greenhouse gas emissions-related disclosures for asset transfers, Exxon can position itself as a leader on climate change, increase the legitimacy of its climate targets, and provide essential information to its investors about its efforts to mitigate climate risk.

RESOLVED: Shareholders request that ExxonMobil annually report on divestitures of assets with material climate impact, including whether each asset purchaser discloses its GHG emissions and has 1.5°C-aligned or other greenhouse gas reduction targets.

1 <https://business.edf.org/files/Transferred-Emissions-How-Oil-Gas-MA-Hamper-Energy-Transition.pdf>, p.17

2 <https://assets.bbhub.io/company/sites/63/2022/10/GFANZ-2022-Progress-Report.pdf>, p. 36

3 <https://corporate.exxonmobil.com/-/media/global/files/advancing-climate-solutions-progress-report/2023/2023-acs-ghgdata-supplement.pdf>, p. 4

4 <https://business.edf.org/files/Transferred-Emissions-How-Oil-Gas-MA-Hamper-Energy-Transition.pdf>, p. 22

5 <https://business.edf.org/wp-content/blogs.dir/90/files/Climate-Principles-Asset-Transfer.pdf>, p.3

Englande, Sherry M

From: Shareholder Engagement <shareholderengagement@asyousow.org>
Sent: Friday, December 15, 2023 3:08 PM
To: Shareholder Relations /SM
Cc: Danielle Fugere; Parker Caswell; Gail Follansbee; Sophia Wilson; Riley McCann; Rachel Lowy; Alexandra Ferry
Subject: Exxon Mobil Corp - Shareholder Proposals Filing Documents
Attachments: 24.XOM.1 Exxon Climate LEAD Packet.pdf; 24.XOM.1 Exxon Climate CO-FILERS Packet.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Mr. Morford,

Attached please find the lead-filer and co-filer filing document packets submitting a shareholder proposal for inclusion in the company's 2024 proxy statement.

It would be much appreciated if you could please confirm receipt of this email.

Thank you and kind regards,
Rachel Lowy

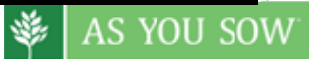
Rachel Lowy (she/her/hers)

Shareholder Relations Sr. Coordinator

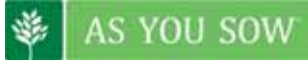
As You Sow[®]

Main Post Office, P.O. Box 751 | Berkeley, CA 94701

www.asyousow.org



-Empowering Shareholders to Change Corporations for Good-



VIA EMAIL

December 15, 2023

Craig S. Morford
Vice President, Corporate Secretary,
and General Counsel
Exxon Mobil Corporation,
22777 Springwoods Village Parkway,
Spring, TX 77389
shareholderrelations@exxonmobil.com

Dear Mr. Morford,

As You Sow® is co-filing a shareholder proposal on behalf of the following Exxon Mobil Corporation shareholder for action at the next annual meeting of Exxon:

- Suzanne B & Guy L Tr (Nat Resources)

Shareholder is a co-filer of the enclosed proposal with Yagan Family Foundation, who is the Proponent of the proposal. *As You Sow* has submitted the enclosed shareholder proposal on behalf of Proponent for inclusion in the 2024 proxy statement in accordance with Rule 14a-8 of the General Rules and Regulations of the Securities Exchange Act of 1934. Co-filer will either: (a) be available on the dates and times offered by the Proponent for an initial meeting, or (b) authorize *As You Sow* to engage with the Company on their behalf, within the meaning of Rule 14a-8(b)(iii)(B).

As You Sow is authorized to act on Suzanne B & Guy L Tr (Nat Resources)'s behalf with regard to withdrawal of the proposal. A representative of the lead filer will attend the stockholders' meeting to move the resolution as required.

A letter authorizing *As You Sow* to act on co-filer's behalf is enclosed.

We are hopeful that the issue raised in this proposal can be resolved. To schedule a dialogue, please contact myself, Danielle Fugere at [REDACTED] and Parker Caswell, Climate & Energy Associate at [REDACTED]. Please send all correspondence **with a copy to** shareholderengagement@asyousow.org.

Sincerely,

Danielle Fugere
President and Chief Counsel

Enclosures

- Shareholder Proposal
- Shareholder Authorization

WHEREAS: Transferring emissions from one company to another may reduce balance sheet emissions, but it does not mitigate company or stakeholder exposure to climate risk or contribute to the goal of limiting global temperature rise to 1.5 degrees Celsius (1.5°C). In the aggregate, upstream oil and gas assets are moving from operators with stronger climate targets and disclosures to operators with weaker climate commitments.¹ The Glasgow Financial Alliance for Net Zero warns that divestment from high-emitting assets can “have the unintended consequence of prolonging the life of high-emitting assets and even worsen emissions profiles.”² It is therefore essential that oil and gas operators adhere to industry-wide best climate practices for asset transfers and acquisition, such as reporting transferred emissions and working with buyers to ensure transferred assets retain climate standards.

ExxonMobil reports an operational emissions reduction of 5.4% on an equity basis and 12.5% on an operated basis since 2016.³ However, between 2017 and 2021, Exxon sold more assets than any other American oil and gas company except Chevron, ranking fourth globally among sellers.⁴ Exxon does not disclose the climate impacts of its divestments. This reporting gap leaves investors with an incomplete understanding of Exxon’s actions to mitigate its contribution to climate change.

To address this issue, Exxon should follow best practices for divestitures, including conducting climate-related due diligence on acquirers, including an evaluation of purchasers’ emissions reporting and reduction targets. Doing so would allow Exxon to ensure that purchasers maintain or enhance existing climate standards for divested assets, reducing the likelihood that transferred assets would result in higher emissions.⁵

By increasing transparency and providing greenhouse gas emissions-related disclosures for asset transfers, Exxon can position itself as a leader on climate change, increase the legitimacy of the its climate targets, and provide essential information to its investors about its efforts to mitigate climate risk.

RESOLVED: Shareholders request that ExxonMobil annually report on divestitures of assets with material climate impact, including whether each asset purchaser discloses its GHG emissions and has 1.5°C-aligned or other greenhouse gas reduction targets.

¹ <https://business.edf.org/files/Transferred-Emissions-How-Oil-Gas-MA-Hamper-Energy-Transition.pdf>, p.17

² <https://assets.bbhub.io/company/sites/63/2022/10/GFANZ-2022-Progress-Report.pdf>, p. 36

³ <https://corporate.exxonmobil.com/-/media/global/files/advancing-climate-solutions-progress-report/2023/2023-acs-ghg-data-supplement.pdf>, p. 4

⁴ <https://business.edf.org/files/Transferred-Emissions-How-Oil-Gas-MA-Hamper-Energy-Transition.pdf>, p. 22

⁵ <https://business.edf.org/wp-content/blogs.dir/90/files/Climate-Principles-Asset-Transfer.pdf>, p.3

11/3/2023

Andrew Behar
CEO
As You Sow
2020 Milvia St, Suite #500
Berkeley, CA 94704

Re: Authorization to File Shareholder Resolution

Dear Andrew Behar,

The undersigned (“Stockholder”) authorizes As You Sow to file a shareholder resolution on Stockholder’s behalf with the named Company for inclusion in the Company’s 2024 proxy statement, in accordance with Rule 14a-8 under the Securities and Exchange Act of 1934, as amended. The resolution at issue relates to the below described subject.

Stockholder: Suzanne B & Guy L Tr (Nat Resources)
Company: Exxon Mobil Corp
Subject: Report impact of asset transfers on disclosed greenhouse gas emissions

The Stockholder has continuously owned an amount of Company stock, with voting rights, for the requisite duration of time that enables the Stockholder to file a shareholder resolution for inclusion in the Company’s proxy statement. The Stockholder intends to hold the required amount of stock through the date of the Company’s annual meeting in 2024.

The Stockholder gives As You Sow the authority to address, on the Stockholder’s behalf, any and all aspects of the shareholder resolution, including drafting and editing the proposal, representing the Stockholder in engagements with the Company, entering into any agreement with the Company, designating another entity as lead filer and representative of the shareholder resolution, presenting the proposal at the Company’s annual general meeting, and all other forms of representation necessary in moving the resolution. The Stockholder understands that the Stockholder’s name and contact information will be disclosed in the proposal. The Stockholder acknowledges that their name may appear on the company’s proxy statement as the filer of the aforementioned resolution, and that the media may mention the Stockholder’s name in relation to the resolution. The Stockholder supports this proposal.

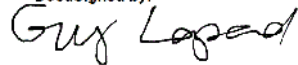
The Stockholder is available to meet with the Company in person or via teleconference no less than 10 calendar days, nor more than 30 calendar days, after submission of the shareholder proposal within the regular business hours of Company’s principal executive offices. The Stockholder authorizes its representative, As You Sow, to provide specific dates and times of availability.

The Stockholder can be contacted at the following email address to schedule a dialogue:
[REDACTED] Any correspondence regarding meeting dates must **also be sent to the**

Stockholder's representative: shareholderengagement@asyousow.org

The Stockholder also authorizes As You Sow to send a letter of support of the resolution on Stockholder's behalf.

Sincerely,

DocuSigned by:

EC9AD357B987496...

Name: Guy Lampard

Title: Trustee

Englande, Sherry M

From: Englande, Sherry M on behalf of Shareholder Relations /SM
Sent: Friday, December 22, 2023 4:46 PM
To: Shareholder Engagement
Cc: Danielle Fugere; Parker Caswell; Gail Follansbee; Sophia Wilson; Riley McCann; Rachel Lowy; Alexandra Ferry; Englande, Sherry M
Subject: RE: Exxon Mobil Corp - Shareholder Proposals Filing Documents
Attachments: Suzanne & Guy Divestments Cofilers Acknowledgement Letter.pdf; Attachments_SEC Rule 14a-8_SLB 14L Nov-3-2021.pdf; Attachments_SEC Rule 14a-8_SLB 14_July-13-2001.pdf; Attachments_SEC Rule 14a-8_Nov-4-2020 and SLB 14F_Oct-18-2011.pdf; § 240.14a-8 Shareholder proposals_.pdf

Please see the attached document regarding the co-filing of this proposal

From: Shareholder Engagement <shareholderengagement@asyousow.org>
Sent: Friday, December 15, 2023 3:08 PM
To: Shareholder Relations /SM <shareholderrelations@exxonmobil.com>
Cc: Danielle Fugere [REDACTED] Parker Caswell [REDACTED] Gail Follansbee [REDACTED]
[REDACTED] Sophia Wilson [REDACTED] Riley McCann [REDACTED] Rachel Lowy
[REDACTED] Alexandra Ferry [REDACTED]
Subject: Exxon Mobil Corp - Shareholder Proposals Filing Documents

Dear Mr. Morford,

Attached please find the lead-filer and co-filer filing document packets submitting a shareholder proposal for inclusion in the company's 2024 proxy statement.

It would be much appreciated if you could please confirm receipt of this email.

Thank you and kind regards,
Rachel Lowy

Rachel Lowy (she/her/hers)

Shareholder Relations Sr. Coordinator

As You Sow[®]

Main Post Office, P.O. Box 751 | Berkeley, CA 94701

[REDACTED]

[REDACTED] | www.asyousow.org



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VIA EMAIL

December 22, 2023

Danielle Fugere
President and Chief Counsel
2020 Milvia St. Ste. 500
Berkeley, CA 94704

Dear Ms. Fugere:

Thank you for your interest in ExxonMobil. This letter acknowledges that we've received your letter indicating that you wish to co-file on behalf of Suzanne B & Guy L Tr (Nat Resources) (the "Co-filer"), the proposal previously submitted by As You Sow on behalf of the Yagan Family Foundation (the "Proponent") concerning Report on Climate Impacts of Divestments (the "Proposal") in connection with ExxonMobil's 2024 annual meeting of shareholders. However, proof of share ownership was not included with your December 15, 2023, submission.

In order to be eligible to submit a shareholder proposal, Rule 14a-8, as amended (copy enclosed), requires that each co-filer must have continuously held, as of the date the proposal was submitted at least (i) \$2,000 in market value of the company's securities entitled to vote on the proposal at the meeting for at least three years, (ii) \$15,000 in market value of the company's securities entitled to vote on the proposal at the meeting for at least two years, or (iii) \$25,000 in market value of the company's securities entitled to vote on the proposal at the meeting for at least one year, for the applicable period through and including the date the shareholder proposal was submitted.

For this Proposal, the date of submission is December 15, 2023, which is the date the Proposal was received electronically by email.

Note that the SEC rules do not permit a shareholder to aggregate the co-filer's shareholdings with those of another shareholder or group of shareholders to meet the ownership eligibility requirement.

The Co-filer does not appear in our records as a registered shareholder. Moreover, to date we have not received proof that Suzanne B & Guy L Tr (Nat Resources) has satisfied these ownership requirements. To remedy this defect, you must submit sufficient proof verifying your continuous ownership of the requisite number of ExxonMobil shares for the applicable time period preceding and including December 15, 2023.

As explained in Rule 14a-8(b) and SEC staff guidance, sufficient proof must be in the form of:

- a written statement from the “record” holder of your shares (usually a broker or a bank) verifying that you continuously held the requisite number of ExxonMobil shares for the applicable time period preceding and including December 15, 2023; or
- if you have filed with the SEC a Schedule 13D, Schedule 13G, Form 3, Form 4 or Form 5, or amendments to those documents or updated forms, reflecting your ownership of the requisite number of ExxonMobil shares as of or before the date on which the required holding period begins, 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 continuously held the requisite number of ExxonMobil shares for the applicable time period preceding and including December 15, 2023.

If you intend to demonstrate ownership by submitting a written statement from the “record” holder of your shares as set forth in the first bullet point above, please note that 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 that acts as a securities depository (DTC is also known through the account name of Cede & Co.). Such brokers and banks are often referred to as “participants” in DTC. In Staff Legal Bulletin No. 14F (October 18, 2011) (copy enclosed), the SEC staff has taken the view that only DTC participants should be viewed as “record” holders of securities that are deposited with DTC. As the SEC adopted amendments to Rule 14a-8 that became effective in 2021, please note that Staff Legal Bulletin No. 14F does not reflect those amendments, and to the extent any provisions are inconsistent, Rule 14a-8 governs in all respects.

You can confirm whether your broker or bank is a DTC participant by asking your broker or bank or by checking the listing of current DTC participants, which is available online at: <https://www.dtcc.com/client-center/dtc-directories>. In these situations, shareholders need to obtain proof of ownership from the DTC participant through which the securities are held, as follows:

- If your broker or bank is a DTC participant, then you need to submit a written statement from your broker or bank verifying that you continuously held the requisite number of ExxonMobil shares for the applicable time period preceding and including December 15, 2023.
- If your broker or bank is not a DTC participant, then you need to submit proof of ownership from the DTC participant through which the securities are held verifying that you continuously held the requisite number of ExxonMobil shares for the applicable time period preceding and including December 15, 2023. You should be able to find out who this DTC participant is by asking your broker or bank. If your broker is an introducing broker, you may also be able to learn the identity and telephone number of the DTC participant through your account statements because the clearing broker identified on your account statements will generally be a DTC participant. If the DTC participant that holds your shares knows your broker’s or bank’s holdings, but does not know your holdings, you need to satisfy the proof of ownership requirement by obtaining and submitting two proof of ownership statements verifying that for the applicable period preceding and including December 15, 2023, the required amount of securities were continuously held – one from your broker or bank, confirming your ownership, and the other from the DTC participant, confirming the broker or bank’s ownership.

Danielle Fugere
Page 3

The SEC's rules require that these defects we have identified be remedied, and any response to this letter must be postmarked or transmitted electronically to us no later than 14 calendar days from the date this letter is received. Please mail any response to me at ExxonMobil at the address shown above. Alternatively, you may send your response to me by email to shareholderrelations@exxonmobil.com. The failure to correct the deficiencies within this time period will provide the company with a basis to exclude your filing for the 2024 annual meeting.

In light of the SEC Staff Legal Bulletin No. 14F dealing with co-filers of shareholder proposals, it is important to ensure that the Proponent, Yagan Family Foundation, has clear authority to act on behalf of all co-filers, including with respect to any potential negotiated withdrawal of the Proposal. Unless the Proponent can represent that it holds such authority on behalf of all co-filers, and considering SEC staff guidance, it will be difficult for us to engage in productive dialogue concerning this Proposal.

Note that under Staff Legal Bulletin No. 14F, the SEC will distribute no-action responses under Rule 14a-8 by email to companies and proponents. We encourage you, and all proponents and co-filers, to include an email contact address on any additional correspondence to ensure timely communication in the event the Proposal is subject to a no-action request.

Sincerely,

A handwritten signature in blue ink that reads "Sheryl Glendon". The signature is written in a cursive style with a large initial "S".

Enclosures

c: Parker Caswell
Guy Lampard
shareholderengagement@asyousow.org

Englande, Sherry M

From: Microsoft Outlook
To: Shareholder Engagement; Danielle Fugere; Parker Caswell; Gail Follansbee; Sophia Wilson; Riley McCann; Rachel Lowy; Alexandra Ferry
Sent: Friday, December 22, 2023 4:46 PM
Subject: Relayed: RE: Exxon Mobil Corp - Shareholder Proposals Filing Documents

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

[Shareholder Engagement](#) [REDACTED]

[Danielle Fugere](#) [REDACTED]

[Parker Caswell](#) [REDACTED]

[Gail Follansbee](#) [REDACTED]

[Sophia Wilson](#) [REDACTED]

[Riley McCann](#) [REDACTED]

[Rachel Lowy](#) [REDACTED]

[Alexandra Ferry](#) [REDACTED]

Subject: RE: Exxon Mobil Corp - Shareholder Proposals Filing Documents

Englande, Sherry M

From: Gail Follansbee [REDACTED]
Sent: Friday, December 22, 2023 4:31 PM
To: Englande, Sherry M
Subject: Automatic reply: Exxon Mobil Corp - Shareholder Proposals Filing Documents

Categories: External Sender

External Email - Think Before You Click

As You Sow is closed in observance of the Thanksgiving holiday. We will return to the office on Monday 11/27. Have a lovely day-

Gail

Englande, Sherry M

From: Alexandra Ferry [REDACTED]
Sent: Friday, December 22, 2023 4:31 PM
To: Englande, Sherry M
Subject: Automatic reply: Exxon Mobil Corp - Shareholder Proposals Filing Documents

Categories: External Sender

External Email - Think Before You Click

Thank you for your message.

As You Sow is closed through the remainder of the year.

Please contact me via text or phone call if you require immediate assistance.

Thank you,

Alex Ferry

Alex Ferry
Program & Special Projects Associate
As You Sow
Main Post Office, P.O. Box 751 | Berkeley, CA 94701

[REDACTED] | www.asyousow.org

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Englande, Sherry M

From: Sophia Wilson [REDACTED]
Sent: Friday, December 22, 2023 4:31 PM
To: Englande, Sherry M
Subject: Automatic reply: Exxon Mobil Corp - Shareholder Proposals Filing Documents

Categories: External Sender

External Email - Think Before You Click

Hello,

Thank you for your message. As You Sow is closed for winter break and will return on Tuesday, January 2. For urgent media requests, please text me at [REDACTED]

Many thanks,

Sophia
Press Liaison

Englande, Sherry M

From: Danielle Fugere [REDACTED]
Sent: Friday, December 22, 2023 4:31 PM
To: Englande, Sherry M
Subject: Automatic reply: Exxon Mobil Corp - Shareholder Proposals Filing Documents

Categories: External Sender

External Email - Think Before You Click

Thank you for your message.

As You Sow is closed through the remainder of the year.

Please contact me via text or phone call if you require immediate assistance.

Thank you,

Danielle

Danielle Fugere
President & Chief Counsel
As You Sow

[REDACTED] | www.asyousow.org

Englande, Sherry M

From: Shareholder Engagement <shareholderengagement@asyousow.org>
Sent: Wednesday, January 03, 2024 7:20 PM
To: Shareholder Relations /SM
Cc: Danielle Fugere; Parker Caswell; Gail Follansbee; Sophia Wilson; Riley McCann; Rachel Lowy; Alexandra Ferry; Englande, Sherry M; Luke Morgan
Subject: Re: Exxon Mobil Corp - Shareholder Proposals Filing Documents
Attachments: 24.XOM.1 Exxon Climate Proof of Ownership_Suzanne B & Guy L Tr (Nat Resources).pdf
Categories: External Sender

External Email - Think Before You Click

Hello Sherry,

Confirming receipt of these deficiency letters. Please find attached the following proof of ownership:
Co-Filer Suzanne B & Guy L Tr (Nat Resources) 196 shares

The proof of ownership for Lead Filer, Yagan Family Foundation (S), has been requested. The remaining deficiencies will be addressed before January 5, 2024.

Please confirm receipt of this email and attachment.

Thank you and happy new year,
Rachel

Rachel Lowy (she/her/hers)
Shareholder Relations Sr. Coordinator
As You Sow®
Main Post Office, P.O. Box 751 | Berkeley, CA 94701

www.asyousow.org



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From: Englande, Sherry M [REDACTED] on behalf of Shareholder Relations /SM
<shareholderrelations@exxonmobil.com>
Sent: Friday, December 22, 2023 2:45 PM
To: Shareholder Engagement <shareholderengagement@asyousow.org>
Cc: Danielle Fugere [REDACTED] Parker Caswell [REDACTED] Gail Follansbee [REDACTED]
[REDACTED] Sophia Wilson [REDACTED] Riley McCann [REDACTED] Rachel Lowy
[REDACTED] Alexandra Ferry [REDACTED]; Englande, Sherry M
Subject: RE: Exxon Mobil Corp - Shareholder Proposals Filing Documents

Please see the attached document regarding the co-filing of this proposal

From: Shareholder Engagement <shareholderengagement@asyousow.org>

Sent: Friday, December 15, 2023 3:08 PM

To: Shareholder Relations /SM <shareholderrelations@exxonmobil.com>

Cc: Danielle Fugere

Parker Caswell

Gail Follansbee

Sophia Wilson

Riley McCann

Rachel Lowy

Alexandra Ferry

Subject: Exxon Mobil Corp - Shareholder Proposals Filing Documents

Dear Mr. Morford,

Attached please find the lead-filer and co-filer filing document packets submitting a shareholder proposal for inclusion in the company's 2024 proxy statement.

It would be much appreciated if you could please confirm receipt of this email.

Thank you and kind regards,

Rachel Lowy

Rachel Lowy (she/her/hers)

Shareholder Relations Sr. Coordinator

As You Sow[®]

Main Post Office, P.O. Box 751 | Berkeley, CA 94701

www.asyousow.org



AS YOU SOW

-Empowering Shareholders to Change Corporations for Good-



December 26, 2023

Account #: [REDACTED]

Reference #: [REDACTED]

Questions: Please call Schwab Alliance at
1-800-515-2157

[REDACTED]

To Whom It May Concern,

Charles Schwab, a DTC participant, acts as the custodian for Living Trust Account for SUZANNE BADENHOOP AND GUY LAMPARD TRUST DTD 06/05/2013. As of the date of this letter, this Living Trust account held, and has held continuously for at least 37 months, 196 shares of EXXON MOBIL CORP (XOM) common stock, with a value of over \$20,000.

Sincerely,

Vanessa Buttery
Associate, AS WST Account Maintenance
AS Workflow Solutions - IG AM 1

Independent investment advisors are not owned by, affiliated with, or supervised by Charles Schwab & Co., Inc. ("Schwab").

Schwab Advisor Services serves independent investment advisors and includes the custody, trading, and support services of Schwab.

Englande, Sherry M

From: Shareholder Engagement <shareholderengagement@asyousow.org>
Sent: Friday, January 05, 2024 4:39 PM
To: Shareholder Relations /SM
Cc: Danielle Fugere; Parker Caswell; Gail Follansbee; Sophia Wilson; Riley McCann; Rachel Lowy; Alexandra Ferry; Englande, Sherry M; Luke Morgan
Subject: Re: Exxon Mobil Corp - Shareholder Proposals Filing Documents
Attachments: 24.XOM.1 Exxon Climate Proof of Ownership_Suzanne B & Guy L Tr (Nat Resources).pdf
Categories: External Sender

External Email - Think Before You Click

Hello Sherry,

We formally withdraw Yagan Family Foundation (S) as a Proponent of this proposal. Please continue forward with Suzanne B & Guy L Tr (Nat Resources) as the Lead Filer. The proof of ownership for Suzanne B & Guy L Tr (Nat Resources) is reattached here for your convenience. The remaining deficiencies will be addressed in a separate email shortly.

It would be greatly appreciated if you could confirm receipt of this email and attachment.

Thank you,
Rachel

Rachel Lowy (she/her/hers)
Shareholder Relations Sr. Coordinator
As You Sow[®]
Main Post Office, P.O. Box 751 | Berkeley, CA 94701

From: Shareholder Engagement <shareholderengagement@asyousow.org>
Sent: Wednesday, January 3, 2024 5:19 PM
To: Shareholder Relations /SM <shareholderrelations@exxonmobil.com>
Cc: Danielle Fugere [REDACTED] Parker Caswell [REDACTED] Gail Follansbee [REDACTED]
[REDACTED] Sophia Wilson [REDACTED] Riley McCann [REDACTED] Rachel Lowy [REDACTED]
[REDACTED] Alexandra Ferry [REDACTED] Englande, Sherry M [REDACTED]
[REDACTED] Luke Morgan [REDACTED]
Subject: Re: Exxon Mobil Corp - Shareholder Proposals Filing Documents

Hello Sherry,

Confirming receipt of these deficiency letters. Please find attached the following proof of ownership:
Co-Filer Suzanne B & Guy L Tr (Nat Resources) 196 shares

The proof of ownership for Lead Filer, Yagan Family Foundation (S), has been requested. The remaining deficiencies will be addressed before January 5, 2024.

Please confirm receipt of this email and attachment.

Thank you and happy new year,
Rachel

Rachel Lowy (she/her/hers)
Shareholder Relations Sr. Coordinator
As You Sow®
Main Post Office, P.O. Box 751 | Berkeley, CA 94701

www.asyousow.org



-Empowering Shareholders to Change Corporations for Good-

From: Englande, Sherry M [REDACTED] on behalf of Shareholder Relations /SM
<shareholderrelations@exxonmobil.com>
Sent: Friday, December 22, 2023 2:45 PM
To: Shareholder Engagement <shareholderengagement@asyousow.org>
Cc: Danielle Fugere [REDACTED]; Parker Caswell [REDACTED] Gail Follansbee
[REDACTED]; Sophia Wilson [REDACTED]; Riley McCann [REDACTED]; Rachel Lowy
[REDACTED]; Alexandra Ferry [REDACTED]; Englande, Sherry M
Subject: RE: Exxon Mobil Corp - Shareholder Proposals Filing Documents

Please see the attached document regarding the co-filing of this proposal

From: Shareholder Engagement <shareholderengagement@asyousow.org>
Sent: Friday, December 15, 2023 3:08 PM
To: Shareholder Relations /SM <shareholderrelations@exxonmobil.com>
Cc: Danielle Fugere [REDACTED]; Parker Caswell [REDACTED] Gail Follansbee
[REDACTED]; Sophia Wilson [REDACTED]; Riley McCann [REDACTED]; Rachel Lowy
[REDACTED]; Alexandra Ferry [REDACTED]
Subject: Exxon Mobil Corp - Shareholder Proposals Filing Documents

Dear Mr. Morford,

Attached please find the lead-filer and co-filer filing document packets submitting a shareholder proposal for inclusion in the company's 2024 proxy statement.

It would be much appreciated if you could please confirm receipt of this email.

Thank you and kind regards,
Rachel Lowy
Rachel Lowy (she/her/hers)
Shareholder Relations Sr. Coordinator
As You Sow®
Main Post Office, P.O. Box 751 | Berkeley, CA 94701

www.asyousow.org



-Empowering Shareholders to Change Corporations for Good-



December 26, 2023

Account #: [REDACTED]

Reference #: [REDACTED]

Questions: Please call Schwab Alliance at
1-800-515-2157

[REDACTED]

To Whom It May Concern,

Charles Schwab, a DTC participant, acts as the custodian for Living Trust Account for SUZANNE BADENHOOP AND GUY LAMPARD TRUST DTD 06/05/2013. As of the date of this letter, this Living Trust account held, and has held continuously for at least 37 months, 196 shares of EXXON MOBIL CORP (XOM) common stock, with a value of over \$20,000.

Sincerely,

Vanessa Buttery
Associate, AS WST Account Maintenance
AS Workflow Solutions - IG AM 1

Independent investment advisors are not owned by, affiliated with, or supervised by Charles Schwab & Co., Inc. ("Schwab").

Schwab Advisor Services serves independent investment advisors and includes the custody, trading, and support services of Schwab.

Englande, Sherry M

From: Shareholder Engagement <shareholderengagement@asyousow.org>
Sent: Friday, January 05, 2024 4:56 PM
To: Shareholder Relations /SM; Englande, Sherry M
Cc: Danielle Fugere; Luke Morgan; Conrad MacKerron; Parker Caswell; Kelly McBee; Gail Follansbee; Sophia Wilson; Riley McCann; Rachel Lowy
Subject: As You Sow Response to Exxon Mobil (XOM) Deficiencies dated December 22, 2023
Attachments: XOM Deficiency Response_FIN.pdf; 24.XOM.1 Exxon Climate Proof of Ownership_Suzanne B & Guy L Tr (Nat Resources).pdf; UCF Verification of Ownership - XOM.pdf

Categories: External Sender

External Email - Think Before You Click

Dear Ms. Driscoll,

Please find attached *As You Sow's* response to your letters of December 22, 2023 addressed to Danielle Fugere and Conrad MacKerron. The proofs of ownership for each proposal's Proponent are reattached here for your convenience.

Please confirm receipt of this email and attachments, and that all deficiencies have been satisfied.

Thank you and kind regards,

Rachel

Rachel Lowy (she/her/hers)

Shareholder Relations Sr. Coordinator

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VIA EMAIL

Jennifer Driscoll
Vice President, Investor Relations
Exxon Mobil Corporation
22777 Springwoods Village Parkway
Spring, Texas 77389

Dear Ms. Driscoll:

I write on behalf of *As You Sow* in response to your letters of December 22, 2023 addressed to Danielle Fugere and Conrad MacKerron of *As You Sow*, alleging procedural deficiencies (the “Fugere Letter,” the “MacKerron Letter,” and, collectively, the “Deficiency Letters”) with respect to two shareholder proposals submitted to Exxon Mobil Corporation (the “Company”).

As You Sow submitted a shareholder proposal to the Company requesting the Company “annually report on divestitures of assets with material climate impact” (the “Yagan Proposal”) on behalf of the Yagan Family Foundation. The Yagan Proposal is the subject of the Fugere Letter.¹ Separately, the United Church Funds submitted a proposal to the Company concerning a report on the effect of reduced demand for virgin plastic (the “UCF Proposal”). In its submission, the UCF named Conrad MacKerron and Genevieve Abedon of *As You Sow* as its representatives. The UCF Proposal is the subject of the MacKerron Letter.

The Deficiency Letters allege the following deficiencies with respect to each proposal: (1) that *As You Sow* is “Representing Multiple Proposals,” and (2) that *As You Sow* is somehow part of a “Person/Control Group” with two other external organizations (Arjuna Capital and Proxy Impact) that also submitted proposals to Exxon. The Letters allege that the members of this supposed “Person/Control Group” are permitted to submit only one proposal.² These alleged deficiencies have no merit under Securities and Exchange Commission (“SEC”) Rule 14a-8(c).

First, as the SEC expressly stated in its 2020 amendments to the Rule, Rule 14a-8(c) does not prohibit a representative from representing multiple proponents with respect to proposals submitted to the same meeting of shareholders of the same company. The first alleged deficiency ignores these express statements and is without basis in the Rule.

¹ In a January 5, 2024 email, consistent with the filers’ authorizations, *As You Sow* withdrew the Yagan Family Foundation as Proponent and requested that the Company continue with Suzanne B & Guy L Tr (Nat Resources) as the proponent of the material asset divestiture proposal. Neither the Company’s alleged deficiencies nor this response turn on the identity of the proponent.

² The Deficiency Letters also allege deficiencies stemming from inadequate proof of ownership, which will be addressed separately.



Second, the Company's assertion that *As You Sow* is part of a single "control group" with Arjuna Capital and Proxy Impact is without factual or legal basis. Moreover, nothing in the Rule or in SEC precedent suggests that Rule 14a-8(c) might be implicated when legally independent shareholder entities submit proposals to a company merely because the entities have allegedly worked together in the past, let alone where the historic relationship concerns a representative — not the shareholder Proponents themselves.

Likewise, the suggestion that proponents have an obligation under SEC Rule 14a-9 to affirmatively disclose any historical or current "relationship" is without basis in either Rule 14a-8 or 14a-9 and is self-evidently unworkable. As just one example, in order to identify the relationships one might disclose, a shareholder proponent would need to know who else is submitting proposals, imposing an affirmative obligation to search out which, if any, other shareholders are filing proposals with the company. Moreover, the Company's argument would apparently require shareholder *proponents* to also affirmatively disclose their *representatives'* relationships (it is unclear where or to whom such disclosures would be made), despite no basis in the Rules to suggest those relationships are relevant to the submission or consideration of a shareholder proposal.

As such, neither of the Company's claimed deficiencies has any merit. *As You Sow* looks forward to productively engaging with the Company on behalf of the Proponents. Please cc any response to shareholderengagement@asyousow.org.

Sincerely,

Danielle Fugere
President and Chief Counsel, *As You Sow*



December 26, 2023

Account #: [REDACTED]

Reference #: [REDACTED]

Questions: Please call Schwab Alliance at
1-800-515-2157

[REDACTED]

To Whom It May Concern,

Charles Schwab, a DTC participant, acts as the custodian for Living Trust Account for SUZANNE BADENHOOP AND GUY LAMPARD TRUST DTD 06/05/2013. As of the date of this letter, this Living Trust account held, and has held continuously for at least 37 months, 196 shares of EXXON MOBIL CORP (XOM) common stock, with a value of over \$20,000.

Sincerely,

Vanessa Buttery
Associate, AS WST Account Maintenance
AS Workflow Solutions - IG AM 1

Independent investment advisors are not owned by, affiliated with, or supervised by Charles Schwab & Co., Inc. ("Schwab").

Schwab Advisor Services serves independent investment advisors and includes the custody, trading, and support services of Schwab.



December 21, 2023

Re: United Church Funds Verification of Ownership

To whom it may concern,

This letter is to confirm that BNY Mellon as custodian for United Church Funds holds at least \$25,000.00 worth of **Exxon Mobil Corporation** stock. Further, United Church Funds has continuously held this position for at least twelve months prior to and including **December 14, 2023** and intends to continue holding the requisite number of shares of common stock through the date of the next Annual Meeting of Shareholders.

If you have any questions regarding this information, please contact me at [REDACTED] or [REDACTED]

Sincerely,

A handwritten signature in cursive script that reads "Glen R. Metzger".

Glen Metzger, Vice President Relationship Manager
The Bank of New York Mellon

Englande, Sherry M

From: Englande, Sherry M on behalf of Shareholder Relations /SM
Sent: Monday, January 08, 2024 6:47 PM
To: Shareholder Engagement
Cc: Danielle Fugere; Parker Caswell; Gail Follansbee; Sophia Wilson; Riley McCann; Rachel Lowy; Alexandra Ferry; Luke Morgan; [REDACTED]; Englande, Sherry M
Subject: RE: Exxon Mobil Corp - Shareholder Proposals Filing Documents
Attachments: As You Sow (Divestments) Second Acknowledgement Letter.pdf; Attachments_SEC Rule 14a-8_SLB 14L Nov-3-2021.pdf; Attachments_SEC Rule 14a-8_SLB 14_July-13-2001.pdf; Attachments_SEC Rule 14a-8_Nov-4-2020 and SLB 14F_Oct-18-2011.pdf; § 240.14a-8 Shareholder proposals_.pdf

[Sent on behalf of Jennifer Driscoll:](#)

Please see the communication attached regarding your shareholder proposal.

From: Shareholder Engagement <shareholderengagement@asyousow.org>
Sent: Friday, January 05, 2024 4:39 PM
To: Shareholder Relations /SM <shareholderrelations@exxonmobil.com>
Cc: Danielle Fugere [REDACTED]; Parker Caswell [REDACTED]; Gail Follansbee [REDACTED]; Sophia Wilson [REDACTED]; Riley McCann [REDACTED]; Rachel Lowy [REDACTED]; Alexandra Ferry [REDACTED]; Englande, Sherry M [REDACTED]; Luke Morgan [REDACTED]
Subject: Re: Exxon Mobil Corp - Shareholder Proposals Filing Documents

Hello Sherry,

We formally withdraw Yagan Family Foundation (S) as a Proponent of this proposal. Please continue forward with Suzanne B & Guy L Tr (Nat Resources) as the Lead Filer. The proof of ownership for Suzanne B & Guy L Tr (Nat Resources) is reattached here for your convenience. The remaining deficiencies will be addressed in a separate email shortly.

It would be greatly appreciated if you could confirm receipt of this email and attachment.

Thank you,
Rachel

Rachel Lowy (she/her/hers)

Shareholder Relations Sr. Coordinator

As You Sow®

Main Post Office, P.O. Box 751 | Berkeley, CA 94701

From: Shareholder Engagement <shareholderengagement@asyousow.org>
Sent: Wednesday, January 3, 2024 5:19 PM
To: Shareholder Relations /SM <shareholderrelations@exxonmobil.com>
Cc: Danielle Fugere [REDACTED] Parker Caswell [REDACTED] Gail Follansbee [REDACTED]
[REDACTED] Sophia Wilson [REDACTED] Riley McCann [REDACTED] Rachel Lowy [REDACTED]
[REDACTED] Alexandra Ferry [REDACTED] Englande, Sherry M [REDACTED]
[REDACTED]; Luke Morgan [REDACTED]
Subject: Re: Exxon Mobil Corp - Shareholder Proposals Filing Documents

Hello Sherry,

Confirming receipt of these deficiency letters. Please find attached the following proof of ownership:
Co-Filer Suzanne B & Guy L Tr (Nat Resources) 196 shares

The proof of ownership for Lead Filer, Yagan Family Foundation (S), has been requested. The remaining deficiencies will be addressed before January 5, 2024.

Please confirm receipt of this email and attachment.

Thank you and happy new year,
Rachel

Rachel Lowy (she/her/hers)

Shareholder Relations Sr. Coordinator

As You Sow[®]

Main Post Office, P.O. Box 751 | Berkeley, CA 94701



[REDACTED] | www.asyousow.org



-Empowering Shareholders to Change Corporations for Good-

From: Englande, Sherry M [REDACTED] on behalf of Shareholder Relations /SM
<shareholderrelations@exxonmobil.com>
Sent: Friday, December 22, 2023 2:45 PM
To: Shareholder Engagement <shareholderengagement@asyousow.org>
Cc: Danielle Fugere [REDACTED] Parker Caswell [REDACTED] Gail Follansbee [REDACTED]
[REDACTED] Sophia Wilson [REDACTED] Riley McCann [REDACTED] Rachel Lowy [REDACTED]
[REDACTED]; Alexandra Ferry [REDACTED]; Englande, Sherry M [REDACTED]
Subject: RE: Exxon Mobil Corp - Shareholder Proposals Filing Documents

Please see the attached document regarding the co-filing of this proposal

From: Shareholder Engagement <shareholderengagement@asyousow.org>

Sent: Friday, December 15, 2023 3:08 PM

To: Shareholder Relations /SM <shareholderrelations@exxonmobil.com>

Cc: Danielle Fugere [REDACTED] Parker Caswell [REDACTED] Gail Follansbee

[REDACTED]; Sophia Wilson [REDACTED] Riley McCann [REDACTED] Rachel Lowy

Alexandra Ferry [REDACTED]

Subject: Exxon Mobil Corp - Shareholder Proposals Filing Documents

Dear Mr. Morford,

Attached please find the lead-filer and co-filer filing document packets submitting a shareholder proposal for inclusion in the company's 2024 proxy statement.

It would be much appreciated if you could please confirm receipt of this email.

Thank you and kind regards,

Rachel Lowy

Rachel Lowy (she/her/hers)

Shareholder Relations Sr. Coordinator

As You Sow[®]

Main Post Office, P.O. Box 751 | Berkeley, CA 94701

[REDACTED]

[REDACTED] | www.asyousow.org



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VIA EMAIL

January 8, 2024

Danielle Fugere
President and Chief Counsel
As You Sow
2020 Milvia St. Ste. 500
Berkeley, CA 94704

Dear Ms. Fugere:

Thank you for your interest in ExxonMobil. This letter acknowledges that on January 5, 2024, we received your communications regarding the deficiencies we identified and withdrawing your proposal submission on behalf of the Yagan Family Foundation, and continuing your submission on behalf of Suzanne B & Guy L Tr (Nat Resources), of the shareholder proposal concerning Report on Climate Impacts of Divestments (the "Proposal"), in connection with ExxonMobil's 2024 annual meeting of shareholders. We recognize that As You Sow submitted both in the same email on December 15, 2023, and that you are identified as the contact for both submissions. We've also received the ownership letter you provided for Suzanne B & Guy L Tr (Nat Resources), dated December 26, 2023. However, that ownership letter identifies shares owned by "Suzanne Badenhoop and Guy Lampard Trust DTD 06/05/2013", which does not appear to coincide with the entity authorizing As You Sow to file the proposal, "Suzanne B & Guy L Tr (Nat Resources)". These names sound similar but need to match precisely in order to be considered as proof of share ownership.

The Proposal continues to contain certain deficiencies, identified in our December 22, 2023, letter to you, which the Securities and Exchange Commission ("SEC") regulations require us to bring to your attention. While we appreciate your response, we believe that the items mentioned to you previously, in addition to your concerted solicitation work with Proxy Impact and others, through organizations you have created or control, like As You Vote, clearly show joint solicitations and group work that violates both the SEC's intention of the "one person one proposal" rules as well as the express language of Rule 14a-8(c), which cover both "direct" and "indirect" submissions.

We note your statement that identifying relationships between proponents is unworkable; we are puzzled by this, especially in light of ExxonMobil identifying for you in our December 22, 2023, deficiency letter the identity of two others, Arjuna Capital, and Proxy Impact, with whom we believe you have relationships that are material to shareholders making voting decisions this proxy season. If the situation is such that you are coordinating with a larger number of other proponents, perhaps you could characterize for us who they are in order to help us understand your concern. In response to your questioning the practicality of this request, it is both workable

and reasonable that your response letter, or future letters, can disclose these material relationships based on the information we have provided you. These relationships can then be included in the proxy statement or supplemental proxy materials if we opt to do so. Additionally, we note that As You Sow has shown a consistent pattern of behavior over the last decade or more of engaging in joint solicitation work throughout proxy season after the proposal is submitted. Our statements should also be understood to include this future work with other proponents that you intend to undertake this proxy season.

As demonstrated by our multiple discussions with As You Sow during the off-season, we remain committed to discussing issues of interest with our shareholders throughout the year, outside of the shareholder proposal process. We are happy to continue dialogue regardless of the ultimate inclusion or exclusion of these proposals. At the same time, we believe we have an obligation to make both these relationships we have identified, as well as the thrust of our dialogues with you, publicly available to our shareholders.

Does Not Meet Ownership Eligibility

In order to be eligible to submit a shareholder proposal, Rule 14a-8, as amended (copy enclosed), requires that Suzanne B & Guy L Tr (Nat Resources) must have continuously held, as of the date the proposal was submitted at least (i) \$2,000 in market value of the company's securities entitled to vote on the proposal at the meeting for at least three years, (ii) \$15,000 in market value of the company's securities entitled to vote on the proposal at the meeting for at least two years, or (iii) \$25,000 in market value of the company's securities entitled to vote on the proposal at the meeting for at least one year, for the applicable period through and including the date the shareholder proposal was submitted.

For this Proposal, the date of submission is December 15, 2023, which is the date the Proposal was received electronically by email.

Note that the SEC rules do not permit a shareholder to aggregate the proponent's shareholdings with those of another shareholder or group of shareholders to meet the ownership eligibility requirement.

Suzanne B & Guy L Tr (Nat Resources) does not appear in our records as a registered shareholder. Moreover, to date we have not received proof that Suzanne B & Guy L Tr (Nat Resources) has satisfied these ownership requirements. To remedy this defect, you must submit sufficient proof verifying continuous ownership of the requisite number of ExxonMobil shares for the applicable time period preceding and including December 15, 2023.

As explained in Rule 14a-8(b) and SEC staff guidance, sufficient proof must be in the form of:

- a written statement from the "record" holder of the shares (usually a broker or a bank) verifying that Suzanne B & Guy L Tr (Nat Resources) continuously held the requisite number of ExxonMobil shares for the applicable time period preceding and including December 15, 2023; or
- if Suzanne B & Guy L Tr (Nat Resources) has filed with the SEC a Schedule 13D, Schedule 13G, Form 3, Form 4 or Form 5, or amendments to those documents or updated forms, reflecting ownership of the requisite number of ExxonMobil shares as of or before the date

on which the required holding period begins, 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 continuously held the requisite number of ExxonMobil shares for the applicable time period preceding and including December 15, 2023.

If Suzanne B & Guy L Tr (Nat Resources) intend to demonstrate ownership by submitting a written statement from the "record" holder of your shares as set forth in the first bullet point above, please note that 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 that acts as a securities depository (DTC is also known through the account name of Cede & Co.). Such brokers and banks are often referred to as "participants" in DTC. In Staff Legal Bulletin No. 14F (October 18, 2011) (copy enclosed), the SEC staff has taken the view that only DTC participants should be viewed as "record" holders of securities that are deposited with DTC. As the SEC adopted amendments to Rule 14a-8 that became effective in 2021, please note that Staff Legal Bulletin No. 14F does not reflect those amendments, and to the extent any provisions are inconsistent, Rule 14a-8 governs in all respects.

You can confirm whether Suzanne B & Guy L Tr (Nat Resources)'s broker or bank is a DTC participant by asking that broker or bank or by checking the listing of current DTC participants, which is available online at: <https://www.dtcc.com/client-center/dtc-directories>. In these situations, shareholders need to obtain proof of ownership from the DTC participant through which the securities are held, as follows:

- If the broker or bank is a DTC participant, then you need to submit a written statement from the broker or bank verifying that Suzanne B & Guy L Tr (Nat Resources) continuously held the requisite number of ExxonMobil shares for the applicable time period preceding and including December 15, 2023.
- If the broker or bank is not a DTC participant, then you need to submit proof of ownership from the DTC participant through which the securities are held verifying that Suzanne B & Guy L Tr (Nat Resources) continuously held the requisite number of ExxonMobil shares for the applicable time period preceding and including December 15, 2023. You should be able to find out who this DTC participant is by asking the broker or bank. If the broker is an introducing broker, you may also be able to learn the identity and telephone number of the DTC participant through Suzanne B & Guy L Tr (Nat Resources)'s account statements because the clearing broker identified on the account statements will generally be a DTC participant. If the DTC participant that holds the shares knows Suzanne B & Guy L Tr (Nat Resources)'s broker's or bank's holdings, but does not know Suzanne B & Guy L Tr (Nat Resources)'s holdings, you need to satisfy the proof of ownership requirement by obtaining and submitting two proof of ownership statements verifying that for the applicable period preceding and including December 15, 2023, the required amount of securities were continuously held – one from Suzanne B & Guy L Tr (Nat Resources)'s broker or bank, confirming their ownership, and the other from the DTC participant, confirming the broker or bank's ownership.

Representing Multiple Proposals

As You Sow ("AYS") is currently seeking to act as representative for multiple proposals. In addition to this Proposal, As You Sow is seeking to be the representative of a proposal by the United Church Funds regarding plastics (see attached). Under Rule 14a-8(c), each person may

submit no more than one proposal directly or indirectly. Additionally, a person may not rely on the securities holdings of another person for the purpose of submitting multiple proposals. As representative, AYS appears to be relying on Suzanne B & Guy L Tr (Nat Resources)'s shares (and the United Church Funds' shares) to submit multiple proposals in violation of this requirement. To remedy this deficiency, Suzanne B & Guy L Tr (Nat Resources) may (1) withdraw the proposal, (2) appoint a different representative in place of AYS (or any other entity that is acting as a representative on another submission to ExxonMobil), or (3) withdraw its appointment of As You Sow as representative and represent itself directly in the Proposal with ExxonMobil. In all cases, Suzanne B & Guy L Tr (Nat Resources) may receive the help and support it needs to submit the Proposal and comply with the applicable rules.

One Proposal Per Person/Control Group

Under Rule 14a-8(c), a person cannot submit more than one proposal to a company, either directly or indirectly. The SEC has long recognized that multiple people controlled by a single entity or acting as a coordinated group or taking concerted actions may be treated as a single person under the SEC's rules. Congress created the concepts of "control" and "group" to protect against the evasion of disclosure requirements by people who collectively seek to change or influence control over a public company. Accordingly, the SEC takes an expansive view of who or what may qualify as a person.¹

Relationships of control or the creation of a group among different shareholder proponents creates a deficiency in the submission of each of the proposals submitted by the controlled entities or group as the proponents, acting as a single "person," are now submitting multiple proposals.

We believe your concerted work on the Proxy Preview² and Proxy Review³ with Proxy Impact, Arjuna Capital and others, and your membership in CURE (Coalition for a Responsible Exxon), as further described below, should cause you and each of the aforementioned entities to be recognized as a single "person." Accordingly, there is a deficiency in your submission since, in addition to the Proposal, the following proposals have also been submitted by As You Sow, Proxy Impact and Arjuna Capital for the 2024 annual meeting (see attached):

1. Report on Plastic Production Under SCS Scenario (As You Sow)
2. Emission Reduction Targets (Arjuna Capital)

¹ As an example of the SEC's focus on the concept of "control," in the adopting release for the final rule relating to the "Procedural Requirements and Resubmission Thresholds under Exchange Act Rule 14a-8" (<https://www.sec.gov/files/rules/final/2020/34-89964.pdf>), the SEC did not define "person" as a natural person or single entity. Instead, it stated that any entities and all persons under their control (emphasis added) will be treated as a "person" under Rule 14a-8(c).

As an example of the SEC's interpretation of the concept of a "group," in the adopting release for the final rule and guidance relating to the "Modernization of Beneficial Ownership Reporting" (<https://www.sec.gov/files/rules/final/2023/33-11253.pdf>), the SEC clarified that the joint or coordinated publication of soliciting materials with an activist investor could indicate "group" formation under Rule 13D.

² <https://www.proxypreview.org/2023/report>

³ <https://www.proxypreview.org/review/2023-key-findings>

3. Report on Racial and Gender Pay Gap (Proxy Impact)

This deficiency may be remedied by all but one of the above proposals being withdrawn. Otherwise, each of the proposals may be excluded from the proxy statement this year given that they violate Rule 14a-8.

The increasing professionalization of anti-oil and gas activists submitting shareholder proposals has created a question of whether some proposals should be considered separate proposals from separate persons or represent multiple proposals from the same person. Many other types of coordination, such as funding relationships, joint service or employment relationships, joint publication of filed and unfiled solicitation materials, and other efforts that go beyond the creation, submission, or presentation of a shareholder proposal, can give rise to a control relationship or a “group” that should be treated as a single person to avoid the subversion of the shareholder proposal process. For example, if shareholders have an arrangement, understanding, or agreement—written or otherwise—to vote against certain directors or management proposals if their shareholder proposal(s) are not included in the proxy statement, the SEC would deem that “group” behavior that could trigger disclosure obligations under Regulation 13D. As You Sow’s work with Arjuna Capital, Proxy Impact and others on CURE during our proxy contest, where you created your own organized coalition to oppose ExxonMobil’s directors is further evidence of the long-standing nature of your concerted coordination through multiple proxy seasons.⁴

The SEC currently asks proponents to self-identify. As a result, relationships among proponents, including overlapping control or governance relationships, are often not immediately clear to the company and hinder our ability to notify you of any deficiency in your Proposal. We note that public records show significant connections between As You Sow and these groups today that may create control, affiliate or group relationships, though perhaps not the full extent of these relationships. We encourage you to disclose any current or planned coordinated efforts or group relationships or activities so that we can work with you to find appropriate remedies that minimize costs to shareholders and to the proponents, and that comply with the SEC’s rules.

ExxonMobil believes information on these relationships and behavior is important in both the proposal submission process and the disclosure in the proxy statement since professional activists may not share the same incentives as other shareholders. For example, if activists are being paid for the submission of proposals, they are likely to be less sensitive than other shareholders to both the monetary costs and significant management burden created by responding to a large number of shareholder proposals. This belief has been confirmed by our shareholders, who have stated that information on an activist’s activities is material to them and does influence their voting behavior similar to the information disclosed in a 13D filing on a group’s investment strategy and plans for a company.

Accordingly, ExxonMobil believes that if you choose not to disclose any of these relationships or behaviors, you may be making a material omission in violation of the SEC’s Rule 14a-9 antifraud rules. As such, we strongly encourage you to disclose now any relationships, actions or intended actions that you will undertake that could suggest you are coordinating with others in a concerted effort to influence the voting of securities either as a “group” or in violation of SEC

⁴ <https://www.globenewswire.com/news-release/2021/02/02/2168665/0/en/Coalition-United-for-a-Responsible-Exxon-CURE-Representing-Stakeholders-with-over-2-2-Trillion-in-Assets-Calls-for-New-Leadership-and-Strategy-at-Exxon.html>

rules. To the extent we later become aware of undisclosed relationships or actions in violation of these rules, we plan to share the information with shareholders and the SEC, as appropriate. We continue to believe this is an important issue as ExxonMobil regularly receives among the highest number of proposals of any U.S. company.

Cure Period/Springing Deficiencies

The SEC's rules require that these defects we have identified be remedied, and any response to this letter must be postmarked or transmitted electronically to us no later than 14 calendar days from the date this letter is received. Please mail any response to me at ExxonMobil at the address shown above. Alternatively, you may send your response to me by email to shareholderrelations@exxonmobil.com. The failure to correct the deficiencies within this time period will provide the company with a basis to exclude the Proposal from the company's proxy statement for the 2024 annual meeting.

It is possible that, based on information not disclosed in your submission, or as a result of your future actions or information of which ExxonMobil otherwise becomes aware, additional deficiencies in the Proposal may arise. These "springing deficiencies" include actions contrary to Rule 14a-8, which limits each proponent to no more than one proposal per meeting, such as:

- (1) submission of another proposal by you, including submissions under alternate names or aliases;
- (2) joint publication with the proponent of another proposal of filed or unfiled solicitation materials, or other concerted actions together on one or more proxy matters, whether such actions are taken under common control or by the continuation or creation of a "group" (as discussed above); or
- (3) the discovery by the company of "affiliate" or "control" relationships between you and another proponent, meaning that the multiple proponents should be considered a single "person."

Upon the discovery of a springing deficiency, the company will send you an additional deficiency notice similar to this letter. To the extent permitted by the timing of the springing deficiency, we will seek to provide an additional 14 calendar days from the date that the springing deficiency notice is received for any response. However, we are notifying you now of the potential for these springing deficiencies. To the extent that any may exist that have not been disclosed, you may address them with the company in the 14 calendar days from the date this letter is received.

The company reserves the right, as any current relationships among and activities of proponents come to light or as future group activities are started prior to the annual meeting, to provide you notice of the deficiency, consistent with SEC rules, and potentially either exclude the proposal from the proxy statement or, if already filed, cancel a vote on an ineligible matter. The later discovery of these deficiencies by the company, even if within 14 days of the mailing of the proxy or 14 days of the annual meeting, will not prevent the company from determining that you have been notified of the deficiency in a timely manner and excluding the Proposal or, if already filed, canceling a vote on an ineligible matter.

You should note that, if the Proposal is not withdrawn or excluded, you or your representative, who is qualified under New Jersey law to present the Proposal on your behalf, must attend the annual meeting to present the Proposal. Under New Jersey law, only shareholders or their duly constituted proxies are entitled as a matter of right to attend the meeting.

Danielle Fugere
Page 7

If you intend for a representative to present the Proposal, you must provide documentation that specifically identifies your intended representative by name and specifically authorizes the representative to act as your proxy at the annual meeting.

To be a valid proxy entitled to attend the annual meeting, the representative must have the authority to vote your shares at the meeting. A copy of this authorization meeting state law requirements should be sent to my attention in advance of the meeting. The authorized representative should also bring an original signed copy of the proxy documentation to the meeting so that our counsel may verify the representative's authority to act on your behalf prior to the start of the meeting.

Note that under Staff Legal Bulletin No. 14F, the SEC will distribute no-action responses under Rule 14a-8 by email to companies and proponents. We encourage you, and all proponents and any co-filers, to include an email contact address on any additional correspondence to ensure timely communication in the event the Proposal is subject to a no-action request.

I hope that's helpful to you.

Last, we are interested in discussing this Proposal and will contact you in the near future about setting up a virtual meeting.

Sincerely,



JKD/sme

Enclosures

c: Parker Caswell
Guy Lampard
Jessica Droste Yagan
shareholderengagement@asyousow.org

Attached Proposals

1. Report on Plastic Production Under SCS Scenario (As You Sow)
2. Emission Reduction Targets (Arjuna Capital)
3. Report on Racial and Gender Pay Gap (Proxy Impact)

WHEREAS: Plastic, with a lifecycle social cost at least ten times its market price, threatens the world's oceans, wildlife, and public health.¹ Concern about the growing scale and impact of global plastic pollution has elevated the issue to crisis levels.² Of particular concern are single-use plastics (SUPs), which make up the bulk of the 24-34 million metric tons of plastic ending up in waterways annually.³ Without drastic action, this amount could triple by 2040.⁴

A shift from virgin plastic production is critical to reducing plastic pollution.⁵ The Environmental Protection Agency's draft strategy to prevent plastic pollution calls for voluntary reduction in production.⁶ A robust pathway addressing plastic pollution is presented in the widely respected *Breaking the Plastic Wave* report, which found that plastic leakage into the ocean can be reduced 80 percent under its System Change Scenario (SCS), but requires a significant absolute reduction of virgin SUPs.⁷

In response to the plastic pollution crisis and the necessity of reducing plastic production, countries and major packaging brands are beginning to drive reductions in plastic use.⁸ This will affect the plastic production supply chain. BP has recognized the potential disruption global SUP reductions could have on the oil industry, finding a global SUP ban by 2040 would reduce oil demand growth by 60 percent.⁹

The Company faces growing risk from continued investment in virgin plastic production infrastructure. Several implications of the SCS, including a one-third absolute demand reduction of mostly of virgin SUPs and immediate reductions in new investment in virgin production, are at odds with ExxonMobil's planned investments. The Company has been identified as the largest global producer of SUP-bound polymers (11.5 million metric tons in 2021).¹⁰ It has committed to increased use of recycled polymers but uses pyrolysis oil to generate plastic feedstock, a controversial process cited as inefficient and greenhouse gas-intensive with toxic byproducts and emissions, which may increase financial and reputational risk.¹¹

Exxon's efforts to reduce plastic waste fail to address the potential for regulatory restrictions or a

¹ https://wwfint.awsassets.panda.org/downloads/wwf_pctsee_report_english.pdf, p.15

² <https://www.unep.org/resources/pollution-solution-global-assessment-marine-litter-and-plastic-pollution>

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L0904&from=EN#page=8>;

<https://www.minderoo.org/plastic-waste-makers-index/>

⁴ <https://www.nationalgeographic.com/science/article/plastic-trash-in-seas-will-nearly-triple-by-2040-if-nothing-done>

⁵ <https://www.theguardian.com/environment/2021/jul/01/call-for-global-treaty-to-end-production-of-virgin-plastic-by-2040>

⁶ https://www.epa.gov/system/files/documents/2023-04/Draft_National_Strategy_to_Prevent_Plastic_Pollution.pdf, p.17

⁷ https://www.pewtrusts.org/-/media/assets/2020/07/breakingtheplasticwave_report.pdf

⁸ <https://www.pbs.org/newshour/science/bold-single-use-plastic-ban-kicks-europes-plastic-purge-into-high-gear>;

<https://www.businessforplasticstreaty.org/>

⁹ <https://www.bp.com/content/dam/bp/business-sites/en/global/corporate/pdfs/energy-economics/energy-outlook/bp-energy-outlook-2019.pdf#page=18>

¹⁰ <https://cdn.minderoo.org/content/uploads/2023/02/04205527/Plastic-Waste-Makers-Index-2023.pdf>

¹¹ <https://eandt.theiet.org/content/articles/2022/11/is-chemical-recycling-greenwashing>;

<https://theintercept.com/2023/09/28/braven-plastic-recycling-toxic-waste/>

significant disruption in demand for virgin plastic, which could result in stranded assets.¹²

RESOLVED: Shareholders request that ExxonMobil issue a report, at reasonable cost and omitting proprietary information, addressing whether and how a significant reduction in virgin plastic demand, as set forth in *Breaking the Plastic Wave's* System Change Scenario, would affect the Company's financial position and the assumptions underlying its financial statements.

SUPPORTING STATEMENT: Proponents recommend that, at Board discretion, the report include:

- Quantification of its polymer production for SUP markets;
- A summary of existing and planned investments that may be materially impacted by the SCS; and
- Disclosure of key metrics for chemical recycling processes, including inputs, outputs/yield, energy use, carbon and waste emissions, and any related measures taken to ensure safe operations.

¹² <https://www.forbes.com/sites/scottcarpenter/2020/09/05/why-the-oil-industrys-400-billion-bet-on-plastics-could-backfire/?sh=6e099bd843fe>

Emission Reduction Targets

Resolved: Shareholders support the Company, by an advisory vote, to go beyond current plans, further accelerating the pace of emission reductions in the medium-term for its greenhouse gas (GHG) emissions across Scope 1, 2, and 3, and to summarize new plans, targets, and timetables.

Whereas: In the absence of effective climate change mitigation, up to 10 percent of global economic value could be lost by 2050.¹ The Intergovernmental Panel on Climate Change (IPCC) has advised that GHG emissions must be halved by 2030 and reach net zero by 2050 to limit global warming to 1.5 degrees Celsius. Every incremental increase in temperature above 1.5 degrees will increase physical, transition, and systemic risks for companies and investors alike.²

Current Goals: Exxon has acknowledged the importance of reduction goals for Scope 1 and 2 emissions by setting intensity targets across its value chain. The Company has also set GHG intensity targets for its upstream sector and upstream operations in the Permian.

Yet, Exxon's current 2030 targets are significantly below the IPCC's recommendation of 50 percent absolute emission reductions. The Company's current metrics are all on an intensity basis, which allow the Company to increase its absolute emissions. Furthermore, Exxon lacks any Scope 3 target, which account for 90 percent of its carbon footprint.³

Capital Expenditures: The International Energy Agency reports peak global demand for coal, oil, and gas could be reached before 2030.⁴ Despite this trajectory, Exxon anticipates total annual capital expenditures and exploration expenses of 23 to 25 billion in 2024, increasing up to 27 billion per year from 2025 to 2027. While Exxon plans 20 billion in total low carbon spending through 2027, this amounts to only about 15 percent of its overall total planned capital expenditures. This spending will increase Exxon's oil and gas output by 10 percent.⁵ Carbon Tracker projects that even under a moderate transition scenario, continued oil and gas investments could lead to commodity oversupply, resulting in lower pricing, negatively impacting existing and new project revenue.⁶

Cost of Capital: Exxon's cost of capital may substantially increase if it fails to control transition risks by significantly reducing absolute emissions. In October, federal bank regulatory agencies issued Principles for Climate-Related Financial Risk Management for Large Financial Institutions, warning such institutions to thoroughly address risks associated with climate change within their investments.⁷

Peer Targets: Oil and gas peers BP, TotalEnergies, Repsol, and Eni recognize climate transition risks and have set more ambitious, medium-term emission reduction targets. These companies aim to reduce absolute Scope 1, 2, and 3 targets by at least 30 percent by 2030. Other peers Chevron, Equinor, Shell, and Suncor have set goals to decrease Scope 3 emissions.

¹ [https://www.swissre.com/dam/jcr:5d558fa2-9c15-419d-8dce-73c080fca3ba/SRI %20Expertise Publication EN LITE The%20Economics of climate change.pdf](https://www.swissre.com/dam/jcr:5d558fa2-9c15-419d-8dce-73c080fca3ba/SRI%20Expertise_Publication_EN_LITE_The%20Economics_of_climate_change.pdf)

² <https://www.ipcc.ch/2022/04/04/ipcc-ar6-wgiii-pressrelease/>

³ <https://corporate.exxonmobil.com/news/reporting-and-publications/advancing-climate-solutions-progress-report>

⁴ <https://www.nytimes.com/2023/10/24/climate/international-energy-agency-peak-demand.html>

⁵ <https://investor.exxonmobil.com/news-events/press-releases/detail/1154/exxonmobil-corporate-plan-more-than-doubles-earnings>

⁶ <https://carbontracker.org/reports/navigating-peak-demand/>

⁷ <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20231024b.htm>

Exxon Mobil: Racial and Gender Pay Gap Reporting, 2024

Whereas: Pay inequities persist across race and gender and pose substantial risks to companies and society. Black workers' median annual earnings represent 77 percent of white wages. The median income for women working full time is 84 percent that of men. Intersecting race, Black women earn 76 percent and Latina women 63 percent.¹ At the current rate, women will not reach pay equity until 2059, Black women in 2130, and Latina women in 2224.²

Citigroup estimates closing minority and gender wage gaps 20 years ago could have generated 12 trillion dollars in additional national income. PwC estimates closing the gender pay gap could boost Organization for Economic Cooperation and Development (OECD) countries' economies by 2 trillion dollars annually.³

Actively managing pay equity is associated with improved representation. Diversity in leadership is linked to superior stock performance and return on equity.⁴ Minorities represent 64 percent of Exxon's global workforce and 28 percent of executives. Women represent 34 percent of the global workforce and 27 percent of executives.⁵

Best practice pay equity reporting consists of two parts:

1. *unadjusted* median pay gaps, assessing equal opportunity to high paying roles,
2. statistically *adjusted* gaps, assessing whether minorities and non-minorities, men and women, are paid the same for similar roles.

Exxon Mobil does not report quantitative unadjusted or adjusted pay gaps. About 50 percent of the 100 largest U.S. employers currently report adjusted gaps, and an increasing number of companies disclose unadjusted gaps to address the structural bias women and minorities face regarding job opportunity and pay.⁶

Racial and gender *unadjusted* median pay gaps are accepted as *the* valid way of measuring pay inequity by the United States Census Bureau, Department of Labor, OECD, and International Labor Organization. The United Kingdom and Ireland mandate disclosure of median gender pay gaps.⁷ Exxon Mobil already provides this information for United Kingdom employees, and investors should be able to expect the same level of disclosure for all employers.

Resolved: Shareholders request Exxon Mobil report on both quantitative *median and adjusted* pay gaps across race and gender, including associated policy, reputational, competitive, and operational risks, and risks related to recruiting and retaining diverse talent. The report should be prepared at reasonable cost, omitting proprietary information, litigation strategy and legal compliance information.

Racial/gender pay gaps are defined as the difference between non-minority and minority/male and female *median* earnings expressed as a percentage of non-minority/male earnings (Wikipedia/OECD, respectively).

Supporting Statement: An annual report adequate for investors to assess performance could, with board discretion, integrate base, bonus and equity compensation to calculate:

- percentage median and adjusted gender pay gap, globally and/or by country, where appropriate
- percentage median and adjusted racial/minority/ethnicity pay gap, US and/or by country, where appropriate

1 <https://www.census.gov/data/tables/time-series/demo/income-poverty/cps-pinc/pinc-05.html> - par textimage 24

2 https://www.proxyimpact.com/files/ugd/b07274_d88f00b8786f4bd8bcf27a0c4bb66e35.pdf

3 Ibid.

4 Ibid.

5 <https://corporate.exxonmobil.com/-/media/global/files/sustainability/social/investing-in-people-old.pdf>

6 <https://diversiq.com/which-sp-500-companies-disclose-gender-pay-equity-data/>

7 https://www.proxyimpact.com/files/ugd/b07274_d88f00b8786f4bd8bcf27a0c4bb66e35.pdf

Englande, Sherry M

From: Microsoft Outlook
To: Shareholder Engagement; Danielle Fugere; Parker Caswell; Gail Follansbee; Sophia Wilson; Riley McCann; Rachel Lowy; Alexandra Ferry; Luke Morgan; [REDACTED]
Sent: Monday, January 08, 2024 6:47 PM
Subject: Relayed: RE: Exxon Mobil Corp - Shareholder Proposals Filing Documents

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

[Shareholder Engagement](#) [REDACTED]

[Danielle Fugere](#) [REDACTED]

[Parker Caswell](#) [REDACTED]

[Gail Follansbee](#) [REDACTED]

[Sophia Wilson](#) [REDACTED]

[Riley McCann](#) [REDACTED]

[Rachel Lowy](#) [REDACTED]

[Alexandra Ferry](#) [REDACTED]

[Luke Morgan](#) [REDACTED]

[REDACTED]

[REDACTED]

Subject: RE: Exxon Mobil Corp - Shareholder Proposals Filing Documents



RE: Exxon Mobil
Corp - Shareho...

Englande, Sherry M

From: Englande, Sherry M on behalf of Shareholder Relations /SM
Sent: Tuesday, January 09, 2024 9:20 AM
To: Shareholder Engagement
Cc: Danielle Fugere; Parker Caswell; Gail Follansbee; Sophia Wilson; Riley McCann; Rachel Lowy; Alexandra Ferry; Englande, Sherry M
Subject: RE: Exxon Mobil Corp - Shareholder Proposals Filing Documents - invitation to engagement

Hello Danielle, Parker & Rachel – Happy New Year!

We would like to invite you and the proponent to engagement to discuss the proposal you've submitted for our 2024 annual shareholder meeting.

Can you join us for a call either:

Thursday, January 11, 2024 from 8:30-9:00am PT / 10:30-11:00am CT, or
Monday, January 15, 2024 from 1:30-2:00pm PT / 3:30-4:00pm CT

If one of these days/times works for you, I'd be glad to send you a meeting notice with Zoom link to block our calendars. Thank you and we look forward to talking with you soon.
Sherry

Sherry M. Englande
ESG Manager
Investor Relations

Exxon Mobil Corporation

[REDACTED]

(please note new telephone and physical address)

From: Shareholder Engagement <shareholderengagement@asyousow.org>
Sent: Friday, December 15, 2023 3:08 PM
To: Shareholder Relations /SM <shareholderrelations@exxonmobil.com>
Cc: Danielle Fugere [REDACTED]; Parker Caswell [REDACTED]; Gail Follansbee [REDACTED]; Sophia Wilson [REDACTED]; Riley McCann [REDACTED]; Rachel Lowy [REDACTED]; Alexandra Ferry [REDACTED]
Subject: Exxon Mobil Corp - Shareholder Proposals Filing Documents

Dear Mr. Morford,

Attached please find the lead-filer and co-filer filing document packets submitting a shareholder proposal for inclusion in the company's 2024 proxy statement.

It would be much appreciated if you could please confirm receipt of this email.

Thank you and kind regards,

Rachel Lowy

Rachel Lowy (she/her/hers)

Shareholder Relations Sr. Coordinator

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Englande, Sherry M

From: Microsoft Outlook
To: Shareholder Engagement; Danielle Fugere; Parker Caswell; Gail Follansbee; Sophia Wilson; Riley McCann; Rachel Lowy; Alexandra Ferry
Sent: Tuesday, January 09, 2024 9:20 AM
Subject: Relayed: RE: Exxon Mobil Corp - Shareholder Proposals Filing Documents - invitation to engagement

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

[Shareholder Engagement \(shareholderengagement@asyousow.org\)](mailto:shareholderengagement@asyousow.org)

[Danielle Fugere](#) [REDACTED]

[Parker Caswell](#) [REDACTED]

[Gail Follansbee](#) [REDACTED]

[Sophia Wilson](#) [REDACTED]

[Riley McCann](#) [REDACTED]

[Rachel Lowy](#) [REDACTED]

[Alexandra Ferry](#) [REDACTED]

Subject: RE: Exxon Mobil Corp - Shareholder Proposals Filing Documents - invitation to engagement



RE: Exxon Mobil
Corp - Shareho...

Englande, Sherry M

From: Englande, Sherry M
Sent: Tuesday, January 09, 2024 11:18 AM
To: 'Parker Caswell'
Cc: Danielle Fugere; Shareholder Relations /SM
Subject: RE: Exxon Mobil Corp - Shareholder Proposals Filing Documents - invitation to engagement

Hi Parker –

Thank you for your quick response and for testing the times/days for engagement.

Our 2024 Advancing Climate Solutions Report can be found on our website:
<https://corporate.exxonmobil.com/sustainability-and-reports/advancing-climate-solutions>
including, as you've already seen, the [Executive Summary](#)

If you go our [ACS website](#), and scroll toward the bottom, you'll see an Explore the Report section with links to each module of the report, including:

- [Methane](#)
- [Low Carbon Solutions](#)
- [Life Cycle Approach](#)

Below that on the same page are links to the Executive Summary, Metrics and Data, Governance and executive compensation, and the Content index.

Hope this is helpful – Thank you
Sherry

From: Parker Caswell [REDACTED]
Sent: Tuesday, January 09, 2024 11:04 AM
To: Englande, Sherry M [REDACTED]
Cc: Danielle Fugere [REDACTED]
Subject: Re: Exxon Mobil Corp - Shareholder Proposals Filing Documents - invitation to engagement

External Email - Think Before You Click

Sherry,

We are working internally to see if any of these times might work for all parties.

In the meantime, I am wondering if someone on your team would be willing to provide me with Exxon's 2024 Advancing Climate Solutions Report. I see that it was recently published, and I have found the highlights and executive summary online, but for some reason I cannot find the 2024 report in its entirety on the Exxon website. I want to make sure I have had time to read the full version of the new report before our meeting. If it is already posted somewhere that I have not found, my apologies.

Thanks for your help,

Parker

From: Englande, Sherry M [REDACTED] on behalf of Shareholder Relations /SM <shareholderrelations@exxonmobil.com>

Date: Tuesday, January 9, 2024 at 10:20 AM

To: Shareholder Engagement <shareholderengagement@asyousow.org>

Cc: Danielle Fugere [REDACTED] Parker Caswell [REDACTED], Gail Follansbee [REDACTED] Sophia Wilson [REDACTED] Riley McCann [REDACTED]

[REDACTED], Rachel Lowy [REDACTED], Alexandra Ferry [REDACTED]

[REDACTED], Englande, Sherry M [REDACTED]

Subject: RE: Exxon Mobil Corp - Shareholder Proposals Filing Documents - invitation to engagement

Hello Danielle, Parker & Rachel – Happy New Year!

We would like to invite you and the proponent to engagement to discuss the proposal you've submitted for our 2024 annual shareholder meeting.

Can you join us for a call either:

Thursday, January 11, 2024 from 8:30-9:00am PT / 10:30-11:00am CT, or

Monday, January 15, 2024 from 1:30-2:00pm PT / 3:30-4:00pm CT

If one of these days/times works for you, I'd be glad to send you a meeting notice with Zoom link to block our calendars. Thank you and we look forward to talking with you soon.

Sherry

Sherry M. Englande

ESG Manager

Investor Relations

Exxon Mobil Corporation

[REDACTED]

(please note new telephone and physical address)

From: Shareholder Engagement <shareholderengagement@asyousow.org>

Sent: Friday, December 15, 2023 3:08 PM

To: Shareholder Relations /SM <shareholderrelations@exxonmobil.com>

Cc: Danielle Fugere [REDACTED] Parker Caswell [REDACTED] Gail Follansbee [REDACTED]

[REDACTED] Sophia Wilson [REDACTED] Riley McCann [REDACTED] Rachel Lowy [REDACTED]; Alexandra Ferry [REDACTED]

Subject: Exxon Mobil Corp - Shareholder Proposals Filing Documents

Dear Mr. Morford,

Attached please find the lead-filer and co-filer filing document packets submitting a shareholder proposal for inclusion in the company's 2024 proxy statement.

It would be much appreciated if you could please confirm receipt of this email.

Thank you and kind regards,

Rachel Lowy

Rachel Lowy (she/her/hers)

Shareholder Relations Sr. Coordinator

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Englande, Sherry M

From: Microsoft Outlook
To: Parker Caswell; Danielle Fugere
Sent: Tuesday, January 09, 2024 11:21 AM
Subject: Relayed: RE: Exxon Mobil Corp - Shareholder Proposals Filing Documents - invitation to engagement

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

[Parker Caswell](#) [REDACTED]

[Danielle Fugere](#) [REDACTED]

Subject: RE: Exxon Mobil Corp - Shareholder Proposals Filing Documents - invitation to engagement



RE: Exxon Mobil
Corp - Shareho...

Englande, Sherry M

From: Shareholder Engagement <shareholderengagement@asyousow.org>

Sent: Thursday, January 18, 2024 12:48 PM

To: Shareholder Relations /SM <shareholderrelations@exxonmobil.com>

Cc: Danielle Fugere [REDACTED]; Parker Caswell [REDACTED]; Gail Follansbee

[REDACTED]; Sophia Wilson [REDACTED]; Riley McCann [REDACTED]; Rachel Lowy [REDACTED]; Alexandra Ferry [REDACTED]; Luke Morgan [REDACTED]

[REDACTED]; Englande, Sherry M [REDACTED]

Subject: Re: Exxon Mobil Corp - Shareholder Proposals Filing Documents

External Email - Think Before You Click

Dear Ms. Driscoll,

Please find attached an additional statement from the shareholder. Please confirm this satisfies the deficiency identified in the Company's previous communication.

Thank you and best regards,
Rachel

Rachel Lowy (she/her/hers)

Shareholder Relations Sr. Coordinator

As You Sow[®]

Main Post Office, P.O. Box 751 | Berkeley, CA 94701

From: Englande, Sherry M [REDACTED] on behalf of Shareholder Relations /SM <shareholderrelations@exxonmobil.com>

Sent: Monday, January 8, 2024 4:47 PM

To: Shareholder Engagement <shareholderengagement@asyousow.org>

Cc: Danielle Fugere [REDACTED]; Parker Caswell [REDACTED]; Gail Follansbee

[REDACTED]; Sophia Wilson [REDACTED]; Riley McCann [REDACTED]; Rachel Lowy [REDACTED]; Alexandra Ferry [REDACTED]; Luke Morgan [REDACTED];

[REDACTED]; Englande, Sherry M [REDACTED]

Subject: RE: Exxon Mobil Corp - Shareholder Proposals Filing Documents

[Sent on behalf of Jennifer Driscoll:](#)

Please see the communication attached regarding your shareholder proposal.

From: Shareholder Engagement <shareholderengagement@asyousow.org>

Sent: Friday, January 05, 2024 4:39 PM

To: Shareholder Relations /SM <shareholderrelations@exxonmobil.com>

Cc: Danielle Fugere [REDACTED]; Parker Caswell [REDACTED]; Gail Follansbee

[REDACTED]; Sophia Wilson [REDACTED]; Riley McCann [REDACTED]; Rachel Lowy [REDACTED]; Alexandra Ferry [REDACTED]; Englande, Sherry M [REDACTED]

[REDACTED] Luke Morgan [REDACTED]

Subject: Re: Exxon Mobil Corp - Shareholder Proposals Filing Documents

Hello Sherry,

We formally withdraw Yagan Family Foundation (S) as a Proponent of this proposal. Please continue forward with Suzanne B & Guy L Tr (Nat Resources) as the Lead Filer. The proof of ownership for Suzanne B & Guy L Tr (Nat Resources) is reattached here for your convenience. The remaining deficiencies will be addressed in a separate email shortly.

It would be greatly appreciated if you could confirm receipt of this email and attachment.

Thank you,
Rachel

Rachel Lowy (she/her/hers)

Shareholder Relations Sr. Coordinator

As You Sow[®]

Main Post Office, P.O. Box 751 | Berkeley, CA 94701

From: Shareholder Engagement <shareholderengagement@asyousow.org>

Sent: Wednesday, January 3, 2024 5:19 PM

To: Shareholder Relations /SM <shareholderrelations@exxonmobil.com>

Cc: Danielle Fugere [REDACTED]; Parker Caswell [REDACTED] Gail Follansbee

[REDACTED] Sophia Wilson [REDACTED]

[REDACTED] Riley McCann [REDACTED]

[REDACTED] Rachel

[REDACTED] Lowy

[REDACTED] Alexandra Ferry [REDACTED]

[REDACTED] Englande, Sherry M

[REDACTED] Luke Morgan [REDACTED]

Subject: Re: Exxon Mobil Corp - Shareholder Proposals Filing Documents

Hello Sherry,

Confirming receipt of these deficiency letters. Please find attached the following proof of ownership:

Co-Filer Suzanne B & Guy L Tr (Nat Resources) 196 shares

The proof of ownership for Lead Filer, Yagan Family Foundation (S), has been requested. The remaining deficiencies will be addressed before January 5, 2024.

Please confirm receipt of this email and attachment.

Thank you and happy new year,
Rachel

Rachel Lowy (she/her/hers)

Shareholder Relations Sr. Coordinator

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Main Post Office, P.O. Box 751 | Berkeley, CA 94701

[REDACTED]

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From: Englande, Sherry M [REDACTED] on behalf of Shareholder Relations /SM
<shareholderrelations@exxonmobil.com>

Sent: Friday, December 22, 2023 2:45 PM

To: Shareholder Engagement <shareholderengagement@asyousow.org>

Cc: Danielle Fugere [REDACTED]; Parker Caswell [REDACTED]; Gail Follansbee

[REDACTED]; Sophia Wilson [REDACTED]; Riley McCann [REDACTED] Rachel

Lowy [REDACTED]; Alexandra Ferry [REDACTED]; Englande, Sherry M

[REDACTED]

Subject: RE: Exxon Mobil Corp - Shareholder Proposals Filing Documents

Please see the attached document regarding the co-filing of this proposal

From: Shareholder Engagement <shareholderengagement@asyousow.org>

Sent: Friday, December 15, 2023 3:08 PM

To: Shareholder Relations /SM <shareholderrelations@exxonmobil.com>

Cc: Danielle Fugere [REDACTED]; Parker Caswell [REDACTED]; Gail Follansbee

[REDACTED]; Sophia Wilson [REDACTED]; Riley McCann [REDACTED] Rachel

Lowy [REDACTED]; Alexandra Ferry [REDACTED]

Subject: Exxon Mobil Corp - Shareholder Proposals Filing Documents

Dear Mr. Morford,

Attached please find the lead-filer and co-filer filing document packets submitting a shareholder proposal for inclusion in the company's 2024 proxy statement.

It would be much appreciated if you could please confirm receipt of this email.

Thank you and kind regards,
Rachel Lowy

Rachel Lowy (she/her/hers)

Shareholder Relations Sr. Coordinator

As You Sow[®]

Main Post Office, P.O. Box 751 | Berkeley, CA 94701

[REDACTED]

[REDACTED] | www.asyousow.org



AS YOU SOW

-Empowering Shareholders to Change Corporations for Good-

January 17, 2024

VIA EMAIL

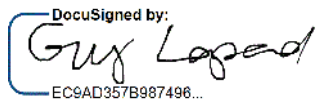
Jennifer Driscoll
Vice President, Investor Relations
Exxon Mobil Corporation
22777 Springwoods Village Parkway
Spring, Texas 77389

Dear Ms. Driscoll,

I write to state that the Exxon Mobil Corp shares that form the basis of the shareholder proposal regarding climate impact of divestments, held in the "Suzanne B & Guy L Tr (Nat Resources)" account, are referred to in the December 26, 2023 proof of ownership letter from Charles Schwab as the "Suzanne Badenhoop and Guy Lampard Trust DTD 06/05/2013".

I write to confirm that the "Suzanne B & Guy L Tr (Nat Resources)" is an abbreviated name for the "Suzanne Badenhoop and Guy Lampard Trust DTD 06/05/2013"; the two are one and the same.

Sincerely,

DocuSigned by:
 —

ECC9AD357B987496...
Guy Lampard

Trustee

Suzanne Badenhoop and Guy Lampard Trust DTD 06/05/2013 | Suzanne B & Guy L Tr (Nat Resources)

First Deficiency Notice

Englande, Sherry M

From: Englande, Sherry M on behalf of Shareholder Relations /SM
Sent: Friday, December 22, 2023 4:46 PM
To: Shareholder Engagement
Cc: Danielle Fugere; Parker Caswell; Gail Follansbee; Sophia Wilson; Riley McCann; Rachel Lowy; Alexandra Ferry; Englande, Sherry M
Subject: RE: Exxon Mobil Corp - Shareholder Proposals Filing Documents
Attachments: Suzanne & Guy Divestments Cofilers Acknowledgement Letter.pdf; Attachments_SEC Rule 14a-8_SLB 14L Nov-3-2021.pdf; Attachments_SEC Rule 14a-8_SLB 14_July-13-2001.pdf; Attachments_SEC Rule 14a-8_Nov-4-2020 and SLB 14F_Oct-18-2011.pdf; § 240.14a-8 Shareholder proposals_.pdf

Please see the attached document regarding the co-filing of this proposal

From: Shareholder Engagement <shareholderengagement@asyousow.org>
Sent: Friday, December 15, 2023 3:08 PM
To: Shareholder Relations /SM <shareholderrelations@exxonmobil.com>
Cc: Danielle Fugere [REDACTED]; Parker Caswell [REDACTED]; Gail Follansbee [REDACTED]; Sophia Wilson [REDACTED]; Riley McCann [REDACTED]; Rachel Lowy [REDACTED]; Alexandra Ferry [REDACTED]
Subject: Exxon Mobil Corp - Shareholder Proposals Filing Documents

Dear Mr. Morford,

Attached please find the lead-filer and co-filer filing document packets submitting a shareholder proposal for inclusion in the company's 2024 proxy statement.

It would be much appreciated if you could please confirm receipt of this email.

Thank you and kind regards,
Rachel Lowy

Rachel Lowy (she/her/hers)

Shareholder Relations Sr. Coordinator

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Main Post Office, P.O. Box 751 | Berkeley, CA 94701

[REDACTED]

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VIA EMAIL

December 22, 2023

Danielle Fugere
President and Chief Counsel
2020 Milvia St. Ste. 500
Berkeley, CA 94704

Dear Ms. Fugere:

Thank you for your interest in ExxonMobil. This letter acknowledges that we've received your letter indicating that you wish to co-file on behalf of Suzanne B & Guy L Tr (Nat Resources) (the "Co-filer"), the proposal previously submitted by As You Sow on behalf of the Yagan Family Foundation (the "Proponent") concerning Report on Climate Impacts of Divestments (the "Proposal") in connection with ExxonMobil's 2024 annual meeting of shareholders. However, proof of share ownership was not included with your December 15, 2023, submission.

In order to be eligible to submit a shareholder proposal, Rule 14a-8, as amended (copy enclosed), requires that each co-filer must have continuously held, as of the date the proposal was submitted at least (i) \$2,000 in market value of the company's securities entitled to vote on the proposal at the meeting for at least three years, (ii) \$15,000 in market value of the company's securities entitled to vote on the proposal at the meeting for at least two years, or (iii) \$25,000 in market value of the company's securities entitled to vote on the proposal at the meeting for at least one year, for the applicable period through and including the date the shareholder proposal was submitted.

For this Proposal, the date of submission is December 15, 2023, which is the date the Proposal was received electronically by email.

Note that the SEC rules do not permit a shareholder to aggregate the co-filer's shareholdings with those of another shareholder or group of shareholders to meet the ownership eligibility requirement.

The Co-filer does not appear in our records as a registered shareholder. Moreover, to date we have not received proof that Suzanne B & Guy L Tr (Nat Resources) has satisfied these ownership requirements. To remedy this defect, you must submit sufficient proof verifying your continuous ownership of the requisite number of ExxonMobil shares for the applicable time period preceding and including December 15, 2023.

As explained in Rule 14a-8(b) and SEC staff guidance, sufficient proof must be in the form of:

- a written statement from the “record” holder of your shares (usually a broker or a bank) verifying that you continuously held the requisite number of ExxonMobil shares for the applicable time period preceding and including December 15, 2023; or
- if you have filed with the SEC a Schedule 13D, Schedule 13G, Form 3, Form 4 or Form 5, or amendments to those documents or updated forms, reflecting your ownership of the requisite number of ExxonMobil shares as of or before the date on which the required holding period begins, 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 continuously held the requisite number of ExxonMobil shares for the applicable time period preceding and including December 15, 2023.

If you intend to demonstrate ownership by submitting a written statement from the “record” holder of your shares as set forth in the first bullet point above, please note that 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 that acts as a securities depository (DTC is also known through the account name of Cede & Co.). Such brokers and banks are often referred to as “participants” in DTC. In Staff Legal Bulletin No. 14F (October 18, 2011) (copy enclosed), the SEC staff has taken the view that only DTC participants should be viewed as “record” holders of securities that are deposited with DTC. As the SEC adopted amendments to Rule 14a-8 that became effective in 2021, please note that Staff Legal Bulletin No. 14F does not reflect those amendments, and to the extent any provisions are inconsistent, Rule 14a-8 governs in all respects.

You can confirm whether your broker or bank is a DTC participant by asking your broker or bank or by checking the listing of current DTC participants, which is available online at: <https://www.dtcc.com/client-center/dtc-directories>. In these situations, shareholders need to obtain proof of ownership from the DTC participant through which the securities are held, as follows:

- If your broker or bank is a DTC participant, then you need to submit a written statement from your broker or bank verifying that you continuously held the requisite number of ExxonMobil shares for the applicable time period preceding and including December 15, 2023.
- If your broker or bank is not a DTC participant, then you need to submit proof of ownership from the DTC participant through which the securities are held verifying that you continuously held the requisite number of ExxonMobil shares for the applicable time period preceding and including December 15, 2023. You should be able to find out who this DTC participant is by asking your broker or bank. If your broker is an introducing broker, you may also be able to learn the identity and telephone number of the DTC participant through your account statements because the clearing broker identified on your account statements will generally be a DTC participant. If the DTC participant that holds your shares knows your broker’s or bank’s holdings, but does not know your holdings, you need to satisfy the proof of ownership requirement by obtaining and submitting two proof of ownership statements verifying that for the applicable period preceding and including December 15, 2023, the required amount of securities were continuously held – one from your broker or bank, confirming your ownership, and the other from the DTC participant, confirming the broker or bank’s ownership.

Danielle Fugere
Page 3

The SEC's rules require that these defects we have identified be remedied, and any response to this letter must be postmarked or transmitted electronically to us no later than 14 calendar days from the date this letter is received. Please mail any response to me at ExxonMobil at the address shown above. Alternatively, you may send your response to me by email to shareholderrelations@exxonmobil.com. The failure to correct the deficiencies within this time period will provide the company with a basis to exclude your filing for the 2024 annual meeting.

In light of the SEC Staff Legal Bulletin No. 14F dealing with co-filers of shareholder proposals, it is important to ensure that the Proponent, Yagan Family Foundation, has clear authority to act on behalf of all co-filers, including with respect to any potential negotiated withdrawal of the Proposal. Unless the Proponent can represent that it holds such authority on behalf of all co-filers, and considering SEC staff guidance, it will be difficult for us to engage in productive dialogue concerning this Proposal.

Note that under Staff Legal Bulletin No. 14F, the SEC will distribute no-action responses under Rule 14a-8 by email to companies and proponents. We encourage you, and all proponents and co-filers, to include an email contact address on any additional correspondence to ensure timely communication in the event the Proposal is subject to a no-action request.

Sincerely,

A handwritten signature in blue ink that reads "Shery Eglende". The signature is written in a cursive style with a large initial "S" and "E".

Enclosures

c: Parker Caswell
Guy Lampard
shareholderengagement@asyousow.org

Shareholder Correspondence

Englande, Sherry M

From: Shareholder Engagement <shareholderengagement@asyousow.org>
Sent: Friday, January 05, 2024 4:56 PM
To: Shareholder Relations /SM; Englande, Sherry M
Cc: Danielle Fugere; Luke Morgan; Conrad MacKerron; Parker Caswell; Kelly McBee; Gail Follansbee; Sophia Wilson; Riley McCann; Rachel Lowy
Subject: As You Sow Response to Exxon Mobil (XOM) Deficiencies dated December 22, 2023
Attachments: XOM Deficiency Response_FIN.pdf; 24.XOM.1 Exxon Climate Proof of Ownership_Suzanne B & Guy L Tr (Nat Resources).pdf; UCF Verification of Ownership - XOM.pdf

Categories: External Sender

External Email - Think Before You Click

Dear Ms. Driscoll,

Please find attached *As You Sow's* response to your letters of December 22, 2023 addressed to Danielle Fugere and Conrad MacKerron. The proofs of ownership for each proposal's Proponent are reattached here for your convenience.

Please confirm receipt of this email and attachments, and that all deficiencies have been satisfied.

Thank you and kind regards,

Rachel

Rachel Lowy (she/her/hers)

Shareholder Relations Sr. Coordinator

As You Sow[®]

Main Post Office, P.O. Box 751 | Berkeley, CA 94701

www.asyousow.org



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VIA EMAIL

Jennifer Driscoll
Vice President, Investor Relations
Exxon Mobil Corporation
22777 Springwoods Village Parkway
Spring, Texas 77389

Dear Ms. Driscoll:

I write on behalf of *As You Sow* in response to your letters of December 22, 2023 addressed to Danielle Fugere and Conrad MacKerron of *As You Sow*, alleging procedural deficiencies (the “Fugere Letter,” the “MacKerron Letter,” and, collectively, the “Deficiency Letters”) with respect to two shareholder proposals submitted to Exxon Mobil Corporation (the “Company”).

As You Sow submitted a shareholder proposal to the Company requesting the Company “annually report on divestitures of assets with material climate impact” (the “Yagan Proposal”) on behalf of the Yagan Family Foundation. The Yagan Proposal is the subject of the Fugere Letter.¹ Separately, the United Church Funds submitted a proposal to the Company concerning a report on the effect of reduced demand for virgin plastic (the “UCF Proposal”). In its submission, the UCF named Conrad MacKerron and Genevieve Abedon of *As You Sow* as its representatives. The UCF Proposal is the subject of the MacKerron Letter.

The Deficiency Letters allege the following deficiencies with respect to each proposal: (1) that *As You Sow* is “Representing Multiple Proposals,” and (2) that *As You Sow* is somehow part of a “Person/Control Group” with two other external organizations (Arjuna Capital and Proxy Impact) that also submitted proposals to Exxon. The Letters allege that the members of this supposed “Person/Control Group” are permitted to submit only one proposal.² These alleged deficiencies have no merit under Securities and Exchange Commission (“SEC”) Rule 14a-8(c).

First, as the SEC expressly stated in its 2020 amendments to the Rule, Rule 14a-8(c) does not prohibit a representative from representing multiple proponents with respect to proposals submitted to the same meeting of shareholders of the same company. The first alleged deficiency ignores these express statements and is without basis in the Rule.

¹ In a January 5, 2024 email, consistent with the filers’ authorizations, *As You Sow* withdrew the Yagan Family Foundation as Proponent and requested that the Company continue with Suzanne B & Guy L Tr (Nat Resources) as the proponent of the material asset divestiture proposal. Neither the Company’s alleged deficiencies nor this response turn on the identity of the proponent.

² The Deficiency Letters also allege deficiencies stemming from inadequate proof of ownership, which will be addressed separately.



Second, the Company's assertion that *As You Sow* is part of a single "control group" with Arjuna Capital and Proxy Impact is without factual or legal basis. Moreover, nothing in the Rule or in SEC precedent suggests that Rule 14a-8(c) might be implicated when legally independent shareholder entities submit proposals to a company merely because the entities have allegedly worked together in the past, let alone where the historic relationship concerns a representative — not the shareholder Proponents themselves.

Likewise, the suggestion that proponents have an obligation under SEC Rule 14a-9 to affirmatively disclose any historical or current "relationship" is without basis in either Rule 14a-8 or 14a-9 and is self-evidently unworkable. As just one example, in order to identify the relationships one might disclose, a shareholder proponent would need to know who else is submitting proposals, imposing an affirmative obligation to search out which, if any, other shareholders are filing proposals with the company. Moreover, the Company's argument would apparently require shareholder *proponents* to also affirmatively disclose their *representatives'* relationships (it is unclear where or to whom such disclosures would be made), despite no basis in the Rules to suggest those relationships are relevant to the submission or consideration of a shareholder proposal.

As such, neither of the Company's claimed deficiencies has any merit. *As You Sow* looks forward to productively engaging with the Company on behalf of the Proponents. Please cc any response to shareholderengagement@asyousow.org.

Sincerely,

Danielle Fugere
President and Chief Counsel, *As You Sow*



December 26, 2023

Account #: [REDACTED]

Reference #: [REDACTED]

Questions: Please call Schwab Alliance at
1-800-515-2157

[REDACTED]

To Whom It May Concern,

Charles Schwab, a DTC participant, acts as the custodian for Living Trust Account for SUZANNE BADENHOOP AND GUY LAMPARD TRUST DTD 06/05/2013. As of the date of this letter, this Living Trust account held, and has held continuously for at least 37 months, 196 shares of EXXON MOBIL CORP (XOM) common stock, with a value of over \$20,000.

Sincerely,

Vanessa Buttery
Associate, AS WST Account Maintenance
AS Workflow Solutions - IG AM 1

Independent investment advisors are not owned by, affiliated with, or supervised by Charles Schwab & Co., Inc. ("Schwab").

Schwab Advisor Services serves independent investment advisors and includes the custody, trading, and support services of Schwab.



December 21, 2023

Re: United Church Funds Verification of Ownership

To whom it may concern,

This letter is to confirm that BNY Mellon as custodian for United Church Funds holds at least \$25,000.00 worth of **Exxon Mobil Corporation** stock. Further, United Church Funds has continuously held this position for at least twelve months prior to and including **December 14, 2023** and intends to continue holding the requisite number of shares of common stock through the date of the next Annual Meeting of Shareholders.

If you have any questions regarding this information, please contact me at [REDACTED] or [REDACTED]

Sincerely,

A handwritten signature in cursive script that reads "Glen R. Metzger".

Glen Metzger, Vice President Relationship Manager
The Bank of New York Mellon

Second Deficiency Notice

Englande, Sherry M

From: Englande, Sherry M on behalf of Shareholder Relations /SM
Sent: Monday, January 08, 2024 6:47 PM
To: Shareholder Engagement
Cc: Danielle Fugere; Parker Caswell; Gail Follansbee; Sophia Wilson; Riley McCann; Rachel Lowy; Alexandra Ferry; Luke Morgan; [REDACTED]
Subject: RE: Exxon Mobil Corp - Shareholder Proposals Filing Documents
Attachments: As You Sow (Divestments) Second Acknowledgement Letter.pdf; Attachments_SEC Rule 14a-8_SLB 14L Nov-3-2021.pdf; Attachments_SEC Rule 14a-8_SLB 14_July-13-2001.pdf; Attachments_SEC Rule 14a-8_Nov-4-2020 and SLB 14F_Oct-18-2011.pdf; § 240.14a-8 Shareholder proposals_.pdf

[Sent on behalf of Jennifer Driscoll:](#)

Please see the communication attached regarding your shareholder proposal.

From: Shareholder Engagement <shareholderengagement@asyousow.org>
Sent: Friday, January 05, 2024 4:39 PM
To: Shareholder Relations /SM <shareholderrelations@exxonmobil.com>
Cc: Danielle Fugere [REDACTED] Parker Caswell [REDACTED] Gail Follansbee [REDACTED]
[REDACTED] Sophia Wilson [REDACTED]; Riley [REDACTED] Rachel Lowy [REDACTED]
[REDACTED]; Alexandra Ferry [REDACTED] Englande, Sherry M [REDACTED]
[REDACTED]; Luke Morgan [REDACTED]
Subject: Re: Exxon Mobil Corp - Shareholder Proposals Filing Documents

Hello Sherry,

We formally withdraw Yagan Family Foundation (S) as a Proponent of this proposal. Please continue forward with Suzanne B & Guy L Tr (Nat Resources) as the Lead Filer. The proof of ownership for Suzanne B & Guy L Tr (Nat Resources) is reattached here for your convenience. The remaining deficiencies will be addressed in a separate email shortly.

It would be greatly appreciated if you could confirm receipt of this email and attachment.

Thank you,
Rachel

Rachel Lowy (she/her/hers)

Shareholder Relations Sr. Coordinator

As You Sow[®]

Main Post Office, P.O. Box 751 | Berkeley, CA 94701

From: Shareholder Engagement <shareholderengagement@asyousow.org>
Sent: Wednesday, January 3, 2024 5:19 PM
To: Shareholder Relations /SM <shareholderrelations@exxonmobil.com>
Cc: Danielle Fugere [REDACTED]; Parker Caswell [REDACTED]; Gail Follansbee [REDACTED]; Sophia Wilson [REDACTED]; Riley McCann [REDACTED]; Rachel Lowy [REDACTED]; Alexandra Ferry [REDACTED]; Englande, Sherry M [REDACTED]; Luke Morgan [REDACTED]
Subject: Re: Exxon Mobil Corp - Shareholder Proposals Filing Documents

Hello Sherry,

Confirming receipt of these deficiency letters. Please find attached the following proof of ownership:
Co-Filer Suzanne B & Guy L Tr (Nat Resources) 196 shares

The proof of ownership for Lead Filer, Yagan Family Foundation (S), has been requested. The remaining deficiencies will be addressed before January 5, 2024.

Please confirm receipt of this email and attachment.

Thank you and happy new year,
Rachel

Rachel Lowy (she/her/hers)

Shareholder Relations Sr. Coordinator

As You Sow[®]

Main Post Office, P.O. Box 751 | Berkeley, CA 94701

[REDACTED]

[REDACTED] | www.asyousow.org



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From: Englande, Sherry M [REDACTED] on behalf of Shareholder Relations /SM
<shareholderrelations@exxonmobil.com>
Sent: Friday, December 22, 2023 2:45 PM
To: Shareholder Engagement <shareholderengagement@asyousow.org>
Cc: Danielle Fugere [REDACTED]; Parker Caswell [REDACTED]; Gail Follansbee [REDACTED]; Sophia Wilson [REDACTED]; Riley McCann [REDACTED]; Rachel Lowy [REDACTED]; Alexandra Ferry [REDACTED]; Englande, Sherry M [REDACTED]
Subject: RE: Exxon Mobil Corp - Shareholder Proposals Filing Documents

Please see the attached document regarding the co-filing of this proposal

From: Shareholder Engagement <shareholderengagement@asyousow.org>

Sent: Friday, December 15, 2023 3:08 PM

To: Shareholder Relations /SM <shareholderrelations@exxonmobil.com>

Cc: Danielle Fugere [REDACTED]; Parker Caswell [REDACTED]; Gail Follansbee
[REDACTED]; Sophia Wilson [REDACTED]; Riley McCann [REDACTED]; Rachel Lowy
[REDACTED]; Alexandra Ferry [REDACTED]

Subject: Exxon Mobil Corp - Shareholder Proposals Filing Documents

Dear Mr. Morford,

Attached please find the lead-filer and co-filer filing document packets submitting a shareholder proposal for inclusion in the company's 2024 proxy statement.

It would be much appreciated if you could please confirm receipt of this email.

Thank you and kind regards,
Rachel Lowy

Rachel Lowy (she/her/hers)

Shareholder Relations Sr. Coordinator

As You Sow[®]

Main Post Office, P.O. Box 751 | Berkeley, CA 94701



[REDACTED] | www.asyousow.org



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VIA EMAIL

January 8, 2024

Danielle Fugere
President and Chief Counsel
As You Sow
2020 Milvia St. Ste. 500
Berkeley, CA 94704

Dear Ms. Fugere:

Thank you for your interest in ExxonMobil. This letter acknowledges that on January 5, 2024, we received your communications regarding the deficiencies we identified and withdrawing your proposal submission on behalf of the Yagan Family Foundation, and continuing your submission on behalf of Suzanne B & Guy L Tr (Nat Resources), of the shareholder proposal concerning Report on Climate Impacts of Divestments (the "Proposal"), in connection with ExxonMobil's 2024 annual meeting of shareholders. We recognize that As You Sow submitted both in the same email on December 15, 2023, and that you are identified as the contact for both submissions. We've also received the ownership letter you provided for Suzanne B & Guy L Tr (Nat Resources), dated December 26, 2023. However, that ownership letter identifies shares owned by "Suzanne Badenhoop and Guy Lampard Trust DTD 06/05/2013", which does not appear to coincide with the entity authorizing As You Sow to file the proposal, "Suzanne B & Guy L Tr (Nat Resources)". These names sound similar but need to match precisely in order to be considered as proof of share ownership.

The Proposal continues to contain certain deficiencies, identified in our December 22, 2023, letter to you, which the Securities and Exchange Commission ("SEC") regulations require us to bring to your attention. While we appreciate your response, we believe that the items mentioned to you previously, in addition to your concerted solicitation work with Proxy Impact and others, through organizations you have created or control, like As You Vote, clearly show joint solicitations and group work that violates both the SEC's intention of the "one person one proposal" rules as well as the express language of Rule 14a-8(c), which cover both "direct" and "indirect" submissions.

We note your statement that identifying relationships between proponents is unworkable; we are puzzled by this, especially in light of ExxonMobil identifying for you in our December 22, 2023, deficiency letter the identity of two others, Arjuna Capital, and Proxy Impact, with whom we believe you have relationships that are material to shareholders making voting decisions this proxy season. If the situation is such that you are coordinating with a larger number of other proponents, perhaps you could characterize for us who they are in order to help us understand your concern. In response to your questioning the practicality of this request, it is both workable

and reasonable that your response letter, or future letters, can disclose these material relationships based on the information we have provided you. These relationships can then be included in the proxy statement or supplemental proxy materials if we opt to do so. Additionally, we note that As You Sow has shown a consistent pattern of behavior over the last decade or more of engaging in joint solicitation work throughout proxy season after the proposal is submitted. Our statements should also be understood to include this future work with other proponents that you intend to undertake this proxy season.

As demonstrated by our multiple discussions with As You Sow during the off-season, we remain committed to discussing issues of interest with our shareholders throughout the year, outside of the shareholder proposal process. We are happy to continue dialogue regardless of the ultimate inclusion or exclusion of these proposals. At the same time, we believe we have an obligation to make both these relationships we have identified, as well as the thrust of our dialogues with you, publicly available to our shareholders.

Does Not Meet Ownership Eligibility

In order to be eligible to submit a shareholder proposal, Rule 14a-8, as amended (copy enclosed), requires that Suzanne B & Guy L Tr (Nat Resources) must have continuously held, as of the date the proposal was submitted at least (i) \$2,000 in market value of the company's securities entitled to vote on the proposal at the meeting for at least three years, (ii) \$15,000 in market value of the company's securities entitled to vote on the proposal at the meeting for at least two years, or (iii) \$25,000 in market value of the company's securities entitled to vote on the proposal at the meeting for at least one year, for the applicable period through and including the date the shareholder proposal was submitted.

For this Proposal, the date of submission is December 15, 2023, which is the date the Proposal was received electronically by email.

Note that the SEC rules do not permit a shareholder to aggregate the proponent's shareholdings with those of another shareholder or group of shareholders to meet the ownership eligibility requirement.

Suzanne B & Guy L Tr (Nat Resources) does not appear in our records as a registered shareholder. Moreover, to date we have not received proof that Suzanne B & Guy L Tr (Nat Resources) has satisfied these ownership requirements. To remedy this defect, you must submit sufficient proof verifying continuous ownership of the requisite number of ExxonMobil shares for the applicable time period preceding and including December 15, 2023.

As explained in Rule 14a-8(b) and SEC staff guidance, sufficient proof must be in the form of:

- a written statement from the "record" holder of the shares (usually a broker or a bank) verifying that Suzanne B & Guy L Tr (Nat Resources) continuously held the requisite number of ExxonMobil shares for the applicable time period preceding and including December 15, 2023; or
- if Suzanne B & Guy L Tr (Nat Resources) has filed with the SEC a Schedule 13D, Schedule 13G, Form 3, Form 4 or Form 5, or amendments to those documents or updated forms, reflecting ownership of the requisite number of ExxonMobil shares as of or before the date

on which the required holding period begins, 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 continuously held the requisite number of ExxonMobil shares for the applicable time period preceding and including December 15, 2023.

If Suzanne B & Guy L Tr (Nat Resources) intend to demonstrate ownership by submitting a written statement from the "record" holder of your shares as set forth in the first bullet point above, please note that 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 that acts as a securities depository (DTC is also known through the account name of Cede & Co.). Such brokers and banks are often referred to as "participants" in DTC. In Staff Legal Bulletin No. 14F (October 18, 2011) (copy enclosed), the SEC staff has taken the view that only DTC participants should be viewed as "record" holders of securities that are deposited with DTC. As the SEC adopted amendments to Rule 14a-8 that became effective in 2021, please note that Staff Legal Bulletin No. 14F does not reflect those amendments, and to the extent any provisions are inconsistent, Rule 14a-8 governs in all respects.

You can confirm whether Suzanne B & Guy L Tr (Nat Resources)'s broker or bank is a DTC participant by asking that broker or bank or by checking the listing of current DTC participants, which is available online at: <https://www.dtcc.com/client-center/dtc-directories>. In these situations, shareholders need to obtain proof of ownership from the DTC participant through which the securities are held, as follows:

- If the broker or bank is a DTC participant, then you need to submit a written statement from the broker or bank verifying that Suzanne B & Guy L Tr (Nat Resources) continuously held the requisite number of ExxonMobil shares for the applicable time period preceding and including December 15, 2023.
- If the broker or bank is not a DTC participant, then you need to submit proof of ownership from the DTC participant through which the securities are held verifying that Suzanne B & Guy L Tr (Nat Resources) continuously held the requisite number of ExxonMobil shares for the applicable time period preceding and including December 15, 2023. You should be able to find out who this DTC participant is by asking the broker or bank. If the broker is an introducing broker, you may also be able to learn the identity and telephone number of the DTC participant through Suzanne B & Guy L Tr (Nat Resources)'s account statements because the clearing broker identified on the account statements will generally be a DTC participant. If the DTC participant that holds the shares knows Suzanne B & Guy L Tr (Nat Resources)'s broker's or bank's holdings, but does not know Suzanne B & Guy L Tr (Nat Resources)'s holdings, you need to satisfy the proof of ownership requirement by obtaining and submitting two proof of ownership statements verifying that for the applicable period preceding and including December 15, 2023, the required amount of securities were continuously held – one from Suzanne B & Guy L Tr (Nat Resources)'s broker or bank, confirming their ownership, and the other from the DTC participant, confirming the broker or bank's ownership.

Representing Multiple Proposals

As You Sow ("AYS") is currently seeking to act as representative for multiple proposals. In addition to this Proposal, As You Sow is seeking to be the representative of a proposal by the United Church Funds regarding plastics (see attached). Under Rule 14a-8(c), each person may

submit no more than one proposal directly or indirectly. Additionally, a person may not rely on the securities holdings of another person for the purpose of submitting multiple proposals. As representative, AYS appears to be relying on Suzanne B & Guy L Tr (Nat Resources)'s shares (and the United Church Funds' shares) to submit multiple proposals in violation of this requirement. To remedy this deficiency, Suzanne B & Guy L Tr (Nat Resources) may (1) withdraw the proposal, (2) appoint a different representative in place of AYS (or any other entity that is acting as a representative on another submission to ExxonMobil), or (3) withdraw its appointment of As You Sow as representative and represent itself directly in the Proposal with ExxonMobil. In all cases, Suzanne B & Guy L Tr (Nat Resources) may receive the help and support it needs to submit the Proposal and comply with the applicable rules.

One Proposal Per Person/Control Group

Under Rule 14a-8(c), a person cannot submit more than one proposal to a company, either directly or indirectly. The SEC has long recognized that multiple people controlled by a single entity or acting as a coordinated group or taking concerted actions may be treated as a single person under the SEC's rules. Congress created the concepts of "control" and "group" to protect against the evasion of disclosure requirements by people who collectively seek to change or influence control over a public company. Accordingly, the SEC takes an expansive view of who or what may qualify as a person.¹

Relationships of control or the creation of a group among different shareholder proponents creates a deficiency in the submission of each of the proposals submitted by the controlled entities or group as the proponents, acting as a single "person," are now submitting multiple proposals.

We believe your concerted work on the Proxy Preview² and Proxy Review³ with Proxy Impact, Arjuna Capital and others, and your membership in CURE (Coalition for a Responsible Exxon), as further described below, should cause you and each of the aforementioned entities to be recognized as a single "person." Accordingly, there is a deficiency in your submission since, in addition to the Proposal, the following proposals have also been submitted by As You Sow, Proxy Impact and Arjuna Capital for the 2024 annual meeting (see attached):

1. Report on Plastic Production Under SCS Scenario (As You Sow)
2. Emission Reduction Targets (Arjuna Capital)

¹ As an example of the SEC's focus on the concept of "control," in the adopting release for the final rule relating to the "Procedural Requirements and Resubmission Thresholds under Exchange Act Rule 14a-8" (<https://www.sec.gov/files/rules/final/2020/34-89964.pdf>), the SEC did not define "person" as a natural person or single entity. Instead, it stated that any entities and all persons under their control (emphasis added) will be treated as a "person" under Rule 14a-8(c).

As an example of the SEC's interpretation of the concept of a "group," in the adopting release for the final rule and guidance relating to the "Modernization of Beneficial Ownership Reporting" (<https://www.sec.gov/files/rules/final/2023/33-11253.pdf>), the SEC clarified that the joint or coordinated publication of soliciting materials with an activist investor could indicate "group" formation under Rule 13D.

² <https://www.proxypreview.org/2023/report>

³ <https://www.proxypreview.org/review/2023-key-findings>

3. Report on Racial and Gender Pay Gap (Proxy Impact)

This deficiency may be remedied by all but one of the above proposals being withdrawn. Otherwise, each of the proposals may be excluded from the proxy statement this year given that they violate Rule 14a-8.

The increasing professionalization of anti-oil and gas activists submitting shareholder proposals has created a question of whether some proposals should be considered separate proposals from separate persons or represent multiple proposals from the same person. Many other types of coordination, such as funding relationships, joint service or employment relationships, joint publication of filed and unfiled solicitation materials, and other efforts that go beyond the creation, submission, or presentation of a shareholder proposal, can give rise to a control relationship or a “group” that should be treated as a single person to avoid the subversion of the shareholder proposal process. For example, if shareholders have an arrangement, understanding, or agreement—written or otherwise—to vote against certain directors or management proposals if their shareholder proposal(s) are not included in the proxy statement, the SEC would deem that “group” behavior that could trigger disclosure obligations under Regulation 13D. As You Sow’s work with Arjuna Capital, Proxy Impact and others on CURE during our proxy contest, where you created your own organized coalition to oppose ExxonMobil’s directors is further evidence of the long-standing nature of your concerted coordination through multiple proxy seasons.⁴

The SEC currently asks proponents to self-identify. As a result, relationships among proponents, including overlapping control or governance relationships, are often not immediately clear to the company and hinder our ability to notify you of any deficiency in your Proposal. We note that public records show significant connections between As You Sow and these groups today that may create control, affiliate or group relationships, though perhaps not the full extent of these relationships. We encourage you to disclose any current or planned coordinated efforts or group relationships or activities so that we can work with you to find appropriate remedies that minimize costs to shareholders and to the proponents, and that comply with the SEC’s rules.

ExxonMobil believes information on these relationships and behavior is important in both the proposal submission process and the disclosure in the proxy statement since professional activists may not share the same incentives as other shareholders. For example, if activists are being paid for the submission of proposals, they are likely to be less sensitive than other shareholders to both the monetary costs and significant management burden created by responding to a large number of shareholder proposals. This belief has been confirmed by our shareholders, who have stated that information on an activist’s activities is material to them and does influence their voting behavior similar to the information disclosed in a 13D filing on a group’s investment strategy and plans for a company.

Accordingly, ExxonMobil believes that if you choose not to disclose any of these relationships or behaviors, you may be making a material omission in violation of the SEC’s Rule 14a-9 antifraud rules. As such, we strongly encourage you to disclose now any relationships, actions or intended actions that you will undertake that could suggest you are coordinating with others in a concerted effort to influence the voting of securities either as a “group” or in violation of SEC

⁴ <https://www.globenewswire.com/news-release/2021/02/02/2168665/0/en/Coalition-United-for-a-Responsible-Exxon-CURE-Representing-Stakeholders-with-over-2-2-Trillion-in-Assets-Calls-for-New-Leadership-and-Strategy-at-Exxon.html>

rules. To the extent we later become aware of undisclosed relationships or actions in violation of these rules, we plan to share the information with shareholders and the SEC, as appropriate. We continue to believe this is an important issue as ExxonMobil regularly receives among the highest number of proposals of any U.S. company.

Cure Period/Springing Deficiencies

The SEC's rules require that these defects we have identified be remedied, and any response to this letter must be postmarked or transmitted electronically to us no later than 14 calendar days from the date this letter is received. Please mail any response to me at ExxonMobil at the address shown above. Alternatively, you may send your response to me by email to shareholderrelations@exxonmobil.com. The failure to correct the deficiencies within this time period will provide the company with a basis to exclude the Proposal from the company's proxy statement for the 2024 annual meeting.

It is possible that, based on information not disclosed in your submission, or as a result of your future actions or information of which ExxonMobil otherwise becomes aware, additional deficiencies in the Proposal may arise. These "springing deficiencies" include actions contrary to Rule 14a-8, which limits each proponent to no more than one proposal per meeting, such as:

- (1) submission of another proposal by you, including submissions under alternate names or aliases;
- (2) joint publication with the proponent of another proposal of filed or unfiled solicitation materials, or other concerted actions together on one or more proxy matters, whether such actions are taken under common control or by the continuation or creation of a "group" (as discussed above); or
- (3) the discovery by the company of "affiliate" or "control" relationships between you and another proponent, meaning that the multiple proponents should be considered a single "person."

Upon the discovery of a springing deficiency, the company will send you an additional deficiency notice similar to this letter. To the extent permitted by the timing of the springing deficiency, we will seek to provide an additional 14 calendar days from the date that the springing deficiency notice is received for any response. However, we are notifying you now of the potential for these springing deficiencies. To the extent that any may exist that have not been disclosed, you may address them with the company in the 14 calendar days from the date this letter is received.

The company reserves the right, as any current relationships among and activities of proponents come to light or as future group activities are started prior to the annual meeting, to provide you notice of the deficiency, consistent with SEC rules, and potentially either exclude the proposal from the proxy statement or, if already filed, cancel a vote on an ineligible matter. The later discovery of these deficiencies by the company, even if within 14 days of the mailing of the proxy or 14 days of the annual meeting, will not prevent the company from determining that you have been notified of the deficiency in a timely manner and excluding the Proposal or, if already filed, canceling a vote on an ineligible matter.

You should note that, if the Proposal is not withdrawn or excluded, you or your representative, who is qualified under New Jersey law to present the Proposal on your behalf, must attend the annual meeting to present the Proposal. Under New Jersey law, only shareholders or their duly constituted proxies are entitled as a matter of right to attend the meeting.

Danielle Fugere
Page 7

If you intend for a representative to present the Proposal, you must provide documentation that specifically identifies your intended representative by name and specifically authorizes the representative to act as your proxy at the annual meeting.

To be a valid proxy entitled to attend the annual meeting, the representative must have the authority to vote your shares at the meeting. A copy of this authorization meeting state law requirements should be sent to my attention in advance of the meeting. The authorized representative should also bring an original signed copy of the proxy documentation to the meeting so that our counsel may verify the representative's authority to act on your behalf prior to the start of the meeting.

Note that under Staff Legal Bulletin No. 14F, the SEC will distribute no-action responses under Rule 14a-8 by email to companies and proponents. We encourage you, and all proponents and any co-filers, to include an email contact address on any additional correspondence to ensure timely communication in the event the Proposal is subject to a no-action request.

I hope that's helpful to you.

Last, we are interested in discussing this Proposal and will contact you in the near future about setting up a virtual meeting.

Sincerely,



JKD/sme

Enclosures

c: Parker Caswell
Guy Lampard
Jessica Droste Yagan
shareholderengagement@asyousow.org

Attached Proposals

1. Report on Plastic Production Under SCS Scenario (As You Sow)
2. Emission Reduction Targets (Arjuna Capital)
3. Report on Racial and Gender Pay Gap (Proxy Impact)

WHEREAS: Plastic, with a lifecycle social cost at least ten times its market price, threatens the world's oceans, wildlife, and public health.¹ Concern about the growing scale and impact of global plastic pollution has elevated the issue to crisis levels.² Of particular concern are single-use plastics (SUPs), which make up the bulk of the 24-34 million metric tons of plastic ending up in waterways annually.³ Without drastic action, this amount could triple by 2040.⁴

A shift from virgin plastic production is critical to reducing plastic pollution.⁵ The Environmental Protection Agency's draft strategy to prevent plastic pollution calls for voluntary reduction in production.⁶ A robust pathway addressing plastic pollution is presented in the widely respected *Breaking the Plastic Wave* report, which found that plastic leakage into the ocean can be reduced 80 percent under its System Change Scenario (SCS), but requires a significant absolute reduction of virgin SUPs.⁷

In response to the plastic pollution crisis and the necessity of reducing plastic production, countries and major packaging brands are beginning to drive reductions in plastic use.⁸ This will affect the plastic production supply chain. BP has recognized the potential disruption global SUP reductions could have on the oil industry, finding a global SUP ban by 2040 would reduce oil demand growth by 60 percent.⁹

The Company faces growing risk from continued investment in virgin plastic production infrastructure. Several implications of the SCS, including a one-third absolute demand reduction of mostly of virgin SUPs and immediate reductions in new investment in virgin production, are at odds with ExxonMobil's planned investments. The Company has been identified as the largest global producer of SUP-bound polymers (11.5 million metric tons in 2021).¹⁰ It has committed to increased use of recycled polymers but uses pyrolysis oil to generate plastic feedstock, a controversial process cited as inefficient and greenhouse gas-intensive with toxic byproducts and emissions, which may increase financial and reputational risk.¹¹

Exxon's efforts to reduce plastic waste fail to address the potential for regulatory restrictions or a

¹ https://wwfint.awsassets.panda.org/downloads/wwf_pctsee_report_english.pdf, p.15

² <https://www.unep.org/resources/pollution-solution-global-assessment-marine-litter-and-plastic-pollution>

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L0904&from=EN#page=8>;

<https://www.minderoo.org/plastic-waste-makers-index/>

⁴ <https://www.nationalgeographic.com/science/article/plastic-trash-in-seas-will-nearly-triple-by-2040-if-nothing-done>

⁵ <https://www.theguardian.com/environment/2021/jul/01/call-for-global-treaty-to-end-production-of-virgin-plastic-by-2040>

⁶ https://www.epa.gov/system/files/documents/2023-04/Draft_National_Strategy_to_Prevent_Plastic_Pollution.pdf, p.17

⁷ https://www.pewtrusts.org/-/media/assets/2020/07/breakingtheplasticwave_report.pdf

⁸ <https://www.pbs.org/newshour/science/bold-single-use-plastic-ban-kicks-europes-plastic-purge-into-high-gear>;

<https://www.businessforplasticstreaty.org/>

⁹ <https://www.bp.com/content/dam/bp/business-sites/en/global/corporate/pdfs/energy-economics/energy-outlook/bp-energy-outlook-2019.pdf#page=18>

¹⁰ <https://cdn.minderoo.org/content/uploads/2023/02/04205527/Plastic-Waste-Makers-Index-2023.pdf>

¹¹ <https://eandt.theiet.org/content/articles/2022/11/is-chemical-recycling-greenwashing>;

<https://theintercept.com/2023/09/28/braven-plastic-recycling-toxic-waste/>

significant disruption in demand for virgin plastic, which could result in stranded assets.¹²

RESOLVED: Shareholders request that ExxonMobil issue a report, at reasonable cost and omitting proprietary information, addressing whether and how a significant reduction in virgin plastic demand, as set forth in *Breaking the Plastic Wave's* System Change Scenario, would affect the Company's financial position and the assumptions underlying its financial statements.

SUPPORTING STATEMENT: Proponents recommend that, at Board discretion, the report include:

- Quantification of its polymer production for SUP markets;
- A summary of existing and planned investments that may be materially impacted by the SCS; and
- Disclosure of key metrics for chemical recycling processes, including inputs, outputs/yield, energy use, carbon and waste emissions, and any related measures taken to ensure safe operations.

¹² <https://www.forbes.com/sites/scottcarpenter/2020/09/05/why-the-oil-industrys-400-billion-bet-on-plastics-could-backfire/?sh=6e099bd843fe>

Emission Reduction Targets

Resolved: Shareholders support the Company, by an advisory vote, to go beyond current plans, further accelerating the pace of emission reductions in the medium-term for its greenhouse gas (GHG) emissions across Scope 1, 2, and 3, and to summarize new plans, targets, and timetables.

Whereas: In the absence of effective climate change mitigation, up to 10 percent of global economic value could be lost by 2050.¹ The Intergovernmental Panel on Climate Change (IPCC) has advised that GHG emissions must be halved by 2030 and reach net zero by 2050 to limit global warming to 1.5 degrees Celsius. Every incremental increase in temperature above 1.5 degrees will increase physical, transition, and systemic risks for companies and investors alike.²

Current Goals: Exxon has acknowledged the importance of reduction goals for Scope 1 and 2 emissions by setting intensity targets across its value chain. The Company has also set GHG intensity targets for its upstream sector and upstream operations in the Permian.

Yet, Exxon's current 2030 targets are significantly below the IPCC's recommendation of 50 percent absolute emission reductions. The Company's current metrics are all on an intensity basis, which allow the Company to increase its absolute emissions. Furthermore, Exxon lacks any Scope 3 target, which account for 90 percent of its carbon footprint.³

Capital Expenditures: The International Energy Agency reports peak global demand for coal, oil, and gas could be reached before 2030.⁴ Despite this trajectory, Exxon anticipates total annual capital expenditures and exploration expenses of 23 to 25 billion in 2024, increasing up to 27 billion per year from 2025 to 2027. While Exxon plans 20 billion in total low carbon spending through 2027, this amounts to only about 15 percent of its overall total planned capital expenditures. This spending will increase Exxon's oil and gas output by 10 percent.⁵ Carbon Tracker projects that even under a moderate transition scenario, continued oil and gas investments could lead to commodity oversupply, resulting in lower pricing, negatively impacting existing and new project revenue.⁶

Cost of Capital: Exxon's cost of capital may substantially increase if it fails to control transition risks by significantly reducing absolute emissions. In October, federal bank regulatory agencies issued Principles for Climate-Related Financial Risk Management for Large Financial Institutions, warning such institutions to thoroughly address risks associated with climate change within their investments.⁷

Peer Targets: Oil and gas peers BP, TotalEnergies, Repsol, and Eni recognize climate transition risks and have set more ambitious, medium-term emission reduction targets. These companies aim to reduce absolute Scope 1, 2, and 3 targets by at least 30 percent by 2030. Other peers Chevron, Equinor, Shell, and Suncor have set goals to decrease Scope 3 emissions.

¹ [https://www.swissre.com/dam/jcr:5d558fa2-9c15-419d-8dce-73c080fca3ba/SRI %20Expertise Publication EN LITE The%20Economics of climate change.pdf](https://www.swissre.com/dam/jcr:5d558fa2-9c15-419d-8dce-73c080fca3ba/SRI%20Expertise_Publication_EN_LITE_The%20Economics_of_climate_change.pdf)

² <https://www.ipcc.ch/2022/04/04/ipcc-ar6-wgiii-pressrelease/>

³ <https://corporate.exxonmobil.com/news/reporting-and-publications/advancing-climate-solutions-progress-report>

⁴ <https://www.nytimes.com/2023/10/24/climate/international-energy-agency-peak-demand.html>

⁵ <https://investor.exxonmobil.com/news-events/press-releases/detail/1154/exxonmobil-corporate-plan-more-than-doubles-earnings>

⁶ <https://carbontracker.org/reports/navigating-peak-demand/>

⁷ <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20231024b.htm>

Exxon Mobil: Racial and Gender Pay Gap Reporting, 2024

Whereas: Pay inequities persist across race and gender and pose substantial risks to companies and society. Black workers' median annual earnings represent 77 percent of white wages. The median income for women working full time is 84 percent that of men. Intersecting race, Black women earn 76 percent and Latina women 63 percent.¹ At the current rate, women will not reach pay equity until 2059, Black women in 2130, and Latina women in 2224.²

Citigroup estimates closing minority and gender wage gaps 20 years ago could have generated 12 trillion dollars in additional national income. PwC estimates closing the gender pay gap could boost Organization for Economic Cooperation and Development (OECD) countries' economies by 2 trillion dollars annually.³

Actively managing pay equity is associated with improved representation. Diversity in leadership is linked to superior stock performance and return on equity.⁴ Minorities represent 64 percent of Exxon's global workforce and 28 percent of executives. Women represent 34 percent of the global workforce and 27 percent of executives.⁵

Best practice pay equity reporting consists of two parts:

1. *unadjusted* median pay gaps, assessing equal opportunity to high paying roles,
2. statistically *adjusted* gaps, assessing whether minorities and non-minorities, men and women, are paid the same for similar roles.

Exxon Mobil does not report quantitative unadjusted or adjusted pay gaps. About 50 percent of the 100 largest U.S. employers currently report adjusted gaps, and an increasing number of companies disclose unadjusted gaps to address the structural bias women and minorities face regarding job opportunity and pay.⁶

Racial and gender *unadjusted* median pay gaps are accepted as *the* valid way of measuring pay inequity by the United States Census Bureau, Department of Labor, OECD, and International Labor Organization. The United Kingdom and Ireland mandate disclosure of median gender pay gaps.⁷ Exxon Mobil already provides this information for United Kingdom employees, and investors should be able to expect the same level of disclosure for all employers.

Resolved: Shareholders request Exxon Mobil report on both quantitative *median and adjusted* pay gaps across race and gender, including associated policy, reputational, competitive, and operational risks, and risks related to recruiting and retaining diverse talent. The report should be prepared at reasonable cost, omitting proprietary information, litigation strategy and legal compliance information.

Racial/gender pay gaps are defined as the difference between non-minority and minority/male and female *median* earnings expressed as a percentage of non-minority/male earnings (Wikipedia/OECD, respectively).

Supporting Statement: An annual report adequate for investors to assess performance could, with board discretion, integrate base, bonus and equity compensation to calculate:

- percentage median and adjusted gender pay gap, globally and/or by country, where appropriate
- percentage median and adjusted racial/minority/ethnicity pay gap, US and/or by country, where appropriate

1 <https://www.census.gov/data/tables/time-series/demo/income-poverty/cps-pinc/pinc-05.html> - par textimage 24

2 https://www.proxyimpact.com/files/ugd/b07274_d88f00b8786f4bd8bcf27a0c4bb66e35.pdf

3 Ibid.

4 Ibid.

5 <https://corporate.exxonmobil.com/-/media/global/files/sustainability/social/investing-in-people-old.pdf>

6 <https://diversiq.com/which-sp-500-companies-disclose-gender-pay-equity-data/>

7 https://www.proxyimpact.com/files/ugd/b07274_d88f00b8786f4bd8bcf27a0c4bb66e35.pdf

March 4, 2024

VIA ONLINE SUBMISSION

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549
Email: shareholderproposals@sec.gov

Re: Shareholder Proposal to Exxon Mobil Corporation Regarding Climate Asset Transfer Disclosures on Behalf of Suzanne B & Guy L Tr (Nat Resources)

Ladies and Gentlemen:

Suzanne B & Guy L Tr (Nat Resources) (the “Proponent”), a beneficial owner of common stock of Exxon Mobil Corporation (the “Company” or “Exxon”), has submitted a shareholder proposal (the “Proposal”) requesting that Exxon make certain annual disclosures with respect to the transfer of assets with material climate impact. The Proponent has designated *As You Sow* to act as its representative with respect to the Proposal, including responding to the Company’s January 22, 2024 “No Action” letter (the “Company Letter”).

The Company Letter contends that the Proposal may be excluded from the Company’s 2024 proxy statement because, the Company argues, the Proposal seeks to micromanage Exxon. The Company also argues that *As You Sow* has violated Rule 14a-8(c) by representing more than one proponent who has submitted a proposal to the Company. Proponent’s response demonstrates that the Company has no basis under Rule 14a-8 for exclusion of the Proposal. As such, the Proponent respectfully requests that the Staff inform the Company that it cannot concur with the Company’s request.

A copy of this letter is being emailed concurrently to the Company and its counsel.

SUMMARY

Since 2016, Exxon has reduced its operational greenhouse gas (GHG) emissions by 5.4% on an equity basis. However, between 2017 and 2021 Exxon was the forth-largest seller of assets among oil and gas companies globally, and second-largest seller among American oil and gas companies. Transferring assets to a new operator does not result in real-world emissions reductions because such assets remain operational. This may, in fact, result in real-world emissions *increases* when sold to purchasers with lower environmental standards. As the World Investment Report 2023 notes:

Buyers of assets sold by energy majors typically aim to make that asset generate the highest possible returns. This often means . . . pushing for increased output or extending lifetimes. Another concern is that buyers often have lower or no

emission-reduction goals and weaker climate reporting standards, as in the case of private (unlisted) or smaller companies.¹

Investors interested in understanding Exxon's actual emission reductions, as well as their own climate-related portfolio risk, require information about such asset transfers. To enable that analysis, the Proposal seeks a relatively modest disclosure from Exxon: that for asset transfers with material climate impact, the Company report on whether the purchaser discloses its emissions and has 1.5°C-aligned greenhouse gas reduction targets.

Exxon argues that the Proposal may be excluded for two reasons: First, because the Proposal and seeks to micromanage the Company. Second, Exxon argues that *As You Sow*, as Proponent's representative, has violated Rule 14a-8(c) in two ways: first, by representing a second shareholder who has also submitted a proposal to the Company; and second, because an organization with which *As You Sow* has occasionally historically collaborated also submitted a proposal. Neither argument is persuasive.

First, the Proposal does not micromanage Exxon. The Company Letter fails to establish that the Proposal inappropriately interferes with management discretion or seeks information too granular or complex for shareholders to understand. The Proposal's disclosure request is extraordinarily modest: only for those transfers of assets with *material climate impact*, it asks whether the purchaser (1) discloses its emissions, and (2) has emissions reduction targets. The Proposal does not request that the Company disclose the identity of the purchaser, details about the terms of the transfer, the nature or scope of purchaser's emissions disclosures, or the nature or scope of the purchaser's targets. Limited to a subset of transfers that are *material* to investors, the Proposal seeks two yes-or-no, *i.e.*, by definition non-granular, disclosures. The information would be useful to investors, and investors should have the ability to request the disclosure of non-granular information they would deem material.

Second, the Company argues that the Proposal runs afoul of Rule 14a-8(c) because *As You Sow* has also been designated representative by another shareholder making a submission to the company. As the Company Letter acknowledges, this argument runs headlong into binding Commission-level guidance explicitly permitting representatives to represent more than one shareholder at the same company. Nor does the Company identify a good reason why representatives should not be permitted to represent more than one shareholder. The argument must be rejected.

Nor does the Company Letter establish a violation of Rule 14a-8(c) by pointing out that *As You Sow* has collaborated in the past with another, legally independent entity that has submitted a proposal to Exxon. The Company's argument is on tenuous factual footing, is legally baseless, and provides no basis for exclusion of the Proposal.

¹ https://unctad.org/system/files/official-document/wir2023_en.pdf#page=70, p.48.

THE PROPOSAL

WHEREAS: Transferring emissions from one company to another may reduce balance sheet emissions, but it does not mitigate company or stakeholder exposure to climate risk or contribute to the goal of limiting global temperature rise to 1.5 degrees Celsius (1.5°C). In the aggregate, upstream oil and gas assets are moving from operators with stronger climate targets and disclosures to operators with weaker climate commitments.¹ The Glasgow Financial Alliance for Net Zero warns that divestment from high-emitting assets can “have the unintended consequence of prolonging the life of high-emitting assets and even worsen emissions profiles.”² It is therefore essential that oil and gas operators adhere to industry-wide best climate practices for asset transfers and acquisition, such as reporting transferred emissions and working with buyers to ensure transferred assets retain climate standards.

ExxonMobil reports an operational emissions reduction of 5.4% on an equity basis and 12.5% on an operated basis since 2016.³ However, between 2017 and 2021, Exxon sold more assets than any other American oil and gas company except Chevron, ranking fourth globally among sellers.⁴ Exxon does not disclose the climate impacts of its divestments. This reporting gap leaves investors with an incomplete understanding of Exxon’s actions to mitigate its contribution to climate change.

To address this issue, Exxon should follow best practices for divestitures, including conducting climate-related due diligence on acquirers, including an evaluation of purchasers’ emissions reporting and reduction targets. Doing so would allow Exxon to ensure that purchasers maintain or enhance existing climate standards for divested assets, reducing the likelihood that transferred assets would result in higher emissions.⁵

By increasing transparency and providing greenhouse gas emissions-related disclosures for asset transfers, Exxon can position itself as a leader on climate change, increase the legitimacy of its climate targets, and provide essential information to its investors about its efforts to mitigate climate risk.

BE IT RESOLVED: Shareholders request that ExxonMobil annually report on divestitures of assets with material climate impact, including whether each asset purchaser discloses its GHG emissions and has 1.5°C-aligned or other greenhouse gas reduction targets.

¹ <https://business.edf.org/files/Transferred-Emissions-How-Oil-Gas-MA-Hamper-Energy-Transition.pdf>, p.17

² <https://assets.bbhub.io/company/sites/63/2022/10/GFANZ-2022-Progress-Report.pdf>, p. 36

³ <https://corporate.exxonmobil.com/-/media/global/files/advancing-climate-solutions-progress-report/2023/2023-acs-ghg-data-supplement.pdf>, p. 4

⁴ <https://business.edf.org/files/Transferred-Emissions-How-Oil-Gas-MA-Hamper-Energy-Transition.pdf>, p. 22

⁵ <https://business.edf.org/wp-content/blogs.dir/90/files/Climate-Principles-Asset-Transfer.pdf>, p.3

ANALYSIS

I. THE PROPOSAL DOES NOT MICROMANAGE THE COMPANY

A. Micromanagement Standard

Rule 14a-8(i)(7) allows the exclusion of proposals seeking to “micromanage” companies 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.” 1998 Release. Staff Legal Bulletin No. 14L (Nov. 3, 2021) provides guidance on the scope of the micromanagement exclusion. In SLB 14L, the Staff notes that “proposals seeking detail or seeking to promote timeframes or methods do not per se constitute micromanagement.” Rather, the Staff looks at:

[T]he level of granularity sought in the proposal and whether and to what extent it inappropriately limits discretion of the board or management. We would expect the level of detail included in a shareholder proposal to be consistent with that needed to enable investors to assess an issuer’s impacts, progress towards goals, risks or other strategic matters appropriate for shareholder input.

Staff Legal Bulletin No. 14L.

Finally, the Staff has provided guidance on the standards it uses to judge the appropriate level of granularity in a proposal, noting that the Staff “may consider the sophistication of investors generally on the matter, the availability of data, and the robustness of public discussion and analysis on the topic” as well as “references to well-established national or international frameworks when assessing proposals related to disclosure . . . as indicative of topics that shareholders are well-equipped to evaluate.” *Id.*¹

B. The Proposal does not inappropriately limit Company discretion

The Company Letter’s first argument is that the Proposal goes too far in “inappropriately limit[ing] the discretion of the board or management.” *See* SLB 14L; Company Letter at 2-4.

The Company’s objection relies on the incorrect assertion that the Proposal “impos[es] specific methods on management for the divestiture of Company assets.” Company Letter at 2. The Proposal does no such thing. Rather, with respect to asset transfers which the Company has elected to make – through the decision-making process described in detail in the Company Letter – the Proposal requests that the Company modestly supplement its disclosures for a subset of such transactions. The substantive methodologies governing the Company’s asset transfers are not at issue in the Proposal. The Proposal does not seek to govern or alter the Company’s methods or the factors it takes into consideration when making asset transfers. It therefore has no impact on the board or management’s discretion with respect to such transfers.

¹ The Company frames its argument as an ordinary business argument, but the substance relates specifically to the micromanagement prong of the Rule 14a-8(i)(7) exclusion.

The Company asserts, unpersuasively, that “the only way the Company can comply with the request is by altering its standard operating procedures in each locale with respect to its divestiture program.” Company Letter at 3. For example, the Company argues that implementing the Proposal would require it to, “as a threshold matter, evaluate each of dozens of potential transactions with multiple potential counterparties for each transaction with respect to the GHG emissions impact of such counterparty’s approach to the transaction in order to make an initial determination of whether any asset sale represents a ‘material climate impact.’” Company Letter at 3. This description of the Proposal borders on the absurd, and the Staff is not required to accede to companies’ worst-faith reading of proposals’ plain terms. Nothing in the Proposal requires or even suggests that the Company should interpret “material climate impact” to require the Company to see into the future to examine how future operators will use the asset to determine if the transfer will at some point cross an invisible threshold and become “material.”

A much more natural reading of the Proposal is one that does not require substantially rewriting it. The Proposal asks for two minor disclosures concerning the “divestiture of *assets with a material climate impact*.” That is, the question is not whether the *divestiture* would have a material climate impact, but whether the assets subject to the divestiture have material climate impact. This is evidenced both by basic logic and the structure of the proposal itself. First, logically – the most obvious way to identify whether the transfer of an asset would be material to investors concerned with climate risk is if the asset has material climate impact. How the Company assess material climate impact is up to it to determine, and there are certainly uncomplicated methods of doing so. Simply put, Exxon has information on the emissions of its assets; it can determine which assets have material emissions and which do not and apply the Proposal accordingly.

The most natural reading of the Proposal itself supports this logical reading of the term “material climate impact.” First, if the Company’s interpretation were correct, the Proposal would more naturally be written as “asset divestitures with material climate impact.” Second, if the Company’s interpretation of the term were correct, and the Proposal was intended to require the Company to make a detailed calculation of asset transfers’ likely future climate impact based on the specifics of purchasers’ policies, one would naturally expect to see that process reflected in the disclosure requested by the Resolved Clause. It would make little sense for the Proposal to request that the Company precisely calculate the future real-world emissions impact of an asset transfer and then simply report, yes-or-no as to whether the purchaser discloses its emissions and has targets. Rather, the Resolved Clause of the Proposal limits the scope of the requested disclosure *intentionally to avoid* precisely the complicated implementation the Company now seeks to read into the Proposal.

If one sets aside the Company’s strained reading of the Proposal, the Staff precedents it cites have little applicability. For example, the Company argues that the Proposal resembles *Abbott Laboratories* (Feb. 29, 2019), *Walgreens Boost Alliance, Inc.* (uncited, but presumably Nov. 20, 2018), and *Royal Caribbean Cruises Ltd.* (Mar. 14, 2019) because it “would effectively require the Company to make hundreds of individual evaluations on a prospective basis.” Company Letter at 3. Each of these precedents involved a substantially similar proposal: a request that the Company seek shareholder approval for each new share repurchase program and all stock

buybacks. The Staff concluded that the proposals would micromanage the company “[i]n particular” because the proposals “would make each new share repurchase program and each and every stock buyback dependent on shareholder approval.” *Royal Caribbean Cruises*. This Proposal, however, does not “make” any transaction “dependent on shareholder approval.” It therefore does not micromanage the Company in the manner of the cited proposals. Moreover, for the reasons discussed above, the Company’s assertion that the Proposal would require it to “make hundreds of individual evaluations on a prospective basis” is false.

The Company Letter’s arguments about due diligence, the cost to counterparties, and the downstream effect on the Company’s abilities to make such transactions all proceed from the same flawed interpretation of the Proposal and thus may be set aside. *See* Company Letter at 3-4. The Proposal does not require an invasive due diligence process into competitively sensitive information requiring detailed forecasts. *See id.* Rather, the supposed “due diligence” required by the Proposal — determining the yes-or-no question of *whether* the purchasing company has emissions disclosures and targets (which is often public, non-sensitive information but difficult for shareholders to obtain if asset transfers are not individually disclosed or if purchasers are private and have no disclosures) — is hardly onerous in the context of a transaction involving an asset with material climate impact. Moreover, the requested disclosure does not even seek the *identity* of the purchaser. As such, the Company has failed to demonstrate that the Proposal inappropriately limits the discretion of the board or management. *See* SLB 14L.

C. The Proposal is not too granular or complex for investor consideration

The Company Letter’s complexity/granularity argument is based on the same strained reading of the term “material climate impact” and must, likewise, be set aside. *See* Company Letter at 4-5. The Company argues that the Proposal’s use of the term “material climate impact” is “a clear signal of the complexity of [its] request.” Company Letter at 4. The Company attempts to demonstrate the complexity of the term by (a) again suggesting that the question is whether the “transfer” would result in a material climate impact, and (b) arguing that nothing can be truly determined to be “material” to a “global climate” system.

For the reasons discussed above, this is not the best or even a natural reading of the Proposal. The Proposal limits its modest disclosure request to transfers of assets that have material climate impact. This is intended to limit the disclosure sought by the Proposal to the most pertinent information for investors. Further, the Proposal leaves the determination of a materiality threshold to the Company. That does not mean that the disclosure request is “too complex” or granular for investors to understand. In reality, it is a very simple report: if Exxon sells an asset with material climate impact (however the Company chooses to define that term), the Company discloses whether the purchaser reports its GHG emissions and has climate targets. Such a disclosure is not too complex for investors, nor does it involve investors in “oversight” of a complex process. It provides, on an annual retroactive basis, basic information about Exxon’s asset transfers and whether its transferred assets are likely to be operated by a company that is addressing climate change, or not. This information is important to investors for the reasons discussed *supra*.

The Staff precedents relied on by the Company are inapposite. In both *Phillips 66* (Mar. 20, 2023) and *Valero Energy Corp.* (Mar. 20, 2023), the proposal requested that the company disclose, as Exxon describes it, “specific and detailed information” related to the undiscounted expected value to settle obligations for asset retirement obligations with indeterminate settlement dates. One distinction is immediately obvious: the two, basic yes-or-no disclosures requested by the Proposal can hardly be described as demanding “specific and detailed information.” The companies in receipt of these ARO proposals argued that they interfered with the companies’ “accounting judgments” and “financial disclosures.” Accounting and financial disclosures also raise significant legal and regulatory issues which do not present themselves in the area of climate disclosures, which are a traditional arena in which shareholder feedback on company disclosures is expected, given the Commission’s recognition that companies will often underreport climate-related data to investors’ detriment. *See Proposed Rule, The Enhancement and Standardization of Climate-Related Disclosures for Investors* at 324, SEC.

More directly on point than any precedent cited by the Company Letter is *Eli Lilly & Co.* (Mar. 10, 2023). There, the proposal requested that the Company disclose “quantitative metrics for hiring, retention, and promotion of employees, including data by gender, race, and ethnicity” so that investors could judge the effectiveness of the company’s DEI programs. This is a substantially more detailed disclosure request than the one made by the Proposal here. The company argued that the proposal “limit[ed] the Company’s discretion in preparing the requested report by dictating the metrics and data the report must contain” with respect to a “complicated topic that is core to management’s ability to run the business.” The Staff declined to concur in the company’s micromanagement argument. *Eli Lilly* stands for the proposition that for areas of substantial social impact, some level of detail in reporting can be requested by shareholders.² Here, however, there is nowhere near that level of detail required, despite the strained interpretive scenarios presented by the Company. The request itself is simple, requiring the most basic reporting on purchasing companies’ climate actions: whether they have emissions disclosure and target setting. Exxon itself can decide how it defines material climate impact and how it reports this simple information.

II. THE PROPOSAL MAY NOT BE EXCLUDED UNDER RULE 14a-8(c)

A. Legal Background

Rule 14a-8(c), sometimes referred to as the “one-proposal rule,” states that “[e]ach person may submit no more than one proposal, directly or indirectly, to a company for a particular shareholders’ meeting.” This rule stems from concerns, first expressed by the Commission in 1976, that some proponents were “submitting excessive numbers of proposals.” Exchange Act Release No. 34-129999 (Nov. 22, 1976) (the “1976 Release”).

² The Staff routinely declines to concur in the exclusion of climate-related disclosure proposals, including those seeking disclosure of plans for reducing emissions – again, a more detailed ask than the one in the Proposal. *See, e.g., The Travelers Companies* (Mar. 30, 2023) (proposal requested company report “if and how it intends to measure, disclose, and reduce the GHG emissions associated with its underwriting, insuring, and investment activities”).

In 2020, the Commission adopted certain amendments to Rule 14a-8, including by clarifying that “each *person*,” rather than “each shareholder” may submit no more than one proposal. Exchange Act Release No. 34-89964 (Sept. 23, 2020) (the “2020 Rulemaking”) (emphasis added). In the 2020 Rulemaking, the Commission also clarified that a single *entity* could constitute a “person” under the rule, such that an investment firm could not submit multiple proposals, even on behalf of different clients. *Id.*

At the same time, however, the Commission took particular care to limit the scope of Rule 14a-8(c) so as to avoid “interfer[ing] with a shareholder’s ability to use a representative . . . and/or interfer[ing] with a representative’s ability to effectively represent its **clients**.” 2020 Rulemaking at 40 (emphasis added). In so doing, the Commission firmly and explicitly rejected the idea that a representative could only represent one shareholder-proponent per meeting per company.

In the Rulemaking, the Commission restated concerns from commenters about the effect of the proposed rules on investors’ ability to use representatives, including concerns that changes to Rule 14a-8(c) “could prevent a shareholder-proponent from using his or her preferred representative if that representative has already submitted a proposal to the same company on behalf of another client,” 2020 Rulemaking at 56, and that those changes “would affect a representative’s ability to present proposals on multiple shareholder-proponents at the shareholder meeting,” 2020 Rulemaking at 56. The Commission squarely addressed those concerns, affirming that the rule would not “interfere with a representative’s ability to effectively represent its clients” and further that “[t]he ability to provide such assistance to more than one shareholder is not affected.” 2020 Rulemaking at 59. The Commission went on to provide a specific example:

In addition, we do not believe, as suggested by commenters, that the amended rule will . . . unduly restrict [shareholder-proponents’] options in selecting a representative because, while in some cases shareholder-proponents may need to submit a proposal on their own, they can otherwise enjoy all the benefits of being represented by a representative of their choosing. For example, if a shareholder’s representative of choice is unable to submit a proposal for the shareholder, because it has already made a submission on behalf of another client, the representative could still assist the shareholder with drafting the proposal, advising on steps in the submission process, and engaging with the company.

2020 Rulemaking at 59.

The Commission went further still, confirming that the amended rule “is not intended to limit a representative’s ability to present proposals on behalf of multiple shareholders at the same shareholders’ meeting.” 2020 Rulemaking at 60. Finally, the Commission rejected a request by a commenter to add to the rule a requirement intended to limit the role of representatives in the process. *See* 2020 Rulemaking at 61-62.

B. The 2020 Rulemaking squarely permits the representation of two shareholders at once, and the Company's attempts to argue that *As You Sow* is exceeding the bounds of representation are unpersuasive

As You Sow does not dispute the Company's argument that it has been designated as representative by two different shareholders submitting proposals to Exxon for the 2024 shareholder meeting. *See* Company Letter at 6-7. However, the Company is incorrect in stating that "As You Sow impermissibly submitted two proposals." Company Letter at 5. As Exxon's no-action request regarding the United Church Funds Proposal acknowledges, the other proposal was "submitted by United Church Funds." *See United Church Funds No-Action Letter* at 1. United Church Funds named *As You Sow* as its representative, as did the Proponent.

The problem facing Exxon is that this is not in violation of Rule 14a-8(c) — indeed, it is *explicitly permitted* by the 2020 Rulemaking. *See supra*. The Company acknowledges the Rulemaking's explicit statements on this issue and makes only *pro forma* arguments that *As You Sow* has nonetheless violated Rule 14a-8(c). For example, Exxon acknowledges that the 2020 Rulemaking allows a representative who has previously submitted a proposal on behalf of one shareholder to "assist the [second] shareholder with drafting the proposal, advising on steps in the submission process, and engaging with the company," but argues that "the authority delegated to *As You Sow* . . . go[es] beyond mere 'assisting' or 'advising.'" Company Letter at 8. It justifies this conclusion by noting that *As You Sow* "handl[es] all correspondence . . . , discuss[es] the proposal directly with the Company and fil[es] exempt solicitations . . . on *As You Sow* letterhead." Company Letter at 8. These representative actions, the Company Letter claims, "reach a level of authority that is equal to that of a proponent." Company Letter at 8.

This proposed 'level of authority' standard is not in the Rule and is unpersuasive, both logically and in terms of consistency with the Rule.

As a logical matter, the Company's argument that *As You Sow* is exceeding the scope of representation because it takes actions on behalf of its clients "equal to that of a proponent" is baseless. What the Company describes is — literally — the definition of representation, which requires that the representative take actions on behalf of its client that the client would otherwise have to take. To "represent" means "to take the place of" or to "act in the place of or for usually by legal right."³ To *represent* shareholders in the shareholder proposal process, *As You Sow* must take actions on behalf of shareholders inherent to the shareholder proposal process, such as by handling correspondence and engaging with companies. Doing so does not exceed the bounds of representation.

Nor are the actions complained of — such as "handling all correspondence" and "discussing the proposal directly with the Company" — somehow in excess of the bounds of ordinary representation. Representatives routinely handle correspondence on behalf of their clients, similar to how a law firm represents an issuer in a no-action request. *See generally* Company Letter. Similarly, representatives frequently engage with counterparties on behalf of their clients; indeed, in legal contexts, such engagement is occasionally *required* to be carried out through representatives. *See* ABA Model Rule 4.2 ("[A] lawyer shall not communicate about the subject

³ *Represent*, Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/represent>.

of the representation with a person the lawyer knows to be represented by another lawyer in the matter . . .”).

The 2020 Rulemaking, as discussed above, explicitly contemplates a representative taking *these specific actions* on behalf of a second client for the same shareholder meeting. The 2020 Rulemaking states that “if a shareholder’s representative of choice is unable to submit a proposal for the shareholder, because it has already made a submission on behalf of another client, *the representative could still assist the shareholder with . . . engaging with the company.*” 2020 Rulemaking at 59 (emphasis added). Moreover, the Commission explicitly rejected concerns raised during the Rulemaking that the Rule would particularly “affect the competitive advantage of *representatives that specialize in active engagement.*” 2020 Rulemaking at 59-60 (emphasis added). The Commission also rejected concerns that the amended Rule 14a-8(c) would increase costs by requiring companies to “deal with multiple proponents instead of dealing with few representatives,” because the amended Rule would “restrict the representative’s ability to submit a proposal on the proponent’s behalf *but otherwise will not limit or interfere with the representative’s ability to assist the proponent.*” 2020 Rulemaking at 153-154 (emphasis added). As such, Rule 14a-8(c) is not intended to interfere with representatives’ ability to engage with companies on behalf of shareholder-proponents.

The Company Letter also takes issue with the fact that *As You Sow* files exempt solicitations on *As You Sow* letterhead in support of proposals for which it is the representative. This, too, is unpersuasive. With exceptions not relevant here, anyone is permitted to file an exempt solicitation arguing in favor or against any shareholder proposal. Last season, for instance, third parties filed exempt solicitations opposing proposals for which *As You Sow* served as representative. Filing an exempt solicitation urging shareholders to vote for a proposal is not an action that is limited to shareholder-proponents. Moreover, filing exempt solicitations in favor of proposals is a particular reason why shareholders choose to use representatives, who are likely to be more familiar with not only the rules surrounding exempt solicitations, but also the types of arguments that appeal to broad swaths of investors. *See* 2020 Rulemaking at 153 (noting potential costs associated with decreased use of representatives, including inefficiencies associated with proponents with “less experience and expertise than representatives” at effective communication). Once more, there is nothing untoward, inappropriate, or contrary to either the letter or spirit of Rule 14a-8 in this use of representatives. Just as companies turn to lawyers to write no-action letters, investors frequently turn to shareholder representatives to write exempt solicitations.

The Company’s argument that *As You Sow* also takes these actions when it (*i.e.*, The As You Sow Foundation Fund) is the shareholder proponent, rather than a representative is unpersuasive for the simple reason described above: *As You Sow*’s actions as a representative are *necessarily* the same actions that a shareholder-proponent would normally have to take themselves, because that is what effective representation entails.

C. The Company’s problem is with the Rule itself, and it is requesting that the Staff depart from the Rule

The Company Letter makes clear that its real argument is not that *As You Sow* is in violation of Rule 14a-8(c) but rather that it takes issue with “[t]he Commission’s recent interpretations of” the Rule. Company Letter at 9. The Commission and Staff have consistently applied Rule 14a-

8(c) as written: that “each person” may “submit” no more than one proposal per company per meeting. The Company dismisses this interpretation as reducing the meaning of the word “submit” to “press send.” Company Letter at 9.⁴

The Company’s argument is an oversimplification of Staff precedent. The Staff has consistently excluded proposals under Rule 14a-8(c) only where there is obvious evidence that an individual was (a) using the shares of another person who had *no real interest in the* proposal, or (b) using the shares of a legally separate entity the individual nonetheless controlled, to submit a second proposal. *See, e.g., General Electric Co.* (Jan. 10, 2008) (proponent submitted two proposals and, when notified by company of one-proposal rule, the proposals were resubmitted by proponent’s daughters); *Staten Island Bancorp, Inc.* (Feb. 27, 2002) (proponent submitted five proposals and, when notified by company of one-proposal rule, the proposals were resubmitted by the proponent, his daughter, his friends, and his neighbors).

Just as consistently, however, the Staff has declined to exclude proposals based on Rule 14a-8(c) based on companies’ bald assertions that representatives were using “nominal” proponents to bypass the Rule. *See, e.g., Bank of America Corp.* (Mar. 1, 2022) (company argued that second proponent was nominal stand-in for representative who had already submitted one proposal, Staff rejected that position and granted no-action only after representative affirmatively *re-submitted* second proposal); *IQVIA Holdings Inc.* (Nov. 18, 2021) (company argued that proponent was “nominal” stand-in for representative, who had already submitted a proposal); *Wyeth* (Jan. 30, 2009) (same); *American International Group, Inc.* (Mar. 16, 2009) (same); *Sempra Energy* (Feb. 23, 2009) (same).

This distinction makes sense and is consistent with the text and purpose of the Rule. Further, the Company’s alternative, which goes against the text and purpose of the Rule and its protection of shareholder democracy, is unworkable.

First, the Staff precedents at which the Company Letter takes aim are not only consistent with, but rather *required by* the Commission-level 2020 Rulemaking. As noted above, the 2020 Rule explicitly authorizes exactly what the Company Letter now claims is inconsistent with it – that a shareholder might engage a representative for *all aspects* of the shareholder proposal process but for submitting the proposal itself. *See* 2020 Rulemaking at 59. The Company Letter is therefore wrong to suggest that the Staff is interpreting Rule 14a-8(c) in a manner inconsistent with the purpose of the 2020 amendments to that Rule.

Second, the distinction demonstrated by the Staff precedents above is fully in keeping with the purpose of Rule 14a-8(c) and is essential in maintaining the broader purpose of the shareholder proposal rule. Rule 14a-8(c) is intended to prevent any one person from “submitting excessive numbers of proposals.” *See* 1976 Release. The representation of multiple individual shareholders by a single representative presents no inconsistency with that purpose. The shareholders that *As You Sow* represents are their own individuals and entities, with a specific interest in the outcome of the Proposal filed. That is the case with the Proponent, a representative of which attended an engagement meeting with the Company and engaged substantively about the Proposal. The

⁴ The meaning of the word “submit” is not really up for debate, and the Company makes no argument that the Commission’s interpretation is textually inconsistent with the Rule. “Submit” means “to deliver formally.” *Submit*, Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/submit>.

Company has offered no argument that either the Proponent or United Church Funds lacks an independent interest in the filing of either proposal. The proponents worked with *As You Sow* to put forth proposals in which they believe. As a shareholder representative, *As You Sow* offers to proponents its expertise and familiarity with the shareholder proposal process, allowing proponents more fully to exercise their rights as shareholders without being bogged down in the minutiae of Rule 14a-8's various procedural mechanisms.

Far from there being anything inappropriate about that relationship, the availability to shareholders of representatives is a meaningful, important aspect of shareholder democracy. As diversified investors, smaller shareholders are particularly attuned to systemic risk and externalities imposed by corporate action. But their voices are diffuse; no single small shareholder owns such a percentage of company stock that they can expect to be meaningfully heard by a company on their concerns. A core purpose of Rule 14a-8 is to remedy this collective action problem by enabling main street investors to raise issues to the attention of the board, management, and other shareholders. Representatives can and do play an essential role in this process. Through expertise on the Rule 14a-8 process they provide a voice to shareholders who may otherwise be too quiet to be heard. Representatives' involvement may also serve to help elevate those matters to the attention of larger shareholders or, through press and other mechanisms such as exempt solicitations, to the broader body of retail shareholders, areas in which small shareholders generally have little expertise. As the Commission has recognized, representatives not only bring needed expertise, but *reduce* the costs associated with the 14a-8 process by enabling the use of experts in the process.

Finally, the Company's position is wholly unworkable. It would require the Staff to make fact-intensive judgments, in the absence of any factual record, about the relationships between representatives and proponents, as well as inquire into the precise terms of the agreements governing such relationships to see if proponents have delegated "too much" authority to representatives. *See* Company Letter at 8-9. Of course, the Company's argument does not stop there — it also wants the Staff to delve into the professional and employment relationships of individual proponents, *see Exxon Mobil Corp. (Behar)* (Mar. 24, 2023) and *Exxon Mobil Corp. (Lyles)* (Mar. 24, 2023), as well as unrelated activities and relationships of representatives, *see* Company Letter at 11-20 and *infra*. Such inquiries are inconsistent with the Rule and would constitute an enormous drain on Staff resources.

The Company Letter is an attack on the very idea of shareholder representation, a core component of shareholder democracy. It is inconsistent with Staff precedent, Commission-level guidance, and the purpose of Rule 14a-8. It provides no basis on which to exclude the Proposal.

D. *As You Sow*'s purported relationship with Proxy Impact is not a basis for exclusion

The Company Letter advances a second Rule 14a-8(c) argument that the Proposal should be excluded because *As You Sow* has in the past, with respect to matters having nothing to do with the Proposal, collaborated with another organization that has also submitted a proposal on behalf of a client. The Company argues that *As You Sow* and the other organization, Proxy Impact, are therefore the same "person" under Rule 14a-8(c) and thus can submit only one Proposal. This argument is factually and legally baseless and should be firmly rejected.

As You Sow and Proxy Impact are separate entities, both of which have been in business for decades. The Company Letter points to four instances in which the organizations have collaborated. First, in ominous language, the Company Letter notes that the two organizations co-publish “an annual report and related webinar that analyzes the shareholder proposals submitted each proxy season.” Company Letter at 12. Second, the Company Letter points to the “As You Vote” Guidelines. As the Company Letter describes, these guidelines consist of certain recommendations that allow others to vote based on “ESG-aligned policy.” The publication of proxy voting guidelines by organizations is common; collaborating to produce guidelines is unrelated to the Company or the Proposal.⁵ Third, the Company states that *As You Sow* and Proxy Impact were both members of ‘Coalition United for a Responsible Exxon’ (CURE) which “campaigned . . . against the Company’s director nominees.” Company Letter at 15. CURE is a group in which dozens of other shareholders participated. It was formed after the Company began demonstrating a marked financial decline, resisted material climate action, and disregarded majority shareholder votes. Finally, the Company asserts that there is “substantial leadership overlap” between *As You Sow* and Proxy Impact because Proxy Impact’s CEO is a member of *As You Sow*’s 28-member advisory board and *As You Sow*’s CEO is a member of Proxy Impact’s advisory board. Advisory board membership is generally honorific and entails no leadership role or responsibility in an organization. That the Company Letter is grasping at straws is best demonstrated by its assertion that “50% of [Proxy Impact’s] advisory board is controlled by, or affiliated with, *As You Sow*.” Company Letter at 18. By this, the Company means that *As You Sow*’s CEO is one of four members of Proxy Impact’s advisory board, and one other individual, employed by neither organization, is on both advisory boards.

On these thin factual reeds, the Company Letter attempts to balance several baseless – and largely irrelevant – legal claims.

First, the Company argues that the co-publication of Proxy Preview and the As You Vote Guidelines constitutes a “joint solicitation” demonstrating an “intent to control the Company.” Company Letter at 17, 19-20. This is factually and legally incorrect and, moreover, irrelevant.

⁵ See, e.g., CalPERS, <https://www.calpers.ca.gov/docs/proxy-voting-guidelines.pdf>; CPP Investments, <https://www.cppinvestments.com/wp-content/uploads/2023/03/PVPGs-2023-Final-Englishv1.pdf>; Blackrock, <https://www.blackrock.com/corporate/literature/fact-sheet/blk-responsible-investment-guidelines-us.pdf>; ISS, <https://www.issgovernance.com/file/policy/active/americas/US-Voting-Guidelines.pdf>; Goldman Sachs, https://www.gsam.com/content/dam/gsam/pdfs/us/en/miscellaneous/voting_proxy_policy.pdf?sa=n&rd=n; Fidelity, https://www.fidelity.com/bin-public/060_www_fidelity_com/documents/Full-Proxy-Voting-Guidelines-for-Fidelity-Funds-Advised-by-FMRCO-and-SelectCo.pdf; Lazard, <https://www.lazardassetmanagement.com/docs/-m0-/16376/LazardProxyVotingPolicyAndProcedures.pdf>; Glass Lewis, <https://www.glasslewis.com/voting-policies-current/>; Brown Advisory, https://www.brownadvisory.com/sites/default/files/2024-02/Proxy_Voting_Policy_2023.pdf; Putnam Investments, https://www.putnam.com/static/pdf/proxy/proxy_voting_guidelines.pdf; NYC Comptroller, https://comptroller.nyc.gov/wp-content/uploads/documents/NYCRS-Corporate-Governance-Principles-and-Proxy-Voting-Guidelines_2019-Revised-February-2019.pdf; JP Morgan, <https://am.jpmorgan.com/us/en/asset-management/adv/resources/proxy-information/#>; AFL-CIO, https://aflcio.org/sites/default/files/2017-03/proxy_voting_2012.pdf; Connecticut Treasurer’s Office, <https://portal.ct.gov/-/media/OTT/Pension-Funds/Proxy-Voting/110122CRPTF-Proxy-Voting-Policies-2022.pdf>; and the National Center for Public Policy Research, <https://nationalcenter.org/proxy-navigator-2023/>.

The Company never explains how publishing a descriptive report on proposals submitted during the proxy season is “reasonably calculated to result in the procurement, withholding, or revocation of a proxy.” *See* Rule 14a-1(l)(1)(iii). As the Company appears to tacitly acknowledge, the publication of proxy voting guidelines generally does not constitute a solicitation. *See* Company Letter at 16 n.5 (arguing however that proxy voting guidelines publication may be solicitation *because* they are an “initial step” toward a “continuous plan” intended to result in a solicitation). The proxy voting guidelines at issue here do not constitute a solicitation. They set forth *general* methodologies rather than advice on *specific* votes. *See Exemptions from the Proxy Rules for Proxy Voting Advice*, 85 Fed. Reg. 55082, 55154 (Sept. 3, 2020) (amending definition of “solicitation” to include “proxy voting advice that makes a recommendation to a security holder as to its vote, consent, or authorization *on a specific matter for which security holder approval is solicited*” offered by proxy advisors (emphasis added)). The conversion of those general guidelines into a “voting profile” on the Iconik platform does not alter the fact that the guidelines are not directed at “specific matter[s].” *See id.*; *see also How It Works*, Iconikapp.com, <https://www.iconikapp.com/advisors/how-it-works>. Thus, Proxy Preview and the As You Vote Guidelines do not constitute a joint solicitation even under the expansive definition relied on by the Company Letter.

More to the point, the Company fails to establish that such a joint solicitation, even if it took place, would be relevant to Rule 14a-8(c). Instead, the Company relies on legal sleight of hand to argue that if the two organizations are engaged in a joint solicitation, they are a “group,” and if they are a “group,” they are a “person.” Because a “person” may submit only one proposal under Rule 14a-8(c), the Company argues, the two organizations may submit only one proposal.

Neither premise holds. As noted above, there is no joint solicitation. Further, the Company may not rely on out-of-context quotes from “[p]arallel statutory schemes” to create a new theory of law. *See* Company Letter at 19.

The Company’s first premise – that a joint solicitation by *As You Sow* and Proxy Impact would make them a “group” – is incorrect. The Company Letter relies solely upon the 2023 Beneficial Ownership Final Rules. *See* Exchange Act Release Nos. 33-11253; 34-98704 (Oct. 10, 2023); Company Letter at 19-20. As that document makes clear, the parties who may constitute a “group” under the rules being discussed are limited to “shareholders,” or, more precisely, “beneficial owners” that “act as a . . . group for the purpose of acquiring, holding, or disposing of securities of an issuer.” This rule is in furtherance of a Congressional purpose of “protecting against the evasion of disclosure requirements by persons who collectively sought to change or influence control of an issuer yet who each *acquired and held* an amount of beneficial ownership at or just below the reporting threshold” (emphasis added). *See* 2023 Beneficial Ownership Final Rules at 129-132. *As You Sow* and Proxy Impact are not beneficial owners of their respective proponents’ securities and are not acquiring, holding, or disposing of securities of an issuer with the purpose of avoiding disclosure. Thus, even if they constituted a group, it would be wholly irrelevant to Rule 14a-8’s shareholder proposal process. The Company Letter likewise repeatedly acknowledges the Commission’s statements that a group may be formed by certain joint activities by “shareholders.” *See* Company Letter at 19.

Similarly, Exxon fallaciously attempts to import the definition of a “person” used for the purposes of aggregating beneficial ownership under sections 13(d)(3) and 13(g)(3) into Rule

14a-8(c) in the absence of any Commission guidance indicating that the two terms are related. Indeed, they are explicitly not related. Sections 13(d) and 13(g) relate to ownership reporting requirements for investors who beneficially own (directly or indirectly) more than 5 percent of a covered class of equity securities. As the Company Letter takes pains to point out, the Commission in 2020 expanded the scope of Rule 14a-8(c) from “each shareholder” to “each person,” with the explicit intent of reaching entities *that are not shareholders*. See Company Letter at 6. By contrast, the definition of a “group” provided by sections 13(d)(3) and 13(g)(3) is limited to persons who work together to “be deemed to have acquired beneficial ownership.” Thus, the reference to Rule 14a-8 in the 2023 Beneficial Ownership Final Rules was limited to the question of whether a group is formed “if *shareholders* jointly submit a non-binding shareholder proposal,” and the Commission’s answer was that if submitting and presenting a proposal was all that shareholders did, their “beneficial ownership would not be aggregated for purposes of determining whether the five percent threshold under section 13(d)(1) or 13(g)(1) had been crossed.” 2023 Beneficial Ownership Final Rules at 135-36. This answer does not support or have any relevance to the Company Letter’s suggestion that if two shareholder *representatives* co-publish a report on the proxy season, they are a single person that may submit only one proposal per company.

Each of these legal flaws speaks to a larger conceptual flaw underlying the Company’s argument. *As You Sow* is not the shareholder for the purposes of either proposal submitted to the Company for which it is providing representation. Its ties are irrelevant. Its activities are irrelevant. Its organizational “views” are irrelevant. Whether Exxon would describe it as an “activist” is irrelevant. Rule 14a-8 says nothing about who may serve as a shareholder representative, nor does it purport to limit their unrelated advocacy activities. It certainly does not impute representatives’ activities to the shareholders they represent. Exxon is in receipt of a Proposal from the Suzanne B & Guy L Trust, which designated *As You Sow* as its representative. In the 2020 Rulemaking, the Commission was clear that Rule 14a-8(c) does not impede shareholder’s ability to identify a “representative of choice.” 2020 Rulemaking at 59. The Company’s “group” theory depends entirely on eliding the critical fact that the Suzanne B & Guy L Trust (Natural Resources), not *As You Sow*, is the shareholder of the Company’s securities.

Exxon’s arguments are an attack on shareholder democracy. Shareholder representatives help investors navigate a confusing process in which companies generally have an enormous resource and experience advantage, representation by excellent and expensive lawyers, and a variety of procedural and substantive opportunities to exclude proposals. As is their right, issuers take advantage of those rules and their structural advantages unhesitatingly.⁶ But shareholders have rights, too, including the right to file shareholder proposals and to be represented in activities associated with those proposals. While Exxon would like to limit the ability of shareholders who own “minimal” shares, or who are represented by experienced entities, to submit and move

⁶ For the companies who do so, their willingness to make use of those resources allows them to rack up unnecessary and self-imposed costs, which they can then marshal as evidence that the shareholder proposal process is too expensive. See Complaint, *Exxon Mobil Corp. v. Arjuna Capital, LLC*, No. 24-cv-69, at ECF No. 1 (N.D. Tex. Jan. 21, 2024) (at ¶ 58); Brief of Intervenor, *Nat’l Ctr. for Pub. Pol’y Research v. SEC*, No. 23-60230 at ECF No. 66 (5th Cir. July 21, 2023).

proposals it thinks are not appropriate, this crusade⁷ is not supported by Rule 14a-8. Representation is an important lynchpin for ensuring that retail investors can effectively exercise the rights guaranteed to them under federal law, which the Commission is tasked with upholding.

CONCLUSION

Based on the foregoing, the Company has provided no basis for the conclusion that the Proposal is excludable from the 2024 proxy statement pursuant to Rule 14a-8. We urge the Staff to deny the no action request.

Sincerely,



Luke Morgan
Staff Attorney, *As You Sow*

cc:

Louis Goldberg, Davis Polk & Wardwell LLP
James E. Parsons, Exxon Mobil Corporation

⁷ See, e.g., *Shareholder Proposal Lawsuit – Our responsibility to fight back*, Exxon Mobil (Feb. 26, 2024), <https://corporate.exxonmobil.com/news/corporate-news/shareholder-proposal> (stating that shareholders “with minimal” shares “should not be permitted” to proposals the Company unilaterally has decided “do not grow long-term shareholder value”); Complaint, *Exxon Mobil Corp. v. Arjuna Capital, LLC*, No. 24-cv-69, at ECF No. 1 (N.D. Tex. Jan. 21, 2024) (at ¶¶ 2, 4).

March 7, 2024

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

Ladies and Gentlemen:

On behalf of Exxon Mobil Corporation, a New Jersey corporation (the “**Company**” or “**ExxonMobil**”), we are writing to respond to the letter from Luke Morgan at As You Sow on behalf of Suzanne B & Guy L Tr (Nat Resources) (the “**Proponent**”) dated March 4, 2024 (the “**Proponent Response Letter**”) with respect to the Company’s no-action letter request dated January 22, 2024 (the “**No-Action Letter**”) regarding the shareholder proposal (the “**Proposal**”) submitted by the Proponent for inclusion in the proxy materials the Company intends to distribute in connection with its 2024 Annual Meeting of Shareholders (the “**2024 Proxy Materials**”). Capitalized terms not defined herein are used as defined in the No-Action Letter. Copies of the No-Action Letter and the Proponent Response Letter (each without attachments) are attached hereto as Exhibit A and Exhibit B, respectively.

We note that the Proponent waited six weeks to reply to the Company’s No-Action Letter and as a result, the Company has attempted to respond within three days given the Company’s impending print deadline of March 20, 2024 for its 2024 Proxy Materials. The Company respectfully requests the Staff provide a decision in time for the Company to continue to meet its print deadline. We have been advised by the Company as to the factual matters set forth herein.

1. The Proponent reads the Proposal’s requirements in a misleadingly narrow way.

In the Proponent Response Letter, the Proponent argues that the Proposal only requires ExxonMobil to provide “two yes-or-no, i.e., by definition non-granular, disclosures.” This is a misleadingly narrow reading of the Proposal that serves to obscure the complexity of the required disclosures. It is a well-accepted principle that on questions of interpretation, ambiguous language should be interpreted against the interests of the drafter.

a. 1.5C Alignment

First, the Proposal requests not just disclosure of whether an asset buyer has general greenhouse gas reduction targets, but whether it has 1.5C aligned targets as well. Determining whether a third party has greenhouse gas targets aligned with 1.5C is more complex than simply disclosing whether a third party has any targets at all. 1.5C reduction targets are commonly understood to be those that result in net-zero emissions from a company’s value chain by 2050 (i.e., net-zero Scope 1-3 emissions). Understanding the complexity of this task and the need for guidance, the Science Based Targets Initiative (SBTi) has published the SBTi Corporate Net-Zero Standard, a 63 page guide with detailed instructions for companies

to use in setting 1.5C-aligned targets. This document demonstrates the significant work that must go into setting, validating and communicating a 1.5C-aligned target.

The Proponent Response Letter implies that the request for a buyer's 1.5C-aligned targets is a simple ask. But who is responsible for ensuring that a buyer's targets are in fact aligned with 1.5C? The Proposal is silent on this matter. The Proponent may say that no work is required of ExxonMobil, and that ExxonMobil should simply report, without validating, a statement from a buyer that it has a 1.5C-aligned target. But making such statements, without properly diligencing and validating the targets, could subject ExxonMobil to negative press and potential liability for "greenwashing" if ExxonMobil is said to have touted the 1.5C aligned targets of a buyer that turn out to in fact not be 1.5C-aligned. As such, in order to both implement the proposal and protect itself from liability, ExxonMobil will be required to perform substantial additional diligence beyond a simply yes or no question of whether a buyer has 1.5C-aligned targets. This fact demonstrates that the Proposal micromanages the Company by seeking a level of granularity that impermissibly limits the Company's flexibility in conducting any sale process.

b. Material Climate Impact

Second, the Proponent Response Letter claims that ExxonMobil misreads the Proposal when ExxonMobil's no-action letter argues that the proposal would require a complex forward-looking analysis of how the assets will impact the climate after divestiture. Instead, the Proponent Response Letter claims that the Proposal only requires an analysis of climate impact prior to the sale. However, this is not actually clear from the wording of the Proposal, and if this was what the Proponent required, the Proposal should have specified it rather than using vague language.

As noted in the No-Action Letter, ExxonMobil explicitly asked the proponent in engagement how to define and understand what a "material climate impact" means. The Proponent was unwilling to discuss the topic at all in engagement. With this history, it is surprising how simple the Proponent now believes the analysis to be.

Regardless, the Proposal's intent clearly seems to be to understand how the assets will impact the climate going forward. Any asset's climate impact depends on how it is used. For example, companies may sell oil and gas assets that have not yet been fully developed or have not been developed at all. Those assets, prior to development, may have a negligible climate impact; but if they are sold and the buyer develops them, their climate impact increases significantly. In fact, the reading of the "material climate impact" language pushed by the Proponent in the Proponent Response Letter could have the counterproductive approach of allowing ExxonMobil to determine that an asset sale does not have a material climate impact based on ExxonMobil's operation of the asset (thus allowing ExxonMobil to forego the disclosure required by the Proposal) when ExxonMobil knows that the buyer intends to operate the asset in a way that will result in a material climate impact going forward. This would seem to go against the intent of the Proposal. As such, some degree of forward looking analysis is required in order to implement the proposal (and ExxonMobil's no-action letter clearly lays out the complexity of such an analysis).

c. Disclosure of Specific Counterparties

Third, the Proponent Response Letter insists that the requested disclosure would not require the Company to name any divestiture counterparties ("the requested disclosure does not even seek the *identity* of the purchaser"). Yet, nowhere in the Proposal or related supporting statement is that more modest interpretation of the Proposal evident. A plain reading of the resolved cause suggests otherwise: "Shareholders request that ExxonMobil annually report on divestitures of assets with material climate impact, *including whether each asset purchaser* discloses its GHG emissions and has 1.5°C aligned or other greenhouse gas reduction targets" (emphasis added). The Proponent Response Letter itself seems to

contradict that claim in the same paragraph when it notes that emissions disclosures and targets are “difficult for shareholders to obtain if asset transfers are not individually disclosed or if purchasers are private and have no disclosures.” Yet, as noted below, ExxonMobil cannot comply with the requirement to name asset purchasers and their private information and policies without violating applicable confidentiality agreements or seeking waivers from potential asset purchasers, which such parties may be unwilling to give. Over time, such requirements could reasonably be expected to alter the behavior of counterparties who do not wish to be forced to disclose information about their operations that is non-public because of the Proposal’s dictates, thereby harming the ability of the Company to conduct its asset divestiture program.

d. Confidentiality Compliance

Fourth, the Proponent Response Letter attempts to wave away any impact on the company’s day-to-day operations by framing its request as a simple, high-level disclosure requirement. Yet, as noted in the No-Action Letter, the disclosure of the information requested relating to prospective buyers is typically prohibited by confidentiality agreements entered into with bidders in connection with such sale processes, and the Proposal does not have any exception for such prohibitions, including for information on an anonymized basis.

2. The Proposal May Be Properly Omitted Because As You Sow has Indirectly Submitted More Than One Proposal in Violation of Rule 14a-8(c).

In the Proponent Response Letter, As You Sow fails to address and rebut the crux of the Company’s assertion: even “representatives” are subject to the one-proposal limitation in Rule 14a-8(c) if they submit, directly or indirectly, more than one proposal. Acting as a representative does not render a person immune from having to comply with Rule 14a-8(c).

The Commission made this clear in its amendments to Rule 14a-8 in 2020 where it stated that the “one-proposal limit *applies equally* to representatives who submit proposals on behalf of shareholders.” Exchange Act Release No. 34-89964 (Sept. 23, 2020) (the “**2020 Rulemaking**”) (emphasis added) at 58. The 2020 Rulemaking doubled down on this concept, further clarifying that “a representative [is] not permitted to submit more than one proposal to be considered at the same meeting, *even if* the representative [submits] each proposal on behalf of different shareholders.” *Id.* (emphasis added) at 54, 58. The Commission’s policy reasons for this interpretation are clearly articulated in the 2020 Rulemaking: “permitting representatives to submit multiple proposals for the same shareholders’ meeting can give rise to the same concerns about the expense and *obscuring effect* of including multiple proposals in the company’s proxy materials, thereby *undermining the purpose of the one-proposal limit.*” *Id.* (emphasis added).

a. As You Sow’s narrow interpretation of “submit” is inconsistent with the text of Rule 14a-8(c).

As You Sow argues that “submit” means to “deliver formally,” settling for the narrowest Merriam-Webster definition to avoid acknowledging that “submit” can also more broadly mean “to present or propose to another for review, consideration, or decision.”¹ *Proponent Response Letter* at 11. Further, when As You Sow’s cites Rule 14a-8(c) “as written,” it unfortunately fails to mention that a proposal can be “indirectly” submitted in violation of Rule 14a-8(c), which is directly at odds with the assertion that “submit” must only

¹ According to Merriam-Webster’s Collegiate Dictionary, 11th ed., p. 1244, “submit” also means: (i) “to present or propose to another for review, consideration, or decision,” (ii) “to defer to or consent to abide by the opinion or authority of another,” (iii) “to yield to governance or authority,” (iv) “to subject to a condition, treatment or operation,” (v) “to yield oneself to the authority or will of another” and (vi) “to permit oneself to be subjected to something.”

mean to “deliver formally.” *Id.* A person could not formally deliver a proposal while also indirectly submitting it.

Thankfully, we do not need to debate which Merriam-Webster definition of “submit” to apply because the text of Rule 14a-8(c) provides contextual guidance as to how “submit” should be interpreted, clearly stating that a person may not “directly or indirectly” submit more than one proposal per company meeting.

b. The 2020 Rulemaking draws a nuanced, but necessary, distinction between “assisting with a submission” and “indirectly submitting” a proposal.

The 2020 Rulemaking permits a representative to “assist” multiple shareholder proponents, so long as it only “submits” one proposal. *Id.* at 59. The one, permissible “submission” may be done in the representative’s own name or on behalf of a proponent. Either way, the representative is only permitted one “submission.”

The 2020 Rulemaking speaks of two separate concepts: “assistance” and “indirect submission.” These cannot be conflated since unlimited “assistance” is permitted while more than one “indirect submission” is not. The concepts of “assistance” and “indirect submission” can only logically co-exist if we accept that the level of substantive decision-making or control when “assisting with a submission” is meaningfully lower and wholly different than the higher level of substantive decision-making or control that would be exerted to “indirectly submit” a proposal. As such, Rule 14a-8(c) asks the Staff to determine when a representative’s “assistance” is so substantive or controlling of the proposal that the representative should be viewed as using a shareholder as a conduit to make an “indirect” submission.

c. To ascertain whether an “indirect submission” has been made, the underlying facts and circumstances must be considered.

In a letter to the Company dated January 5, 2024,² As You Sow states plainly that it “submitted” the Proposal, and so we are left to answer whether As You Sow has also “submitted” the proposal relating to the Company’s report on plastics (the “**Plastics Proposal**”) in violation of Rule 14a-8(c).

As You Sow does not concede that it “submitted” the Plastics Proposal since it is merely “assisting” the proponent and the proponent transmitted the Plastics Proposal itself. But just because a proponent directly submits a proposal, it does not mean that a simultaneous indirect submission by a representative cannot co-exist. In fact, to the extent a representative makes an indirect submission, a direct submission by a third party must also necessarily exist. Therefore, the proponent’s “direct” submission of the Plastics Proposal cannot preclude a simultaneous “indirect” submission without eliminating the concept of an “indirect” submission entirely.

As You Sow states that its ties, activities and organizational views are irrelevant to an analysis of Rule 14a-8(c) simply because As You Sow is not the *shareholder* for the Proposal and Plastics Proposal. *Proponent Response Letter* at 14. But again, Rule 14a-8(c) applies to shareholders *and* representatives alike, so the fact that As You Sow is not a shareholder does not mean it is exempted from complying with the rules. A representative’s ties, activities and organizational views—i.e., actions taken outside of the four corners of a proposal and related representation—are both relevant and necessary in ascertaining whether a representative is making an indirect submission.

The breadth of those activities, both generally and specifically for the Plastics Proposal, makes clear that As You Sow has crossed beyond mere assistance to indirectly submitting the proposals in violation of Rule

² <https://www.sec.gov/files/corpfm/no-action/14a-8/asyourownatexxon012224-14a8-incoming.pdf>, Exhibit C.

14a-8(c). The Company's No-Action Letter goes into detail on the many extracurricular activities of As You Sow that the Staff should consider. We believe they clearly make the case that As You Sow has indirectly submitted the Plastics Proposal. We will not repeat them here, but we will add a few more relevant examples below.

As You Sow stepped into the shoes of the proponent to drive the underlying substance of the engagement from the outset. As You Sow engaged during the proxy off-season to discuss the Plastics Proposal (as it was their same proposal from last year). Neither last year's proponent, the Meyer Memorial Trust, nor this year's proponent, United Church Funds, participated in any offseason engagements. As You Sow has done more than just handle the minutiae of Rule 14a-8. On December 15, 2023, the day after the proponent transmitted the Plastics Proposal, the Company received an email from As You Sow stating that it planned to submit a letter on behalf of investors to encourage the Company to "be responsive to our concerns." On December 18, 2023, As You Sow sent another email with said investor letter, citing the "ongoing engagement led by As You Sow on the risks of . . . single use plastic." This As You Sow letter to ExxonMobil's CEO was signed by four European investors, but not either of the 2023 or 2024 proponents.

Unfortunately, it is no surprise to us that As You Sow remains the constant while the underlying shareholders change each year. As You Sow has a long history of representing proponents and casting them to the side once the "formal delivery" of a proposal is complete and the substantive engagement begins. Prior to this year, As You Sow claims to have filed 21 resolutions at the Company in the last 10 years.³ Also prior to this year, when the Company insisted that the shareholder-proponents join the engagement on the proposals, none of the proponents meaningfully engaged with the Company on the substance of a proposal—other than the instances where the shareholder proponent was an officer, director or employee of As You Sow.

d. Even if only one of the As You Sow letters were deemed submitted by As You Sow, it should still be excluded based on their work with Proxy Impact creating a new "person" who has submitted multiple proposals this year.

As outlined in the Company's No-Action Letter, As You Sow has a long and very public history of coordinating with another representative, Proxy Impact, who has also submitted a proposal to the Company this proxy season. To ignore As You Sow's and Proxy Impact's coordinated actions and related-party transactions and how such actions and transactions may render them the same "person," as As You Sow suggests, would ignore the 2020 Rulemaking's instruction to analyze which "person" submits a proposal, rather than which "shareholder" submits a proposal. We will not repeat each instance of their coordinated actions already presented in the Company's No-Action Letter, but we will address a few discrete points in reaction to the Response Letter:

- As You Sow and Proxy Impact's advice constitutes "general methodologies" that are then applied—and even auto-populated into ballots—for *specific* proposals that are voted by As You Vote on behalf of shareholders.⁴ This is clearly a "recommendation to a security holder as to its vote . . . on a specific matter for which security holder approval is solicited." *Exemptions from the Proxy Rules for Proxy Voting Advice, 85 Fed. Reg. 55082, 55154 (Sept. 3, 2020).*
- The "substantial leadership overlap" at As You Sow and Proxy Impact is relevant to determine who, in fact, is submitting a proposal because the identity of a leader reflects substantive decision-making or control relationships. As You Sow is quick to dismiss the substantial director interlocks at

³ "Shareholder Advocacy's Role in Reimagining Capitalism", which is available at <https://www.youtube.com/watch?v=WM-Helf9HPw>.

⁴ See p. 9 of the Plastics No-Action Letter, which is available at <https://www.sec.gov/files/corpfm/no-action/14a-8/asyousowunitedexxon012224-14a8-incoming.pdf>.

As You Sow, disclaiming any “responsibility” held by advisory board members like Michael Passoff, CEO of Proxy Impact. *Proponent Response Letter* at 13. It made similar arguments trying to distinguish a member of its board of directors, Anna Marie Lyles, as independent of As You Sow in a no-action letter last year.⁵ We find these arguments highly irregular.

- However, if As You Sow is correct that both the board and advisory board do not play the role generally expected of boards, it begs the questions: Who is controlling As You Sow? Is it a single person? If not, is there an element of cross-control between As You Sow and Proxy Impact, necessarily making them act as a single “person”?
- If As You Sow is correct, it would appear Andrew Behar exerts total control (absent cross-control with entities like Proxy Impact) over As You Sow. Looking at his collaboration with Proxy Impact and his positions within Proxy Impact outlined in the Company’s No-Action Letter, it is difficult to believe that Andrew Behar does not exert at least some control over Proxy Impact given he (i) occupies one of only four Proxy Impact board seats and (ii) seemingly employs or has a consultant relationship, through As You Sow, with Michael Passoff. Mr. Passoff is not just listed as a member of As You Sow’s advisory board, he is also listed as “Consulting Senior Strategist, As You Sow” and states on his own LinkedIn profile that he serves as a senior consultant to As You Sow’s shareholder campaigns.⁶

Facts and circumstances must be considered by the Staff if they are to analyze the word “indirectly” in Rule 14a-8(c). As You Sow alleges that the Staff could not possibly analyze the underlying facts and circumstances surrounding a proponent’s submission due to inherent and “unworkable” complexities. *Proponent Response Letter* at 12. However, ExxonMobil has already provided these data points in the Company’s No-Action Letter for the Staff’s review. In our experience, each year, the Staff considers the underlying facts and circumstances for each and every no-action request.

By revising the text of Rule 14a-8(c) in the 2020 Rulemaking to include the words “directly or indirectly,” the Commission necessarily tasked the Staff with the authority and responsibility to analyze what it means for a “person” (not a shareholder) to “directly or indirectly” submit a proposal.

CONCLUSION

The Proponent Response Letter contains numerous other incidents of reframing or mischaracterizing language from the Proposal or the No-Action Letter in an apparent effort to sidestep or selectively ignore the arguments in the No-Action Letter.

Although the Proponent Response Letter attempts to wrest language and reframe elements of the Proposal, the Company continues to believe that the Proposal micromanages the Company’s business operations as described in the thorough analysis of the No-Action Letter and noted above. In addition, the Proposal remains excludable given both As You Sow’s (1) direct or indirect submission of two proposals and (2) its coordinated actions with Proxy Impact causing them to be treated as the same “person” who have impermissibly submitted multiple proposals.

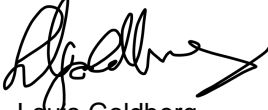
For these reasons, the Company continues to believe that it may exclude the Proposal from its 2024 Proxy Materials pursuant to Rule 14a-8(i)(7) and Rule 14a-8(c).

⁵ See a letter sent by Ms. Lyles to the Company dated March 2, 2023, which is available on p. 183 of the no-action correspondence relating to a proposal submitted by Ms. Lyles, at <https://www.sec.gov/divisions/corpfin/cf-noaction/14a-8/2023/lylesexxon032423-14a8.pdf>.

⁶ <https://www.linkedin.com/in/michael-passoff-7127431/>; last visited March 7, 2024.

We would be happy to provide you with any additional information and answer any questions that you may have regarding this supplement to the No-Action Letter. Please do not hesitate to call me at (212) 450-4539 or contact James Parsons at james.e.parsons@exxonmobil.com.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Louis Goldberg", with a stylized flourish at the end.

Louis Goldberg

Attachment

cc w/ att: James E. Parsons, Exxon Mobil Corporation

Luke Morgan, Staff Attorney As You Sow

Exhibit A

January 22, 2024

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

RE: Exxon Mobil Corporation
Exclusion of Shareholder Proposal – As You Sow/Suzanne B & Guy L Tr (Nat Resources)
Securities Exchange Act of 1934 – Rule 14a-8

Ladies and Gentlemen:

On behalf of Exxon Mobil Corporation, a New Jersey corporation (the “**Company**”), and in accordance with Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), we are filing this letter with respect to the shareholder proposal (the “**Proposal**”) submitted by As You Sow on behalf of Suzanne B & Guy L Tr (Nat Resources) (the “**Proponent**”) for inclusion in the proxy materials the Company intends to distribute in connection with its 2024 Annual Meeting of Shareholders (the “**2024 Proxy Materials**”). The Proposal and related correspondence are attached hereto as Exhibit A.

We hereby request confirmation that the Staff of the Division of Corporation Finance (the “**Staff**”) will not recommend any enforcement action if, in reliance on Rule 14a-8, the Company omits the Proposal from the 2024 Proxy Materials.

In accordance with relevant Staff guidance, we are submitting this letter and its attachments to the Staff through the Staff’s online Shareholder Proposal Form. In accordance with Rule 14a-8(j), we are simultaneously sending a copy of this letter and its attachments to the Proponent as notice of the Company’s intent to omit the Proposal from the 2024 Proxy Materials. This letter constitutes the Company’s statement of the reasons it deems the omission of the Proposal to be proper. We have been advised by the Company as to the factual matters set forth herein.

THE PROPOSAL

The Proposal states:

RESOLVED: Shareholders request that ExxonMobil annually report on divestitures of assets with material climate impact, including whether each asset purchaser discloses its GHG emissions and has 1.5°C-aligned or other greenhouse gas reduction targets.

REASON FOR EXCLUSION OF THE PROPOSAL

The Company believes that the Proposal may be properly omitted from the 2024 Proxy Materials pursuant to:

Davis Polk

1. Rule 14a-8(i)(7): The Proposal deals with matters related to the Company's ordinary business operations; and
2. Rule 14a-8(c): As You Sow submitted two shareholder proposals at the same shareholder meeting.

The Proposal May Be Excluded Under Rule 14a-8(i)(7) Because the Proposal Deals with Matters Related to the Company's Ordinary Business Operations.

Rule 14a-8(i)(7) allows a company to omit a shareholder proposal from its proxy materials if such proposal deals with a matter relating to the company's ordinary business operations. The policy underlying the ordinary business exception is based on two central considerations: (i) 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" and (ii) the "degree to which the proposal seeks to 'micro-manage' the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment." See Exchange Act Release No. 34-40018 (May 21, 1998) (the "**1998 Release**"); see also Staff Legal Bulletin No. 14L (Nov. 3, 2021) ("**SLB 14L**").

A. The Proposal Seeks to Micromanage the Company by Imposing Specific Methods for the Divestitures of Assets.

Based on the second policy consideration underlying the ordinary business exclusion and as reiterated by SLB 14L, the Company believes it may omit the Proposal pursuant to Rule 14a-8(i)(7) because it impermissibly seeks to micromanage the Company by imposing specific methods on management for the divestiture of Company assets.

B. The Level of Granularity Sought in the Proposal Inappropriately Limits the Company's Discretion.

According to SLB 14L, the determination of whether a proposal impermissibly micromanages the Company "will focus on the level of granularity sought in the proposal and whether and to what extent it inappropriately limits discretion of the board or management." SLB 14L. The Staff further clarified that this approach is "consistent with the Commission's views on the ordinary business exclusion, which is designed to preserve management's discretion on ordinary business matters but not prevent shareholders from providing high-level direction on large strategic corporate matters." The Staff has consistently concurred with the exclusion of proposals that inappropriately limit management's discretion. See, e.g. *The Kroger Co.* (Apr. 25, 2023) (concurring with exclusion of a proposal requesting the company's pilot participation in the Fair Food Program for tomato purchases in order to mitigate severe risks of forced labor and other human rights violations in the company's produce supply chain); *Amazon.com, Inc.* (Apr. 7, 2023) (concurring that a proposal requiring the company to measure and disclose scope 3 greenhouse gas emissions from its full value chain and all products that it sells directly and by third party vendors micromanaged the company); *Chubb Limited* (Mar. 27, 2023) (concurring with exclusion of a proposal that would require the board to adopt and disclose a policy for the timebound phase out of underwriting risks associated with new fossil fuel exploration and development projects); *AT&T Inc.* (Mar. 15, 2023) (concurring with exclusion of a proposal requesting the board adopt a policy of obtaining shareholder approval for any future "golden coffin" arrangements); *JPMorgan Chase & Co.* (Mar. 26, 2021) (permitting exclusion of a proposal requesting a study on the costs created by the company in underwriting multi-class equity offerings); *JPMorgan Chase & Co.* (Mar. 19, 2019) (permitting exclusion of a proposal requesting a report examining the "politics, economics and engineering for the construction of a sea-based canal through the Tehuantepec isthmus of Mexico"); *Royal Caribbean Cruises Ltd.* (Mar. 14, 2019) (permitting exclusion of a proposal that would

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require the company to receive stockholder approval for each new share repurchase program and all stock buybacks); and *Abbott Laboratories* (Feb. 28, 2019) (same).

The Company has a long-standing asset management and divestment program, where the Company regularly reviews its existing asset portfolio for opportunities to sell assets. This program is significant and complex and covers the Company's assets globally. In 2021, the divestment program generated proceeds of over \$3 billion. In 2022, it generated proceeds over \$5 billion, and in the first three quarters of 2023, the Company divested assets that resulted in proceeds of over \$3 billion. In addition to this divestment activity, the Corporation has executed or announced acquisitions of approximately \$65 billion in 2023 alone. This portfolio management activity involves a high number of prospective counterparties for each potential divestment. During this time period the divestment program covered different types of assets, at different locations around the world, including the U.S., Iraq, Argentina, Italy, Thailand, Nigeria, Canada, Romania, Singapore, Australia, Chad, the North Sea, Hong Kong, Norway, Kurdistan, Cameroon, and Yemen.

A divestment program covering locations throughout the world with multiple transactions in many jurisdictions is, of necessity, a decentralized process that can be run differently according to local laws, cultural norms and asset profiles. This process can vary within countries as much as between them. For example, selling an asset in California will be a very different process than selling an asset in Texas. While the Proposal takes the approach of asking for just a report rather than asking the Company to explicitly take specific action, the only way the Company can comply with the request is by altering its standard operating procedures in each locale with respect to its divestiture program and implementing this Proposal throughout these numerous and varied locations and across these separate teams and processes. Implementing the Proposal would mean that the Company must, as a threshold matter, evaluate each of dozens of potential transactions with multiple potential counterparties for each transaction with respect to the GHG emissions impact of such counterparty's approach to the transaction in order to make an initial determination of whether any asset sale represents a "material climate impact," simply to assess whether the transaction would be included in the report. The criteria that would be used to determine whether a divestiture is likely to have a "material climate impact" is left unaddressed by the Proposal. As such, the Company is left to interpret the intent of the Proposal from the supporting statement which frames the problem in terms of total asset transfers, meaning each individual asset may qualify as it contributes to this total. As in *Abbott Laboratories*, *Walgreens Boots Alliance* and *Royal Caribbean Cruises*, the Proposal would effectively require the Company to make hundreds of individual evaluations on a prospective basis, one for each and every counterparty for each asset divestiture it considers making (including small dollar asset sales), a requirement that would significantly burden the operation of its ordinary course M&A activity all over the world and limit management's discretion in conducting these processes.

These costs will impact not just ExxonMobil but also prospective counterparties. Under the proposal, the Company would be required to alter its due diligence procedures worldwide (including on prospective buyers) in order to obtain the additional information the Proposal requests about the potential impact of the transaction (and each prospective buyer) on climate change, including an analysis of whether the buyers already have GHG emissions reduction targets and whether those targets include the potential impact of each prospective buyer's plans for the asset after the transaction itself. We believe it is unlikely the buyer will be willing to share this competitively sensitive information of their plans as this directly affects their valuation of the asset they are seeking to buy. As a result, we will be required to forecast things we cannot forecast. For example, what are the buyer's planned maintenance programs? Their desire to grow or expand future investment on the asset? What is the length of time they plan to operate the asset? Lacking any real ability to estimate this, any report we are required to make will likely be meaningless. This is because the report is not limited in any way to only those purchasers who already have disclosed public targets, and instead inappropriately limits the Company's discretion by forcing it to consider whether transactions with any and all purchasers of assets, including those that do not have GHG emissions targets or have not made them public, would cause the transaction to have a "material climate impact."

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Furthermore, disclosure of such information relating to prospective buyers is typically prohibited by confidentiality agreements entered into with bidders in connection with such sale processes, and the Proposal does not have any exception for such prohibitions.

These counterparties, especially smaller or private counterparties, may simply chose not to negotiate with ExxonMobil should we try to impose these types of off market restrictions and disclosure requirements, resulting in even further restrictions in the company's ability to manage our portfolio and sales processes, and even in restraints in competition and trade by restricting the manner of our sales processes. In addition, it is crucial to understand the scope of the proposal to acknowledge that for almost all assets outside the U.S., which represent a significant portion of ExxonMobil as a global company, the host government must approve the buyer of any assets that are transferred. These governments, and their local regulators which may also set relevant policy with respect to divestitures, with their own priorities, may eliminate the only parties who have disclosed public targets, forcing ExxonMobil into guessing at the assumptions and plans of the buyer as described above. The Proposal thus imposes a methodology on the Company's due diligence and execution process for asset divestitures that further limits management's discretion in complex and multi-faceted processes and negotiations and may even eliminate management's ability to engage in portfolio management in foreign jurisdictions. For these reasons, the Proposal inappropriately limits the Company's flexibility in conducting such a sale process, may have anti-competitive effects in limiting the buyer universe for such a sale process, and overall limits the Company's discretion with respect to its core business operations. The result of all of this is sub-optimization of value for ExxonMobil and resulting harm to shareholders.

C. The Proposal Probes Matters "Too Complex" for Shareholders, as a Group, to Make an Informed Judgment.

The micromanagement element of the ordinary business exception under Rule 14a-8(i)(7) is also based on whether a proposal probes matters "too complex" for shareholders, as a group, to make an informed judgement. SLB 14L, citing the 1998 Release. According to SLB 14L, in making this determination as to whether a proposal probes matters "too complex" for shareholders, the Staff may consider "the sophistication of investors generally on the matter, the availability of data, and the robustness of public discussion and analysis on the topic," as well as "references to well-established national or international frameworks when assessing proposals related to disclosure, target setting, and timeframes as indicative of topics that shareholders are well-equipped to evaluate." The Staff has consistently granted no-action relief for shareholder proposals that probe matters too complex for shareholders. *See, e.g. GameStop Corp.* (Apr. 25, 2023) (concurring with exclusion of a proposal requesting the company to create a service and provide a daily report on certain shareholding information, a service that was not related to any existing business offering of the company); *Phillips 66* (Mar. 20, 2023) (concurring with exclusion of a proposal requesting the company to disclose specific and detailed information related to the undiscounted expected value to settle obligations for asset retirement obligations with indeterminate settlement dates); and *Valero Energy Corporation* (Mar. 20, 2023) (same).

The Proposal's term "material climate impact" is a clear signal of the complexity of this request. The Proponent did not define this term. Perhaps they would suggest it is to give ExxonMobil discretion, but we believe this term is too complex for us to define in the context of the proposal, which is why we interpreted the intent as every transaction for the sake of this discussion. There are a number of questions that make the complexity of this term clear. What model would the proponent suggest we use to determine the impact of an individual asset transfer on the global climate? At what point would that be material to the global climate? How is materiality of any change in a single asset's management to be understood in judging materiality to the global climate? Is it not materiality to the climate as suggested in the wording but materiality to something else? If so, what? We do not have answers to these questions in the context of

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this Proposal and do not believe the Proponent does either given the complexity of climate modeling and the size of global emissions each year in comparison to any of our asset divestitures.

Additionally, no single divestiture by the Company is the same. The decision by management of whether to divest an asset is a multi-factor process that balances portfolio management and due diligence with anticipated value to shareholders and alignment with the Company's broader business strategy. As written, the Proposal would draw shareholders deep into those complex managerial and, in some cases, board-level decisions. Like *Phillips 66* and *Valero*, where the Staff permitted the exclusion of proposals requiring the Company to produce detailed accounting information for shareholders, so too here the Proposal would require the Company to follow a specific method for its due diligence procedures for these sales processes about each of its prospective divestiture counterparties and to disclose detailed and potentially confidential and proprietary information for annual shareholder review.

Finally, it is unnecessary for shareholders to make any determination here as ExxonMobil already discloses significant divestment activities in quarterly earnings releases, including the identity of buyers in connection with significant sales.

The Proposal May Be Excluded Under Rule 14a-8(c) Because As You Sow Submitted Two Shareholder Proposals at the Same Meeting.

The Proposal may be excluded because As You Sow impermissibly submitted two proposals, each as the representative of a shareholder proponent, in contravention of the "one proposal rule" and such deficiency was not remedied following the Company's clear notification that such submissions violated Rule 14a-8(c). Rule 14a-8(c), as amended, states, "[e]ach person may submit no more than one proposal, directly or indirectly, to a company for a particular shareholders' meeting" (the "**One Proposal Rule**").

By email sent on December 22, 2023, within 14 days of the submission of the Proposal, the Company notified Yagan Family Foundation (the "**Original Proponent**") as required by Rule 14a-8(f) that the Proponent must demonstrate eligibility under Rule 14a-8 (the "**First Deficiency Notice**," which is included as [Exhibit B](#)). The First Deficiency Notice specifically advised the Original Proponent that each person cannot submit more than one proposal to a company, either directly or indirectly, and that the Company believed that the Original Proponent had submitted multiple proposals in violation of that rule. As required by Rule 14a-8(f), the First Deficiency Notice advised the Original Proponent that a response addressing the deficiencies noted must be postmarked or transmitted electronically to the Company no later than 14 calendar days from the date the Original Proponent received the notice.

On January 3, 2024, As You Sow acknowledged receipt of the First Deficiency Notice on behalf of the Original Proponent, noting that "remaining deficiencies will be addressed before January 5, 2024." On January 5, 2024, As You Sow notified the Company that it formally withdrew the Original Proponent as the proponent of the Proposal and replaced the Original Proponent with the Proponent, the original co-filer of the Proposal. On the same day, As You Sow sent a letter on behalf of the Proponent disputing the Company's argument that the Proponent had submitted multiple proposals. See [Exhibit C](#).

On January 8, 2024, the Company sent the Proponent the second deficiency notice (the "**Second Deficiency Notice**," which is included as [Exhibit D](#)), re-iterating that the Proposal still contains the multiple proposal deficiency and explaining the steps the Proponent could take to cure such deficiency. To date, the Proponent has not responded to the Second Deficiency Notice.

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A. Background

Almost a half century ago, the Commission adopted a limit on the number of proposals that a shareholder was permitted to submit under Rule 14a-8 to address the concern that some “proponents . . . [exceed] the bounds of reasonableness . . . by submitting excessive numbers of proposals.” See Exchange Act Release No. 34-12999 (Nov. 22, 1976), at 52996 (the “**1976 Release**”). The Commission further stated that “[s]uch practices are inappropriate under Rule 14a-8 not only because they constitute an unreasonable exercise of the right to submit proposals at the expense of other shareholders but also because they tend to obscure other material matters in the proxy statements of issuers, thereby reducing the effectiveness of such documents.” *Id.* Thus, the Commission adopted a two-proposal limitation (subsequently amended to a one-proposal limit) but presciently warned of the “possibility that some proponents may attempt to evade the [rule’s] limitations through various maneuvers.” *Id.* The Commission went on to warn that “such tactics” could result in the granting of no-action requests permitting exclusion of multiple proposals.

In 1982, when the Commission proposed amendments to Rule 14a-8 to reduce the proposal limit from two proposals to one proposal, it stated that its changes to the Rule and the interpretations thereunder were in part due to “the susceptibility of certain provisions of the rule and the Staff’s interpretations thereunder to abuse by a few proponents and issuers.” See Exchange Act Release No. 34-19135, at 47421 (Oct. 14, 1982). Subsequently, in adopting the One Proposal Rule, it stated, “[t]he Commission believes that this change is one way to reduce issuer costs and to improve the readability of proxy statements without substantially limiting the ability of proponents to bring important issues to the shareholder body at large.” See Exchange Act Release No. 34-20091 (Aug. 16, 1983).

In 2020, the Commission approved further amendments to Rule 14a-8 to apply the One Proposal Rule to “each person” rather than “each shareholder” and clarified that the Rule applies to proposals submitted “directly or indirectly” by such person. See Exchange Act Release No. 34-89964 (Sept. 23, 2020), at 57-58 (the “**2020 Release**”). The Commission further explained that the amendments would not prevent a stockholder from seeking assistance from a representative or other person, but stated, “[h]owever, to the extent that the provider of such services submits a proposal, either as a proponent **or as a representative**, it will be subject to the one-proposal limit and will not be permitted to submit more than one proposal in total to the same company for the same meeting.” *Id.* at 59 (emphasis added).

The Commission’s long-standing and well-founded concern regarding certain shareholders submitting multiple proposals at the expense of other shareholders remains an important concern, if not more so, today. For example, a proponent, who is only required to hold a de minimis amount of a company’s securities, that submits multiple proposals under Rule 14a-8 would incur relatively little cost, but a company’s shareholders would indirectly bear the cost for each additional proposal, which can range higher than \$20,000–\$150,000 per proposal. See Exchange Act Release No. 34-95267 (July 13, 2022), at 51 (estimating that the direct costs associated with addressing a single shareholder proposal can exceed the \$20,000–\$150,000 range provided in the 2020 Release). Furthermore, allowing persons to submit more than one proposal obfuscates the Company’s proxy statement with many different issues, as certain registrants, including the Company, are regularly required to place ten or more Rule 14a-8 shareholder proposals on their proxy statement each year. Accordingly, the amendments adopted in the 2020 Release focused on “representatives” and “persons,” instead of “shareholders,” precisely to curb the circumvention of the One Proposal Rule by persons or entities that relied upon nominal shareholders to include two or more proposals on a company’s proxy statement.

B. As You Sow is the “Representative” for Two Proposals.

First, As You Sow is the Proponent’s representative for the Proposal. The materials submitted with the Proposal include a letter from the Proponent that clearly states that As You Sow represents the Proponent

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as to “any and all aspects of the shareholder resolution . . . and all other forms of representation necessary in moving the [Proposal].” See Exhibit A.

Second, two employees of As You Sow—Conrad MacKerron and Genevieve Abedon—were appointed by another shareholder proponent, United Church Funds, as the “agents” to handle all communications, engagements and presentation of a proposal relating to the Company’s report on petrochemicals (the “**Petrochemicals Proposal**”). See the Company’s letter dated January 22, 2024 requesting that the Staff concur in the exclusion of the Petrochemicals Proposal, as submitted to the SEC Office of Corporation Finance in the same manner as the Proposal.

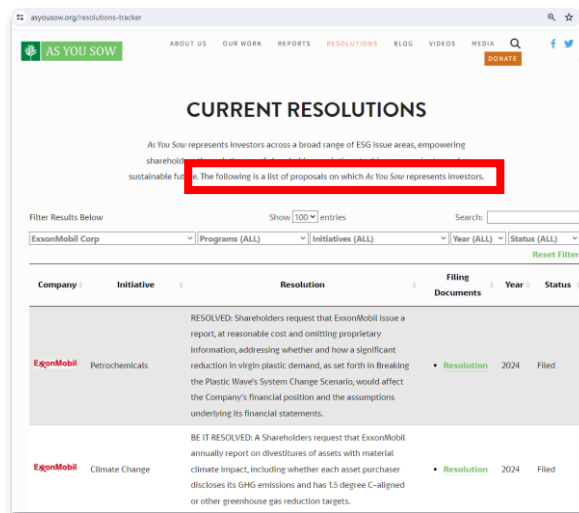
Even though United Church Funds did not use the word “representative” or its derivatives to describe Mr. MacKerron’s and Ms. Abedon’s authority in its initial communications with respect to the Petrochemicals Proposal, the words “agent” and “representative” are synonymous in this context, as both terms suggest a broad delegation of authority. Furthermore, United Church Fund’s delegation of authority to Mr. MacKerron and Ms. Abedon “to act as [its] agents regarding the [Petrochemicals Proposal], including engagement, and presentation at the [2024 Annual Meeting]” and request to the Company to “direct all future communications regarding” the Petrochemicals Proposal to Mr. MacKerron and Ms. Abedon represent the type of delegation of power the amendments in the 2020 Release sought to address. See Exchange Act Release No. 34-89964 (Sept. 23, 2020), at 58. And because “entities and all persons under their control, **including employees**, [are] treated as a ‘person’” under Rule 14a-8(c), Mr. MacKerron and Ms. Abedon and As You Sow are one and the same “person” for purposes of Rule 14a-8(c). *Id.* at 61 (emphasis added).

As You Sow also states on its website that it is acting as a representative of United Church Funds in connection with the Petrochemicals Proposal. The website states that it “represents investors” in a long list of proposals via its “Current Resolutions” tracker, and the Petrochemicals Proposal and the Proposal are each included within that list.

For these reasons, As You Sow is the representative of both the Proposal and the Petrochemicals Proposal.

As You Sow Resolutions Tracker

<https://www.asyousow.org/resolutions-tracker>¹



The screenshot shows the 'CURRENT RESOLUTIONS' page on the As You Sow website. The page features a navigation bar with links for 'ABOUT US', 'OUR WORK', 'REPORTS', 'RESOLUTIONS', 'BLOG', 'VIDEOS', 'MEDIA', and 'DONATE'. Below the navigation bar, there is a search bar and a 'DONATE' button. The main content area is titled 'CURRENT RESOLUTIONS' and includes a sub-header: 'As You Sow represents investors across a broad range of ESG issue areas, empowering shareholders to drive positive change in the companies they invest in. The following is a list of proposals on which As You Sow represents investors.' Below this, there is a filter section with dropdown menus for 'Filter Results Below', 'Show 100 entries', and 'Search:'. The filter section also includes dropdown menus for 'EcoconMobil Corp', 'Programs (ALL)', 'Initiatives (ALL)', 'Year (ALL)', and 'Status (ALL)'. Below the filter section, there is a table with columns for 'Company', 'Initiative', 'Resolution', 'Filing Documents', 'Year', and 'Status'. The table contains two rows of data:

Company	Initiative	Resolution	Filing Documents	Year	Status
EcoconMobil	Petrochemicals	RESOLVED: Shareholders request that EcoconMobil issue a report, at reasonable cost and omitting proprietary information, addressing whether and how a significant reduction in virgin plastic demand, as set forth in Breaking the Plastic Wave's System Change Scenario, would affect the Company's financial position and the assumptions underlying its financial statements.	Resolution	2024	Filed
EcoconMobil	Climate Change	BE IT RESOLVED: A Shareholders request that EcoconMobil annually report on divestitures of assets with material climate impact, including whether each asset purchaser discloses its GHG emissions and has 1.5 degree C-aligned or other greenhouse gas reduction targets.	Resolution	2024	Filed

¹ Each of the websites cited herein were last visited on January 18, 2024.

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C. As You Sow Violated the One Proposal Rule And This Deficiency Was Not Corrected After Proper Notice.

The facts described above demonstrate that As You Sow submitted, as representative, more than one proposal to the Company for the 2024 Annual Meeting in contravention of the One Proposal Rule, and, therefore, the Proposal may be excluded from the 2024 Proxy Materials.

The 2020 Release makes clear that Rule 14a-8(c) “applies equally to representatives who submit proposals on behalf of shareholders they represent.” See Exchange Act Release No. 34-89964 (Sept. 23, 2020), at 58. Further, it states that “a representative will not be permitted to submit more than one proposal to be considered at the same meeting, **even if the representative were to submit each proposal on behalf of different shareholders.**” *Id.* (emphasis added). This guidance acknowledges that a representative serves a substantive role in the shareholder proposal process—if the representative did not serve a substantive role in the shareholder proposal process, it would be allowed to submit an unlimited number of proposals at each meeting.

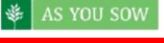
Notwithstanding the above, we recognize that if “a shareholder’s representative of choice is unable to submit a proposal for the shareholder,” because the proponent’s representative makes a separate submission to the company, “the representative could still **assist** the shareholder with drafting the proposal, **advising** on steps in the submission process, and engaging with the company” and generally “navigating the shareholder-proposal process.” See Release No. 34-89964 (Sept. 23, 2020) (emphasis added), at 46, 59. However, the authority delegated to As You Sow by the Proponent and United Church Funds for the Proposal and the Petrochemicals Proposal, respectively, go beyond mere “assisting” or “advising” and, instead, reach a level of authority that is equal to that of a proponent.

As the Staff is aware, As You Sow submits dozens of shareholder proposals each proxy season, sometimes as a “shareholder” and sometimes as a “representative.” For example, As You Sow has submitted two or more proposals, directly or indirectly, to the Company in all but one of the proxy seasons in the past decade. Regardless of whether As You Sow is titled the “shareholder” or the “representative,” they engage with the Company in the exact same manner – handling all correspondence (other than any initial submission by the shareholder, if As You Sow is serving as representative), discussing the proposal directly with the Company and filing exempt solicitations pursuant to Rule 14a-6(g)(1) on As You Sow letterhead, even where As You Sow is “merely” the representative. Compare the following exempt solicitations filed pursuant to Rule 14a-6(g)(1) for the Company’s 2023 annual meeting. The first filing relates to a proposal where As You Sow is the “shareholder.” The second filing relates to a proposal where As You Sow is the “representative” of Andrew Behar, the CEO of As You Sow. The filings look identical and the As You Sow letterhead makes it clear: As You Sow is the authoritative voice behind each proposal.

As You Sow’s Proposal

<https://www.sec.gov/Archives/edgar/data/34088/000121465923006550/z54230px14a6g.htm>

PX14A6G 1 z54230px14a6g.htm

	Main Post Office, P.O. Box 751 Berkeley, CA 94704	www.asyousow.org BUILDING A SAFE, JUST, AND SUSTAINABLE WORLD SINCE 1992
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Notice of Exempt Solicitation Pursuant to Rule 14a-103

Name of the Registrant: Exxon Mobil Corporation (XOM)
Name of persons relying on exemption: As You Sow
Address of persons relying on exemption: Main Post Office, P.O. Box 751, Berkeley, CA 94704

Written materials are submitted pursuant to Rule 14a-6(g)(1) promulgated under the Securities Exchange Act of 1934. Submission is not required of this filer in the interest of public disclosure and consideration of these important issues.


Exxon Mobil Corporation (XOM)
Vote Yes: Item #13 – Shareholder Proposal on Single-Use Plastics
Annual Meeting, May 21, 2024

CONTACT: Conrad MacKerron | mack@asyousow.org

Mr. Behar's Proposal

<https://www.sec.gov/Archives/edgar/data/34088/000121465923005620/j419230px14a6g.htm>

PX14A6G 1 j419230px14a6g.htm

	Main Post Office, P.O. Box 751 Berkeley, CA 94704	WWW.ASYOUSOW.ORG BUILDING A SAFE, JUST, AND SUSTAINABLE WORLD SINCE 1991
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Notice of Exempt Solicitation Pursuant to Rule 14a-103

Name of the Registrant: ExxonMobil Corporation (EXXON)
Name of persons relying on exemption: As You Sow on behalf of Andrew Behar
Address of persons relying on exemption: 1419230px14a6g.htm, Berkeley, CA 94704

Written materials are submitted pursuant to Rule 14a-6(g)(1) promulgated under the Securities Exchange Act of 1934. Submission is not required of this filer in the interest of public disclosure and consideration of these important issues.

ExxonMobil Corporation (XOM)
Vote Yes: Item #11 – GHG Reporting on Adjusted Basis
Report Impact of Asset Transfers on Disclosed Greenhouse Gas Emissions

CONTACT: Danielle Fugere | dfugere@asyousow.org

By representing two proposals simultaneously, As You Sow has indirectly submitted two proposals and has not rectified the Rule 14a-8(c) deficiency by withdrawing as representative from either the Proposal or the Petrochemicals Proposal.

D. Construing the Term “Submit” Literally Contradicts the Commission’s Goal of Reducing Abuse of the One Proposal Rule.

The Commission’s recent interpretations of the word “submit” in the One Proposal Rule suggest that it views the word “submit” as synonymous with “press send.” For example, the Commission has granted no-action relief where a proponent submitted a letter on its own behalf and also “pressed send” on a second proposal where it served as a representative. Had the proponent enlisted the proponent of the second proposal to press send on the submission instead, the second proposal would have been valid – even though the proponent was the mastermind behind the second proposal. *See Bank of America (March 1, 2022)*. Similarly, the Commission has denied no-action relief where a proponent submitted a letter on its own behalf while also serving as representative in a second proposal, simply because the proponent of the second proposal “pressed send.” *See IQVIA Holdings Inc. (Nov. 18, 2021)*; *see also Baxter International Inc. (Jan. 12, 2022)* (denying no-action relief where proponent submitted a letter on its own behalf and also “pressed send” on a second proposal to the company where it served as representative, but cured the deficiency by being removed as representative).

In substance, these fact patterns are identical – a single person is directly or indirectly submitting two proposals. In form, however, the application of the One Proposal Rule turns on who “presses send.” Accordingly, using a second proponent as a Trojan horse to “press send” on a proposal is enough to shield the first proponent from the One Proposal Rule.

By reading “submit” to mean who “presses send” on a proposal stretches the One Proposal Rule past its boundaries and frustrates the policy objectives underpinning the One Proposal Rule. If the definition of “submit” was as simple as identifying who “presses send” on a proposal to a company without regard to the substantive authority granted to a representative, there would be no need for the Commission to have included the words “or indirectly” in Rule 14a-8(c) in the 2020 Release. The term “submit” in Rule 14a-8(c) cannot be construed so narrowly as to shield a representative from the One Proposal Rule simply by having a proponent send the letter to a company where such representative is given authority to act on the proponent’s behalf. If that were the case, the amendments adopted in the 2020 Release, which were enacted to curb evasions from the One Proposal Rule, would be useless against persons using other

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shareholders' names to send more than one proposal for consideration at the same meeting. The 2020 Release focuses on "representatives" and "persons," instead of "shareholders," precisely to prohibit precisely the scenario at hand: where one person is, in substance, submitting more than one shareholder proposal by standing behind another persons' stock ownership and indirectly making a submission.

By being identified as the point of contact for future communications and, most importantly, being named as the agent on behalf of United Church Funds, As You Sow has been granted authority with respect to the Proposal. The plain meaning of being appointed as an "agent" (i.e., conferring power to act on behalf of the proponent) and the lack of limitation on such appointment suggest that As You Sow's role is not just one of "assistance" to United Church Funds, but rather a role of substance. Furthermore, as discussed above, As You Sow touts the Petrochemicals Proposal as a resolution that it is representing, implying that As You Sow exercises some authorship and control over the Petrochemicals Proposal. This substantive authority over the Petrochemicals Proposal means that As You Sow is a person who has indirectly caused the Petrochemicals Proposal to be submitted for inclusion in the 2024 Proxy Materials.

Therefore, even though United Church Funds "pressed send" and transmitted the Petrochemicals Proposal to the Company, As You Sow has also indirectly submitted the Petrochemicals Proposal given its authority as representative. Direct and indirect submissions are not mutually exclusive.

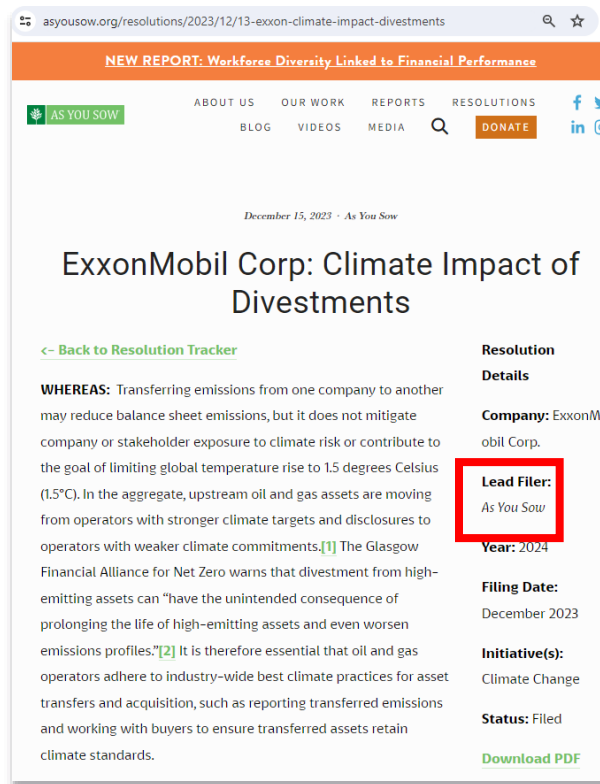
Therefore, the Proposal may be excluded under Rule 14a-8(c) because, as demonstrated above, As You Sow directly submitted the Proposal and indirectly submitted the Petrochemicals Proposal, thereby "giv[ing] rise to the same concerns about the expense and obscuring effect of including multiple proposals in the company's proxy materials, [and] undermining the purpose of the one-proposal limit." See Exchange Act Release No. 34-89964 (Sept. 23, 2020), at 58. The Proposal may properly be excluded from the Company's 2024 Proxy Materials.

The Proposal May Be Excluded Under Rule 14a-8(c) Because As You Sow Is Impermissibly Relying on the Proponent's Shares to Submit the Proposal.

In the submission of the Proposal, As You Sow calls itself the Proponent's representative. However, on its website, As You Sow calls itself the "Lead Filer" of the Proposal. These facts alone are not unique but are just a small snapshot of a larger problem. As You Sow has repeatedly utilized nominal shareholders, including its own employees, to purportedly meet the ownership requirements related to shareholder proposals on the Company's proxy statements. In fact, As You Sow submitted similar proposals to both the Proposal and the Petrochemical Proposal last proxy season, including having its CEO, Andrew Behar, submit the predecessor to this Proposal. The underlying proponents change, but As You Sow keeps submitting the proposals each year, giving insight to why As You Sow calls itself the "Lead Filer." In reality, As You Sow, through its "representation" of the nominal shareholders year after year, is the entity that actually controls the communication and the creation, submission and presentation of the proposals it seeks to include in the proxy statements of companies. From a practical perspective as well as under Rule 14a-8(c), these are As You Sow's proposals.

As You Sow's Description of the Proposal

<https://www.asyousow.org/resolutions/2023/12/13-exxon-climate-impact-divestments>



While “lead filer” is not defined in Rule 14a-8, commentary in the 2020 Release makes clear that a “lead filer” is not merely a shareholder representative, but rather a shareholder proponent. For example, the 2020 Release states that shareholders may co-file proposals as a group if each proponent meets an eligibility requirement. See Release No. 34-89964 (Sept. 23, 2020), at 9. Further, “lead filer” status is discussed in the “Ownership Requirements” section of the 2020 Release, suggesting that a “lead filer” is a co-filer of proposals, necessitating the requisite de facto owners of securities in accordance with Rule 14a-8. *Id.*

By calling itself the “lead filer” of the Proposal, As You Sow confirms that it is the actual proponent of the Proposal and not merely a representative. Yet, As You Sow has not provided proof that it meets any eligibility requirement under Rule 14a-8(b) and instead relies on the Proponent’s shares to indirectly submit the Proposal to the Company. This is, again, a clear violation of Rule 14a-8(c) that states that “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.” This method has proven to be common for As You Sow and other proxy organizations who wish to circumvent the One Proposal Rule. So long as they are “representing” the shareholder, they are free to utilize the shareholder’s eligibility to manipulate the proposal process without boundaries.

Because As You Sow has not submitted any proof of holdings in the Company for which it markets itself as “Lead Filer,” it is impermissibly relying on the Proponent’s shares to meet the shareholder eligibility requirements and should be viewed as having submitted the Proposal as a proponent itself.

The Proposal May Be Excluded under Rule 14a-8(c) Because As You Sow and Proxy Impact Are Acting in Concert as a Single “Person” and Have Submitted More Than One Proposal.

Under Rule 14a-8(c), a person cannot submit more than one proposal to a company, either directly or indirectly. As detailed above, As You Sow submitted two proposals for inclusion in the 2024 Proxy Materials. In addition, Michael Passoff, the CEO of Proxy Impact, submitted a Racial and Gender Pay Gap

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proposal on behalf of Broz Family Investments LLC on December 15, 2023 for inclusion in the 2024 Proxy Materials. See the Company's letter dated January 22, 2024 requesting that the Staff concur in the exclusion of the Racial and Gender Pay Gap proposal, as submitted to the SEC Office of Corporation Finance in the same manner as the Proposal. As You Sow and Proxy Impact are acting in concert as a single person to further their shareholder proposal goals and, as a result, they have submitted more than one proposal for inclusion in the 2024 Proxy Materials. This violates Rule 14a-8(c) and the Proposal may be excluded.

For nine consecutive years, As You Sow and Proxy Impact have worked in concert to publish "Proxy Preview," an annual report and related webinar that analyzes the shareholder proposals submitted each proxy season. As You Sow and Proxy Impact in their own words describe Proxy Preview as a "unique collaboration" between their two organizations that is designed to help shareholders "successfully vote [their] shares."

Webinar: Proxy Preview 2023 Press Release

<https://www.asyousow.org/community-calendar/proxy-preview-2023>

Proxy Preview is a **unique collaboration** between **As You Sow**, the **Sustainable Investments Institute (Si2)**, and **Proxy Impact**.

wide range of shareholder voices. Over 30 guest authors provide analysis and expert insight to **help you navigate the issues** and **successfully vote your shares**.

This "unique collaboration" between the two entities starts at the top. The leaders of As You Sow and Proxy Impact identify themselves as having key roles in the publication of Proxy Preview:

- Andrew Behar, CEO of As You Sow, pens the publication's introductory letter and is listed as the "Publisher." He also leads the webinar associated with Proxy Preview.
- Michael Passoff, Founder and CEO of Proxy Impact, is listed in the publication as one of the two primary authors of Proxy Preview. In other publications that Mr. Passoff authors, his biographies state that he also "founded" Proxy Preview.

2023 Proxy Preview

2023 Proxy Preview downloadable at <https://www.proxypreview.org/>

AS YOU SOW
30 YEARS 1992 - 2022

Sustainable Investments Institute (Si2)

PROXY IMPACT

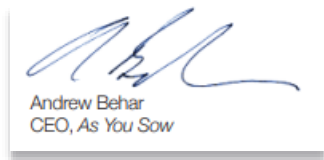
LETTER FROM THE PUBLISHER

ABOUT THE AUTHORS

Heidi Welsh, the founding executive director of the Sustainable Investments Institute (Si2), has analyzed corporate responsibility for over 30 years. Starting at the Investor Responsibility Research Center in 1987, she provided detailed coverage of shareholder advocacy and compliance with a fair employment code in Northern Ireland for 16 years. In addition, she co-authored CDP's S&P 500 report in 2007, research within a unit of what is now MSCI, and consulting on Global Reporting Initiative guidelines. Welsh is the lead author of several books on corporate political activity governance and spending. She received her B.A. from Carleton College, cum laude, and an M.S. from the University of Michigan in 1992. She is currently a professor of Business Administration and Analysis and Resolution at George Mason University.

Michael Passoff is the founder and CEO of Proxy Impact, a shareholder advocacy and proxy voting service for sustainable investors. He has over 25 years of experience in corporate social responsibility, shareholder advocacy, and philanthropy. For more than 10 years, he has served as the Senior Program Director for the As You Sow Foundation's Corporate Social Responsibility Program. In 2005 he founded the first of its kind, alert foundations, SFRs, pension funds, labor, and faith-based communities to upcoming shareholder resolutions that are relevant to their interests. He has led and participated in more than 400 shareholder dialogues and resolutions on environmental, social and governance issues. His work led him to be named as one of 2009's "100 Most Influential People in Business Ethics" by Ethisphere Magazine and he has been named a "Change Business Journal" award for a shareholder campaign that achieved the first majority vote for a climate resolution and greenhouse gas emission reductions and renewable energy development at public utilities.

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The ties go beyond leadership. As You Sow also appears to control the assets and funding of Proxy Preview. For example, Proxy Preview includes a trademark that belongs to As You Sow, and donations to Proxy Preview are directed first to As You Sow.

Trademark Ownership stated in Proxy Preview

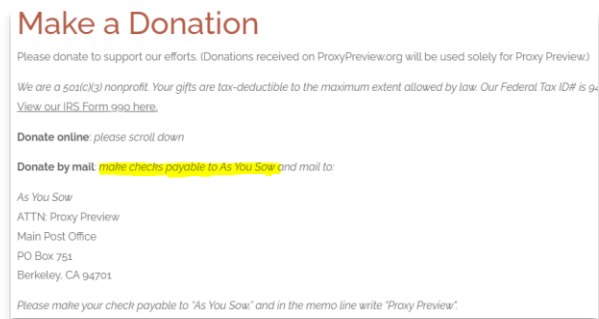
2023 Proxy Preview downloadable at
<https://www.proxypreview.org/>

A screenshot of a document with a yellow highlight. The text reads: "Proxy Preview and As You Sow are trademarks of As You Sow".

Proxy Preview and As You Sow are trademarks of As You Sow

Funding from As You Sow

<https://www.proxypreview.org/donate>



Accordingly, Proxy Preview is merely an extension of the collective views and goals of As You Sow and Proxy Impact.

Another way in which As You Sow and Proxy Impact collaborate is that they publish and promote the As You Vote Proxy Voting Guidelines (the “**As You Vote Guidelines**”), a “comprehensive set of guidelines”² intended to “inform all investors on how to vote in an ESG-aligned way.”³

The As You Vote Guidelines are not a mere expression or publication of As You Sow’s and Proxy Impact’s viewpoints. Rather, the As You Vote Guidelines are wielded by As You Sow and Proxy Impact to solicit proxies from shareholders and vote such shareholders’ ballots according to the As You Vote Guidelines. This is accomplished via an online shareholder voting platform called “As You Vote.” The voting platform was created by As You Sow (in partnership with Iconik) and allows shareholders to virtually send their ballots to As You Vote to vote on their behalf, consistent with the recommendations contained in the As You Vote Guidelines. When a shareholder signs up for the service, the platform pre-populates the As You Vote Guidelines’ voting recommendations into each ballot. Unless the shareholder changes the pre-populated votes on a ballot-by-ballot basis, As You Vote will vote the ballots according to the preferences in the As You Vote Guidelines.

The As You Vote Guidelines and voting platform address and facilitate more than just the voting for non-binding shareholder resolutions. They provide detailed guidance to shareholders about how to vote for director nominees, and do not limit the advice to uncontested elections. For example, the As You Vote

² <https://www.iconikapp.com/as-you-sow>

³ <https://www.asyousow.org/reports/proxy-voting-guidelines-2023>

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Guidelines indicate when shareholders should oppose and withhold votes against director nominees. They also apply an “additional level of scrutiny on director votes for about two dozen companies that are major contributors to climate change.” Unsurprisingly, the list of companies includes ExxonMobil.

As You Vote Platform

<https://www.iconikapp.com/as-you-sow>



WE VOTE EVERY BALLOT ITEM: DIRECTOR NOMINATIONS, AUDITOR, CEO PAY, AND SHAREHOLDER RESOLUTIONS

Your proxy ballot contains many critical items to vote including selecting the Board of Directors, CEO Pay, auditors, as well as shareholder resolutions. AS YOU VOTE is a comprehensive set of guidelines that not only votes for every item, we do it in an interlocked and synergistic way.

As You Vote Proxy Voting Guidelines

<https://www.asyousow.org/reports/proxy-voting-guidelines-2023>

AS YOU VOTE

As You Sow, in partnership with Proxy Impact has introduced AS YOU VOTE, an environmental, social and governance (ESG) proxy voting service for institutional and retail shareholders. AS YOU VOTE offers a simple way to incorporate ESG guidelines into your proxy voting. Shareholders can opt to use this as a resource for their own voting decisions or have these automatically set as their default vote (which can be adapted or customized with your own guidelines).

AS YOU VOTE guidelines were developed to be automated “rules based” votes available for institutional investors on the Broadridge Proxy Edge platform. This year we are also offering our services for retail investors through Iconik and for pass-thru with Tumelo platform.

Rules Based Voting

Rules-based automated voting follows the simple premise that we can set standard recommendations in response to standard proxy items. Rules apply to information reported on a company's proxy. For example, AS YOU VOTE recommends a vote against the CEO if they also serve as board chair. That information is easily identifiable in the proxy and a rule can be set for it; some exceptions apply.

Case-By-Case Recommendations

Proxy items on issues such as mergers, acquisitions and contested elections are beyond the scope of standardized rules. Consequently, those recommendations will be listed as case-by-case and left to the subscriber to vote. Similarly, there are rare occurrences of items (generally on international proxies) that are written in a way that are not identifiable under our rules. These too would be listed as case-by-case votes.

Additional ESG Screens

We do incorporate selected outside research that enhances our ESG vote guidelines. For example, we go beyond automated rules and apply an additional level of scrutiny on director votes for about two dozen companies that are major contributors to climate change. These companies, as identified by Majority Action, encompass industry leaders from the electrical utility, oil and gas, bank and insurance, and forestry sectors. We also vote against anti-ESG resolutions (see page 18) and we utilize As You Sow's annual reports “Pay for Climate Performance” and “The 100 Most Overpaid CEOs 2022” in making recommendations for about 150 executive compensation.

Accountability

We oppose the election of a director when:

Independence

- The board is not majority independent;
- The CEO serves as the board chair.

Poor attendance

- Board members attend less than 75% of board meetings without a valid reason for their absence.

In those cases where we disagree with management's vote recommendation, we may also vote against the corresponding committee members responsible for the action we are opposing

For example, we withhold votes for:

Nominating committee members

- If they nominate the CEO to serve as board chair;
- If they nominate a slate of candidates that lacks gender or racial diversity (note: NASDAQ 5605(f) Board Diversity Rule is available in proxy statements but not yet actionable on the As You Vote platform);
- If they nominate a board that is not majority independent.

Compensation committee members

- If executive compensation exceeds 75% of its peer group;
- If there is more than a 100:1 CEO to median worker pay ratio;
- If company CEO has been listed among 100 Most Overpaid CEOs and have not changed practices.

As recently explained by the Staff in Exchange Act Release Nos. 33-11253; 34-98704 (Oct. 10, 2023) (the “2023 Beneficial Ownership Final Rules”), shareholders who merely express how they intend to vote and the reasons why, *without more*, are unlikely to engage in conduct that would give rise to group formation under Section 13 (emphasis added). Even “vote no” campaigns against individual directors in uncontested elections may not give rise to group behavior, so long as the strategy is not control related. *Id.* at 134.

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In describing the As You Vote voting platform, As You Sow does not mince words when expressing its goal of controlling companies through its voting recommendations and voting platform. It describes its work as “**compell[ing]** climate action” and states that its “data **empowers real change**.” Most telling, it states that it seeks to “empower individuals to **change corporations for good**.”⁴

By incorporating the As You Vote Guidelines into the voting platform, As You Sow and Proxy Impact go beyond making a simple and straightforward communication intended to inform investors as to how they would vote shares. Rather, As You Sow’s and Proxy Impact’s viewpoints are published with the intent to incorporate those viewpoints into solicited ballots that are then voted with the goal of compelling action and change at the Company. Accordingly, As You Sow and Proxy Impact are soliciting proxies with an intent to control the Company via its director nominations and all other matters put to a shareholder vote.

As You Sow and Proxy Impact have a history of working together to influence shareholder votes and, particularly, director nominations. In 2013, As You Sow and Proxy Impact jointly posted a video to show on-screen, live voting of an ExxonMobil voting form to demonstrate the voting process. In 2021, As You Sow and Proxy Impact campaigned together against the Company’s director nominees in the Engine No. 1 proxy fight through their membership in Coalition United for a Responsible Exxon (“**CURE**”). The CURE website also stated that As You Sow “operat[ed]” CURE, suggesting it controlled the group.

As You Vote Website

<https://www.asyousow.org/proxy-voting-video>

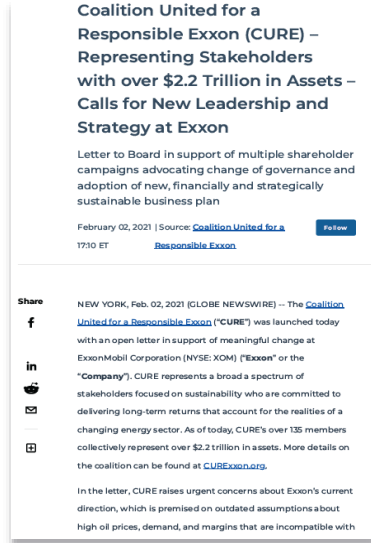
The screenshot shows the As You Vote website's 'PROXY VOTING: VIDEO' page. The page header includes the 'AS YOUSOW' logo and navigation links: ABOUT US, OUR WORK, REPORTS, RESOLUTIONS, BLOG, VIDEOS, MEDIA, and a DONATE button. The main heading is 'PROXY VOTING: VIDEO'. Below the heading, there is introductory text about proxy voting. A large black video player area covers most of the page content, displaying the message 'Sorry This video does not exist.' A red box highlights a testimonial for a webinar presented by Jon Scott, Andrew Behar, Michael Passoff, and Shelley Alpern. The testimonial text is as follows:

This webinar is presented by **Jon Scott**, President, Singing Field Foundation; **Andrew Behar**, As You Sow Foundation; **Michael Passoff**, Proxy Impact; and **Shelley Alpern**, Clean Yield Asset Management. It is not an academic discussion. It features: - A hands-on look at ExxonMobil's 2013 proxy ballot - "How and why" discussion on proxy voting - Special issues on the ballot via shareholder initiative - On-screen, live voting of an ExxonMobil proxy voting form

⁴ <https://vimeo.com/821443970>

CURE Press Release

<https://www.globenewswire.com/news-release/2021/02/02/2168665/0/en/Coalition-United-for-a-Responsible-Exxon-CURE-Representing-Stakeholders-with-over-2-2-Trillion-in-Assets-Calls-for-New-Leadership-and-Strategy-at-Exxon.html>



CURE Website

<https://curexson.org/privacy-policy/> via <https://web.archive.org/>



It is important to note the connection between Proxy Preview and the As You Vote Guidelines and voting platform. Proxy Preview serves as the first step of a continuous plan to lay the groundwork for soliciting ballots through the As You Vote Guidelines and voting platform.⁵ For example, in 2023, Proxy Preview

⁵ A "solicitation" under Regulation 14A is broadly characterized as a "communication that is furnished to security holders under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy..." See Rule 14a-1(l)(1)(iii). To note, one can "solicit" a proxy even if not specifically requesting a proxy. The Second Circuit has held that the proxy rules are applicable to initial steps which are part of "a continuous plan" intended to end in solicitation and to prepare the way for success." *Trans World Corp. v. Odyssey Partners*, 561 F. Supp. 1315, 1319 (S.D.N.Y. 1983) (quoting *SEC v. Okin*, 132 F.2d 784, 786 (2d Cir. 1943)); see also *Gas Nat. Inc. v. Osborne*, 624 F. App'x 944, 950–51 (6th Cir. 2015) (adopting the

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conducted a “Review” of the proxy season, hosting a webinar to summarize the proxy season’s key votes and trends. In the webinar, Mr. Behar promoted the “As You Vote” voting platform by directing investors to the As You Vote website and stating, “we actually offer a free retail proxy voting, you can click on it, and As You Sow has an ESG aligned proxy voting policy that will be **voted on your behalf** if you should choose to, so have a look at asyouvote.org, we also have an institutional [inaudible], we work closely with Michael [Passoff] at Proxy Impact.”

Accordingly, each of Proxy Preview, the As You Vote Guidelines and the voting platform are a joint solicitation made by As You Sow and Proxy Impact.

2023 Proxy Preview Review

<https://www.proxypreview.org/review/2023-webinar>



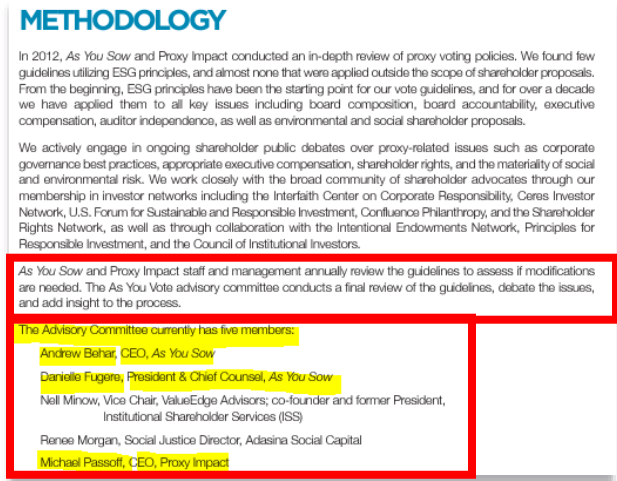
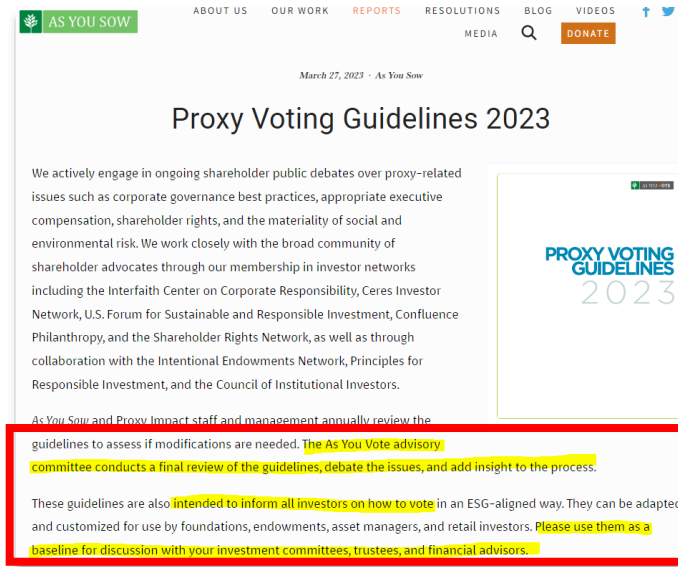
In addition to showing As You Sow’s and Proxy Impact’s intent to control the Company and solicit votes, the As You Vote Guidelines and related voting platform also demonstrate concerted group behavior between As You Sow and Proxy Impact. Together, they have authored and published the As You Vote Guidelines for the past eight years. The introductory letter to the As You Vote Guidelines is signed by both Mr. Behar of As You Sow and Mr. Passoff of Proxy Impact.

The As You Vote Guidelines are also “audited” by the As You Vote “advisory committee,” which consists of five members. Two of the members are executives of As You Sow (Mr. Behar and Danielle Fugere, the President and Chief Counsel of As You Sow) and one of the members is a representative from Proxy Impact (Mr. Passoff). Therefore, a majority of the As You Vote advisory committee is comprised of individuals from As You Sow and Proxy Impact, evidencing not just coordination between As You Sow and Proxy Impact, but also their joint control.

Second Circuit’s construction of solicitation to mean a “continuous plan”). Proxy Preview and the Guidelines are the joint and coordinated soliciting materials that serve as the initial steps in As You Sow and Proxy Impact’s “continuous plan” to request the Company’s shareholders’ proxies via As You Vote. The question as to whether their solicitation materials are exempt from the Regulation 14A filing requirements is not addressed here.

As You Vote Proxy Voting Guidelines

<https://www.asyousow.org/reports/proxy-voting-guidelines-2023>

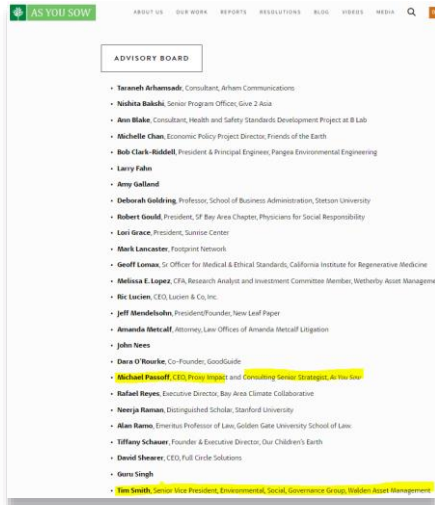


Finally, the connections between As You Sow and Proxy Impact are not limited to their joint conduct through Proxy Preview and the As You Vote Guidelines and voting platform. There is also substantial leadership overlap between As You Sow and Proxy Impact. For example, Mr. Passoff is a member of As You Sow's Advisory Board, as well as a Consulting Senior Strategist for As You Sow.

As for Proxy Impact, 50% of its advisory board is controlled by, or affiliated with, As You Sow. The interlocking relationship between As You Sow and Proxy Impact is further evidence of that As You Sow and Proxy Impact are acting as one.

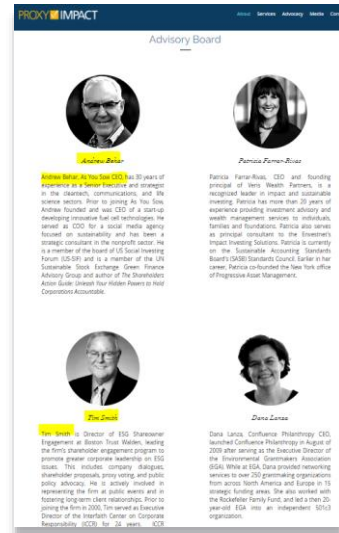
As You Vote Website

<https://www.asyousow.org/about-us/staff/board-of-directors>



Proxy Impact Website

<https://www.proxyimpact.com/about>



Congress and the SEC have long been concerned about the effects of this type of coordinated and concerted action by groups that try to pass themselves off as independent actors. Parallel statutory schemes under the Exchange Act reflect the notion that multiple people who act as a coordinated group or take concerted actions may be treated as a single person.

For example, under Rule 14a-8, if a person indirectly submits a proposal in reliance upon another person's securities, they are together considered one "person." Similarly, a group, such as individuals employed at the same entity, is treated as the same "person" and may only submit one proposal. See Exchange Act Release No. 34-89964 (Sept. 23, 2020), at 61.

Further, the Staff has specifically addressed what constitutes group behavior with respect to shareholder proposals. See 2023 Beneficial Ownership Final Rules. For example, the Staff has stated that:

- Shareholders may only discuss their views in a "public forum" without satisfying the "acting as a group" standard if the discussion only "involves an **independent and free exchange** of ideas and views among shareholders, **alone and without more.**" *Id.* at 134 (emphasis added). As shown above, As You Sow and Proxy Impact are not merely expressing their views in a public forum—Proxy Preview and As You Vote are proprietary tools used by As You Sow and Proxy Impact to promote a singular viewpoint.
- Behavior that "**extend[s] beyond**" the types of permitted communications outlined above, such as "consenting or committing to a course of action" or the "**joint or coordinated publication of soliciting materials** with an activist investor," might indicate group formation. *Id.* at 136-137. As shown above, Proxy Preview and the As You Vote Guidelines are "joint or coordinated publication of soliciting materials" and the As You Vote voting platform is, of course, a straightforward joint solicitation of proxies.
- Unless joint conduct by shareholders is "**limited** to the creation, submission, and/or presentation of a **non-binding** proposal," such behavior is considered "group" behavior. See Exchange Act Release Nos. 33-11253; 34-98704 (Oct. 10, 2023), at 134 (emphasis added). As shown, As You Sow and Proxy Impact acted in concert to solicit proxies from the Company's shareholders, going far beyond the

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creation, submission, and/or presentation of a non-binding proposal. Also, As You Sow and Proxy Impact sought to influence director elections—both contested and uncontested—which are binding on the Company.

As You Sow and Proxy Impact do not merely coordinate to submit shareholder proposals or provide information for shareholders to vote their own shares in an informed way. Rather, they are coordinating a continuous plan of concerted efforts to solicit proxies from the Company's shareholders for both shareholder proposals and director elections. These joint solicitations render As You Sow and Proxy Impact a "group" and therefore a "person" under Rule 14a-8(c).

Under Rule 14a-8(f)(1), it is permissible to exclude proposals submitted by a proponent who fails to satisfy the eligibility requirements under Rule 14a-8(c). Therefore, pursuant to Rules 14a-8(c) and 14a-8(f)(1), the Company believes that it may exclude the Proposal from its 2024 Proxy Materials.

CONCLUSION

The Proposal micromanages the Company by imposing precise, granular requirements for assessing and publishing specific information on the Company's M&A due diligence function, which improperly limits the board and management's discretion over ordinary business matters and probes matters too complex for shareholders to make an informed judgment upon.

Further, the Proposal is excludable because As You Sow claims to serve as representative of multiple proposals. It also impermissibly relies on the Proponent's shares, rendering it the de facto proponent while also serving as a representative of another proposal. Therefore, As You Sow has improperly submitted multiple proposals.

Lastly, the Proposal is excludable given As You Sow's coordinated actions with Proxy Impact should cause them to be treated as the same "person" who have impermissibly submitted a total of three proposals.

For each of the reasons set forth above, the Company believes that the Proposal may be excluded from its 2024 Proxy Materials pursuant to Rule 14a-8(i)(7) and Rule 14a-8(c).

We would be happy to provide you with any additional information and answer any questions that you may have regarding this request. Please do not hesitate to call me at (212) 450-4539 or James Parsons at james.e.parsons@exxonmobil.com. If the Staff does not concur with the Company's position, we would appreciate an opportunity to confer with the Staff concerning these matters prior to the issuance of its response.

Respectfully yours,



Louis Goldberg

Attachment

cc w/ att: James E. Parsons, Exxon Mobil Corporation
Danielle Fugure, President and Chief Counsel, As You Sow
Parker Caswell, Climate and Energy Associate, As You Sow

March 4, 2024

VIA ONLINE SUBMISSION

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549
Email: shareholderproposals@sec.gov

Re: Shareholder Proposal to Exxon Mobil Corporation Regarding Climate Asset Transfer Disclosures on Behalf of Suzanne B & Guy L Tr (Nat Resources)

Ladies and Gentlemen:

Suzanne B & Guy L Tr (Nat Resources) (the “Proponent”), a beneficial owner of common stock of Exxon Mobil Corporation (the “Company” or “Exxon”), has submitted a shareholder proposal (the “Proposal”) requesting that Exxon make certain annual disclosures with respect to the transfer of assets with material climate impact. The Proponent has designated *As You Sow* to act as its representative with respect to the Proposal, including responding to the Company’s January 22, 2024 “No Action” letter (the “Company Letter”).

The Company Letter contends that the Proposal may be excluded from the Company’s 2024 proxy statement because, the Company argues, the Proposal seeks to micromanage Exxon. The Company also argues that *As You Sow* has violated Rule 14a-8(c) by representing more than one proponent who has submitted a proposal to the Company. Proponent’s response demonstrates that the Company has no basis under Rule 14a-8 for exclusion of the Proposal. As such, the Proponent respectfully requests that the Staff inform the Company that it cannot concur with the Company’s request.

A copy of this letter is being emailed concurrently to the Company and its counsel.

SUMMARY

Since 2016, Exxon has reduced its operational greenhouse gas (GHG) emissions by 5.4% on an equity basis. However, between 2017 and 2021 Exxon was the forth-largest seller of assets among oil and gas companies globally, and second-largest seller among American oil and gas companies. Transferring assets to a new operator does not result in real-world emissions reductions because such assets remain operational. This may, in fact, result in real-world emissions *increases* when sold to purchasers with lower environmental standards. As the World Investment Report 2023 notes:

Buyers of assets sold by energy majors typically aim to make that asset generate the highest possible returns. This often means . . . pushing for increased output or extending lifetimes. Another concern is that buyers often have lower or no

emission-reduction goals and weaker climate reporting standards, as in the case of private (unlisted) or smaller companies.¹

Investors interested in understanding Exxon's actual emission reductions, as well as their own climate-related portfolio risk, require information about such asset transfers. To enable that analysis, the Proposal seeks a relatively modest disclosure from Exxon: that for asset transfers with material climate impact, the Company report on whether the purchaser discloses its emissions and has 1.5°C-aligned greenhouse gas reduction targets.

Exxon argues that the Proposal may be excluded for two reasons: First, because the Proposal and seeks to micromanage the Company. Second, Exxon argues that *As You Sow*, as Proponent's representative, has violated Rule 14a-8(c) in two ways: first, by representing a second shareholder who has also submitted a proposal to the Company; and second, because an organization with which *As You Sow* has occasionally historically collaborated also submitted a proposal. Neither argument is persuasive.

First, the Proposal does not micromanage Exxon. The Company Letter fails to establish that the Proposal inappropriately interferes with management discretion or seeks information too granular or complex for shareholders to understand. The Proposal's disclosure request is extraordinarily modest: only for those transfers of assets with *material climate impact*, it asks whether the purchaser (1) discloses its emissions, and (2) has emissions reduction targets. The Proposal does not request that the Company disclose the identity of the purchaser, details about the terms of the transfer, the nature or scope of purchaser's emissions disclosures, or the nature or scope of the purchaser's targets. Limited to a subset of transfers that are *material* to investors, the Proposal seeks two yes-or-no, *i.e.*, by definition non-granular, disclosures. The information would be useful to investors, and investors should have the ability to request the disclosure of non-granular information they would deem material.

Second, the Company argues that the Proposal runs afoul of Rule 14a-8(c) because *As You Sow* has also been designated representative by another shareholder making a submission to the company. As the Company Letter acknowledges, this argument runs headlong into binding Commission-level guidance explicitly permitting representatives to represent more than one shareholder at the same company. Nor does the Company identify a good reason why representatives should not be permitted to represent more than one shareholder. The argument must be rejected.

Nor does the Company Letter establish a violation of Rule 14a-8(c) by pointing out that *As You Sow* has collaborated in the past with another, legally independent entity that has submitted a proposal to Exxon. The Company's argument is on tenuous factual footing, is legally baseless, and provides no basis for exclusion of the Proposal.

¹ https://unctad.org/system/files/official-document/wir2023_en.pdf#page=70, p.48.

THE PROPOSAL

WHEREAS: Transferring emissions from one company to another may reduce balance sheet emissions, but it does not mitigate company or stakeholder exposure to climate risk or contribute to the goal of limiting global temperature rise to 1.5 degrees Celsius (1.5°C). In the aggregate, upstream oil and gas assets are moving from operators with stronger climate targets and disclosures to operators with weaker climate commitments.¹ The Glasgow Financial Alliance for Net Zero warns that divestment from high-emitting assets can “have the unintended consequence of prolonging the life of high-emitting assets and even worsen emissions profiles.”² It is therefore essential that oil and gas operators adhere to industry-wide best climate practices for asset transfers and acquisition, such as reporting transferred emissions and working with buyers to ensure transferred assets retain climate standards.

ExxonMobil reports an operational emissions reduction of 5.4% on an equity basis and 12.5% on an operated basis since 2016.³ However, between 2017 and 2021, Exxon sold more assets than any other American oil and gas company except Chevron, ranking fourth globally among sellers.⁴ Exxon does not disclose the climate impacts of its divestments. This reporting gap leaves investors with an incomplete understanding of Exxon’s actions to mitigate its contribution to climate change.

To address this issue, Exxon should follow best practices for divestitures, including conducting climate-related due diligence on acquirers, including an evaluation of purchasers’ emissions reporting and reduction targets. Doing so would allow Exxon to ensure that purchasers maintain or enhance existing climate standards for divested assets, reducing the likelihood that transferred assets would result in higher emissions.⁵

By increasing transparency and providing greenhouse gas emissions-related disclosures for asset transfers, Exxon can position itself as a leader on climate change, increase the legitimacy of its climate targets, and provide essential information to its investors about its efforts to mitigate climate risk.

BE IT RESOLVED: Shareholders request that ExxonMobil annually report on divestitures of assets with material climate impact, including whether each asset purchaser discloses its GHG emissions and has 1.5°C-aligned or other greenhouse gas reduction targets.

¹ <https://business.edf.org/files/Transferred-Emissions-How-Oil-Gas-MA-Hamper-Energy-Transition.pdf>, p.17

² <https://assets.bbhub.io/company/sites/63/2022/10/GFANZ-2022-Progress-Report.pdf>, p. 36

³ <https://corporate.exxonmobil.com/-/media/global/files/advancing-climate-solutions-progress-report/2023/2023-acs-ghg-data-supplement.pdf>, p. 4

⁴ <https://business.edf.org/files/Transferred-Emissions-How-Oil-Gas-MA-Hamper-Energy-Transition.pdf>, p. 22

⁵ <https://business.edf.org/wp-content/blogs.dir/90/files/Climate-Principles-Asset-Transfer.pdf>, p.3

ANALYSIS

I. THE PROPOSAL DOES NOT MICROMANAGE THE COMPANY

A. Micromanagement Standard

Rule 14a-8(i)(7) allows the exclusion of proposals seeking to “micromanage” companies 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.” 1998 Release. Staff Legal Bulletin No. 14L (Nov. 3, 2021) provides guidance on the scope of the micromanagement exclusion. In SLB 14L, the Staff notes that “proposals seeking detail or seeking to promote timeframes or methods do not per se constitute micromanagement.” Rather, the Staff looks at:

[T]he level of granularity sought in the proposal and whether and to what extent it inappropriately limits discretion of the board or management. We would expect the level of detail included in a shareholder proposal to be consistent with that needed to enable investors to assess an issuer’s impacts, progress towards goals, risks or other strategic matters appropriate for shareholder input.

Staff Legal Bulletin No. 14L.

Finally, the Staff has provided guidance on the standards it uses to judge the appropriate level of granularity in a proposal, noting that the Staff “may consider the sophistication of investors generally on the matter, the availability of data, and the robustness of public discussion and analysis on the topic” as well as “references to well-established national or international frameworks when assessing proposals related to disclosure . . . as indicative of topics that shareholders are well-equipped to evaluate.” *Id.*¹

B. The Proposal does not inappropriately limit Company discretion

The Company Letter’s first argument is that the Proposal goes too far in “inappropriately limit[ing] the discretion of the board or management.” *See* SLB 14L; Company Letter at 2-4.

The Company’s objection relies on the incorrect assertion that the Proposal “impos[es] specific methods on management for the divestiture of Company assets.” Company Letter at 2. The Proposal does no such thing. Rather, with respect to asset transfers which the Company has elected to make – through the decision-making process described in detail in the Company Letter – the Proposal requests that the Company modestly supplement its disclosures for a subset of such transactions. The substantive methodologies governing the Company’s asset transfers are not at issue in the Proposal. The Proposal does not seek to govern or alter the Company’s methods or the factors it takes into consideration when making asset transfers. It therefore has no impact on the board or management’s discretion with respect to such transfers.

¹ The Company frames its argument as an ordinary business argument, but the substance relates specifically to the micromanagement prong of the Rule 14a-8(i)(7) exclusion.

The Company asserts, unpersuasively, that “the only way the Company can comply with the request is by altering its standard operating procedures in each locale with respect to its divestiture program.” Company Letter at 3. For example, the Company argues that implementing the Proposal would require it to, “as a threshold matter, evaluate each of dozens of potential transactions with multiple potential counterparties for each transaction with respect to the GHG emissions impact of such counterparty’s approach to the transaction in order to make an initial determination of whether any asset sale represents a ‘material climate impact.’” Company Letter at 3. This description of the Proposal borders on the absurd, and the Staff is not required to accede to companies’ worst-faith reading of proposals’ plain terms. Nothing in the Proposal requires or even suggests that the Company should interpret “material climate impact” to require the Company to see into the future to examine how future operators will use the asset to determine if the transfer will at some point cross an invisible threshold and become “material.”

A much more natural reading of the Proposal is one that does not require substantially rewriting it. The Proposal asks for two minor disclosures concerning the “divestiture of *assets with a material climate impact*.” That is, the question is not whether the *divestiture* would have a material climate impact, but whether the assets subject to the divestiture have material climate impact. This is evidenced both by basic logic and the structure of the proposal itself. First, logically – the most obvious way to identify whether the transfer of an asset would be material to investors concerned with climate risk is if the asset has material climate impact. How the Company assess material climate impact is up to it to determine, and there are certainly uncomplicated methods of doing so. Simply put, Exxon has information on the emissions of its assets; it can determine which assets have material emissions and which do not and apply the Proposal accordingly.

The most natural reading of the Proposal itself supports this logical reading of the term “material climate impact.” First, if the Company’s interpretation were correct, the Proposal would more naturally be written as “asset divestitures with material climate impact.” Second, if the Company’s interpretation of the term were correct, and the Proposal was intended to require the Company to make a detailed calculation of asset transfers’ likely future climate impact based on the specifics of purchasers’ policies, one would naturally expect to see that process reflected in the disclosure requested by the Resolved Clause. It would make little sense for the Proposal to request that the Company precisely calculate the future real-world emissions impact of an asset transfer and then simply report, yes-or-no as to whether the purchaser discloses its emissions and has targets. Rather, the Resolved Clause of the Proposal limits the scope of the requested disclosure *intentionally to avoid* precisely the complicated implementation the Company now seeks to read into the Proposal.

If one sets aside the Company’s strained reading of the Proposal, the Staff precedents it cites have little applicability. For example, the Company argues that the Proposal resembles *Abbott Laboratories* (Feb. 29, 2019), *Walgreens Boost Alliance, Inc.* (uncited, but presumably Nov. 20, 2018), and *Royal Caribbean Cruises Ltd.* (Mar. 14, 2019) because it “would effectively require the Company to make hundreds of individual evaluations on a prospective basis.” Company Letter at 3. Each of these precedents involved a substantially similar proposal: a request that the Company seek shareholder approval for each new share repurchase program and all stock

buybacks. The Staff concluded that the proposals would micromanage the company “[i]n particular” because the proposals “would make each new share repurchase program and each and every stock buyback dependent on shareholder approval.” *Royal Caribbean Cruises*. This Proposal, however, does not “make” any transaction “dependent on shareholder approval.” It therefore does not micromanage the Company in the manner of the cited proposals. Moreover, for the reasons discussed above, the Company’s assertion that the Proposal would require it to “make hundreds of individual evaluations on a prospective basis” is false.

The Company Letter’s arguments about due diligence, the cost to counterparties, and the downstream effect on the Company’s abilities to make such transactions all proceed from the same flawed interpretation of the Proposal and thus may be set aside. *See* Company Letter at 3-4. The Proposal does not require an invasive due diligence process into competitively sensitive information requiring detailed forecasts. *See id.* Rather, the supposed “due diligence” required by the Proposal — determining the yes-or-no question of *whether* the purchasing company has emissions disclosures and targets (which is often public, non-sensitive information but difficult for shareholders to obtain if asset transfers are not individually disclosed or if purchasers are private and have no disclosures) — is hardly onerous in the context of a transaction involving an asset with material climate impact. Moreover, the requested disclosure does not even seek the *identity* of the purchaser. As such, the Company has failed to demonstrate that the Proposal inappropriately limits the discretion of the board or management. *See* SLB 14L.

C. The Proposal is not too granular or complex for investor consideration

The Company Letter’s complexity/granularity argument is based on the same strained reading of the term “material climate impact” and must, likewise, be set aside. *See* Company Letter at 4-5. The Company argues that the Proposal’s use of the term “material climate impact” is “a clear signal of the complexity of [its] request.” Company Letter at 4. The Company attempts to demonstrate the complexity of the term by (a) again suggesting that the question is whether the “transfer” would result in a material climate impact, and (b) arguing that nothing can be truly determined to be “material” to a “global climate” system.

For the reasons discussed above, this is not the best or even a natural reading of the Proposal. The Proposal limits its modest disclosure request to transfers of assets that have material climate impact. This is intended to limit the disclosure sought by the Proposal to the most pertinent information for investors. Further, the Proposal leaves the determination of a materiality threshold to the Company. That does not mean that the disclosure request is “too complex” or granular for investors to understand. In reality, it is a very simple report: if Exxon sells an asset with material climate impact (however the Company chooses to define that term), the Company discloses whether the purchaser reports its GHG emissions and has climate targets. Such a disclosure is not too complex for investors, nor does it involve investors in “oversight” of a complex process. It provides, on an annual retroactive basis, basic information about Exxon’s asset transfers and whether its transferred assets are likely to be operated by a company that is addressing climate change, or not. This information is important to investors for the reasons discussed *supra*.

The Staff precedents relied on by the Company are inapposite. In both *Phillips 66* (Mar. 20, 2023) and *Valero Energy Corp.* (Mar. 20, 2023), the proposal requested that the company disclose, as Exxon describes it, “specific and detailed information” related to the undiscounted expected value to settle obligations for asset retirement obligations with indeterminate settlement dates. One distinction is immediately obvious: the two, basic yes-or-no disclosures requested by the Proposal can hardly be described as demanding “specific and detailed information.” The companies in receipt of these ARO proposals argued that they interfered with the companies’ “accounting judgments” and “financial disclosures.” Accounting and financial disclosures also raise significant legal and regulatory issues which do not present themselves in the area of climate disclosures, which are a traditional arena in which shareholder feedback on company disclosures is expected, given the Commission’s recognition that companies will often underreport climate-related data to investors’ detriment. *See Proposed Rule, The Enhancement and Standardization of Climate-Related Disclosures for Investors* at 324, SEC.

More directly on point than any precedent cited by the Company Letter is *Eli Lilly & Co.* (Mar. 10, 2023). There, the proposal requested that the Company disclose “quantitative metrics for hiring, retention, and promotion of employees, including data by gender, race, and ethnicity” so that investors could judge the effectiveness of the company’s DEI programs. This is a substantially more detailed disclosure request than the one made by the Proposal here. The company argued that the proposal “limit[ed] the Company’s discretion in preparing the requested report by dictating the metrics and data the report must contain” with respect to a “complicated topic that is core to management’s ability to run the business.” The Staff declined to concur in the company’s micromanagement argument. *Eli Lilly* stands for the proposition that for areas of substantial social impact, some level of detail in reporting can be requested by shareholders.² Here, however, there is nowhere near that level of detail required, despite the strained interpretive scenarios presented by the Company. The request itself is simple, requiring the most basic reporting on purchasing companies’ climate actions: whether they have emissions disclosure and target setting. Exxon itself can decide how it defines material climate impact and how it reports this simple information.

II. THE PROPOSAL MAY NOT BE EXCLUDED UNDER RULE 14a-8(c)

A. Legal Background

Rule 14a-8(c), sometimes referred to as the “one-proposal rule,” states that “[e]ach person may submit no more than one proposal, directly or indirectly, to a company for a particular shareholders’ meeting.” This rule stems from concerns, first expressed by the Commission in 1976, that some proponents were “submitting excessive numbers of proposals.” Exchange Act Release No. 34-129999 (Nov. 22, 1976) (the “1976 Release”).

² The Staff routinely declines to concur in the exclusion of climate-related disclosure proposals, including those seeking disclosure of plans for reducing emissions – again, a more detailed ask than the one in the Proposal. *See, e.g., The Travelers Companies* (Mar. 30, 2023) (proposal requested company report “if and how it intends to measure, disclose, and reduce the GHG emissions associated with its underwriting, insuring, and investment activities”).

In 2020, the Commission adopted certain amendments to Rule 14a-8, including by clarifying that “each *person*,” rather than “each shareholder” may submit no more than one proposal. Exchange Act Release No. 34-89964 (Sept. 23, 2020) (the “2020 Rulemaking”) (emphasis added). In the 2020 Rulemaking, the Commission also clarified that a single *entity* could constitute a “person” under the rule, such that an investment firm could not submit multiple proposals, even on behalf of different clients. *Id.*

At the same time, however, the Commission took particular care to limit the scope of Rule 14a-8(c) so as to avoid “interfer[ing] with a shareholder’s ability to use a representative . . . and/or interfer[ing] with a representative’s ability to effectively represent its **clients**.” 2020 Rulemaking at 40 (emphasis added). In so doing, the Commission firmly and explicitly rejected the idea that a representative could only represent one shareholder-proponent per meeting per company.

In the Rulemaking, the Commission restated concerns from commenters about the effect of the proposed rules on investors’ ability to use representatives, including concerns that changes to Rule 14a-8(c) “could prevent a shareholder-proponent from using his or her preferred representative if that representative has already submitted a proposal to the same company on behalf of another client,” 2020 Rulemaking at 56, and that those changes “would affect a representative’s ability to present proposals on multiple shareholder-proponents at the shareholder meeting,” 2020 Rulemaking at 56. The Commission squarely addressed those concerns, affirming that the rule would not “interfere with a representative’s ability to effectively represent its clients” and further that “[t]he ability to provide such assistance to more than one shareholder is not affected.” 2020 Rulemaking at 59. The Commission went on to provide a specific example:

In addition, we do not believe, as suggested by commenters, that the amended rule will . . . unduly restrict [shareholder-proponents’] options in selecting a representative because, while in some cases shareholder-proponents may need to submit a proposal on their own, they can otherwise enjoy all the benefits of being represented by a representative of their choosing. For example, if a shareholder’s representative of choice is unable to submit a proposal for the shareholder, because it has already made a submission on behalf of another client, the representative could still assist the shareholder with drafting the proposal, advising on steps in the submission process, and engaging with the company.

2020 Rulemaking at 59.

The Commission went further still, confirming that the amended rule “is not intended to limit a representative’s ability to present proposals on behalf of multiple shareholders at the same shareholders’ meeting.” 2020 Rulemaking at 60. Finally, the Commission rejected a request by a commenter to add to the rule a requirement intended to limit the role of representatives in the process. *See* 2020 Rulemaking at 61-62.

B. The 2020 Rulemaking squarely permits the representation of two shareholders at once, and the Company's attempts to argue that *As You Sow* is exceeding the bounds of representation are unpersuasive

As You Sow does not dispute the Company's argument that it has been designated as representative by two different shareholders submitting proposals to Exxon for the 2024 shareholder meeting. *See* Company Letter at 6-7. However, the Company is incorrect in stating that "As You Sow impermissibly submitted two proposals." Company Letter at 5. As Exxon's no-action request regarding the United Church Funds Proposal acknowledges, the other proposal was "submitted by United Church Funds." *See United Church Funds No-Action Letter* at 1. United Church Funds named *As You Sow* as its representative, as did the Proponent.

The problem facing Exxon is that this is not in violation of Rule 14a-8(c) — indeed, it is *explicitly permitted* by the 2020 Rulemaking. *See supra*. The Company acknowledges the Rulemaking's explicit statements on this issue and makes only *pro forma* arguments that *As You Sow* has nonetheless violated Rule 14a-8(c). For example, Exxon acknowledges that the 2020 Rulemaking allows a representative who has previously submitted a proposal on behalf of one shareholder to "assist the [second] shareholder with drafting the proposal, advising on steps in the submission process, and engaging with the company," but argues that "the authority delegated to *As You Sow* . . . go[es] beyond mere 'assisting' or 'advising.'" Company Letter at 8. It justifies this conclusion by noting that *As You Sow* "handl[es] all correspondence . . . , discuss[es] the proposal directly with the Company and fil[es] exempt solicitations . . . on *As You Sow* letterhead." Company Letter at 8. These representative actions, the Company Letter claims, "reach a level of authority that is equal to that of a proponent." Company Letter at 8.

This proposed 'level of authority' standard is not in the Rule and is unpersuasive, both logically and in terms of consistency with the Rule.

As a logical matter, the Company's argument that *As You Sow* is exceeding the scope of representation because it takes actions on behalf of its clients "equal to that of a proponent" is baseless. What the Company describes is — literally — the definition of representation, which requires that the representative take actions on behalf of its client that the client would otherwise have to take. To "represent" means "to take the place of" or to "act in the place of or for usually by legal right."³ To *represent* shareholders in the shareholder proposal process, *As You Sow* must take actions on behalf of shareholders inherent to the shareholder proposal process, such as by handling correspondence and engaging with companies. Doing so does not exceed the bounds of representation.

Nor are the actions complained of — such as "handling all correspondence" and "discussing the proposal directly with the Company" — somehow in excess of the bounds of ordinary representation. Representatives routinely handle correspondence on behalf of their clients, similar to how a law firm represents an issuer in a no-action request. *See generally* Company Letter. Similarly, representatives frequently engage with counterparties on behalf of their clients; indeed, in legal contexts, such engagement is occasionally *required* to be carried out through representatives. *See* ABA Model Rule 4.2 ("[A] lawyer shall not communicate about the subject

³ *Represent*, Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/represent>.

of the representation with a person the lawyer knows to be represented by another lawyer in the matter . . .”).

The 2020 Rulemaking, as discussed above, explicitly contemplates a representative taking *these specific actions* on behalf of a second client for the same shareholder meeting. The 2020 Rulemaking states that “if a shareholder’s representative of choice is unable to submit a proposal for the shareholder, because it has already made a submission on behalf of another client, *the representative could still assist the shareholder with . . . engaging with the company.*” 2020 Rulemaking at 59 (emphasis added). Moreover, the Commission explicitly rejected concerns raised during the Rulemaking that the Rule would particularly “affect the competitive advantage of *representatives that specialize in active engagement.*” 2020 Rulemaking at 59-60 (emphasis added). The Commission also rejected concerns that the amended Rule 14a-8(c) would increase costs by requiring companies to “deal with multiple proponents instead of dealing with few representatives,” because the amended Rule would “restrict the representative’s ability to submit a proposal on the proponent’s behalf *but otherwise will not limit or interfere with the representative’s ability to assist the proponent.*” 2020 Rulemaking at 153-154 (emphasis added). As such, Rule 14a-8(c) is not intended to interfere with representatives’ ability to engage with companies on behalf of shareholder-proponents.

The Company Letter also takes issue with the fact that *As You Sow* files exempt solicitations on *As You Sow* letterhead in support of proposals for which it is the representative. This, too, is unpersuasive. With exceptions not relevant here, anyone is permitted to file an exempt solicitation arguing in favor or against any shareholder proposal. Last season, for instance, third parties filed exempt solicitations opposing proposals for which *As You Sow* served as representative. Filing an exempt solicitation urging shareholders to vote for a proposal is not an action that is limited to shareholder-proponents. Moreover, filing exempt solicitations in favor of proposals is a particular reason why shareholders choose to use representatives, who are likely to be more familiar with not only the rules surrounding exempt solicitations, but also the types of arguments that appeal to broad swaths of investors. *See* 2020 Rulemaking at 153 (noting potential costs associated with decreased use of representatives, including inefficiencies associated with proponents with “less experience and expertise than representatives” at effective communication). Once more, there is nothing untoward, inappropriate, or contrary to either the letter or spirit of Rule 14a-8 in this use of representatives. Just as companies turn to lawyers to write no-action letters, investors frequently turn to shareholder representatives to write exempt solicitations.

The Company’s argument that *As You Sow* also takes these actions when it (*i.e.*, The As You Sow Foundation Fund) is the shareholder proponent, rather than a representative is unpersuasive for the simple reason described above: *As You Sow*’s actions as a representative are *necessarily* the same actions that a shareholder-proponent would normally have to take themselves, because that is what effective representation entails.

C. The Company’s problem is with the Rule itself, and it is requesting that the Staff depart from the Rule

The Company Letter makes clear that its real argument is not that *As You Sow* is in violation of Rule 14a-8(c) but rather that it takes issue with “[t]he Commission’s recent interpretations of” the Rule. Company Letter at 9. The Commission and Staff have consistently applied Rule 14a-

8(c) as written: that “each person” may “submit” no more than one proposal per company per meeting. The Company dismisses this interpretation as reducing the meaning of the word “submit” to “press send.” Company Letter at 9.⁴

The Company’s argument is an oversimplification of Staff precedent. The Staff has consistently excluded proposals under Rule 14a-8(c) only where there is obvious evidence that an individual was (a) using the shares of another person who had *no real interest in the* proposal, or (b) using the shares of a legally separate entity the individual nonetheless controlled, to submit a second proposal. *See, e.g., General Electric Co.* (Jan. 10, 2008) (proponent submitted two proposals and, when notified by company of one-proposal rule, the proposals were resubmitted by proponent’s daughters); *Staten Island Bancorp, Inc.* (Feb. 27, 2002) (proponent submitted five proposals and, when notified by company of one-proposal rule, the proposals were resubmitted by the proponent, his daughter, his friends, and his neighbors).

Just as consistently, however, the Staff has declined to exclude proposals based on Rule 14a-8(c) based on companies’ bald assertions that representatives were using “nominal” proponents to bypass the Rule. *See, e.g., Bank of America Corp.* (Mar. 1, 2022) (company argued that second proponent was nominal stand-in for representative who had already submitted one proposal, Staff rejected that position and granted no-action only after representative affirmatively *re-submitted* second proposal); *IQVIA Holdings Inc.* (Nov. 18, 2021) (company argued that proponent was “nominal” stand-in for representative, who had already submitted a proposal); *Wyeth* (Jan. 30, 2009) (same); *American International Group, Inc.* (Mar. 16, 2009) (same); *Sempra Energy* (Feb. 23, 2009) (same).

This distinction makes sense and is consistent with the text and purpose of the Rule. Further, the Company’s alternative, which goes against the text and purpose of the Rule and its protection of shareholder democracy, is unworkable.

First, the Staff precedents at which the Company Letter takes aim are not only consistent with, but rather *required by* the Commission-level 2020 Rulemaking. As noted above, the 2020 Rule explicitly authorizes exactly what the Company Letter now claims is inconsistent with it – that a shareholder might engage a representative for *all aspects* of the shareholder proposal process but for submitting the proposal itself. *See* 2020 Rulemaking at 59. The Company Letter is therefore wrong to suggest that the Staff is interpreting Rule 14a-8(c) in a manner inconsistent with the purpose of the 2020 amendments to that Rule.

Second, the distinction demonstrated by the Staff precedents above is fully in keeping with the purpose of Rule 14a-8(c) and is essential in maintaining the broader purpose of the shareholder proposal rule. Rule 14a-8(c) is intended to prevent any one person from “submitting excessive numbers of proposals.” *See* 1976 Release. The representation of multiple individual shareholders by a single representative presents no inconsistency with that purpose. The shareholders that *As You Sow* represents are their own individuals and entities, with a specific interest in the outcome of the Proposal filed. That is the case with the Proponent, a representative of which attended an engagement meeting with the Company and engaged substantively about the Proposal. The

⁴ The meaning of the word “submit” is not really up for debate, and the Company makes no argument that the Commission’s interpretation is textually inconsistent with the Rule. “Submit” means “to deliver formally.” *Submit*, Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/submit>.

Company has offered no argument that either the Proponent or United Church Funds lacks an independent interest in the filing of either proposal. The proponents worked with *As You Sow* to put forth proposals in which they believe. As a shareholder representative, *As You Sow* offers to proponents its expertise and familiarity with the shareholder proposal process, allowing proponents more fully to exercise their rights as shareholders without being bogged down in the minutiae of Rule 14a-8's various procedural mechanisms.

Far from there being anything inappropriate about that relationship, the availability to shareholders of representatives is a meaningful, important aspect of shareholder democracy. As diversified investors, smaller shareholders are particularly attuned to systemic risk and externalities imposed by corporate action. But their voices are diffuse; no single small shareholder owns such a percentage of company stock that they can expect to be meaningfully heard by a company on their concerns. A core purpose of Rule 14a-8 is to remedy this collective action problem by enabling main street investors to raise issues to the attention of the board, management, and other shareholders. Representatives can and do play an essential role in this process. Through expertise on the Rule 14a-8 process they provide a voice to shareholders who may otherwise be too quiet to be heard. Representatives' involvement may also serve to help elevate those matters to the attention of larger shareholders or, through press and other mechanisms such as exempt solicitations, to the broader body of retail shareholders, areas in which small shareholders generally have little expertise. As the Commission has recognized, representatives not only bring needed expertise, but *reduce* the costs associated with the 14a-8 process by enabling the use of experts in the process.

Finally, the Company's position is wholly unworkable. It would require the Staff to make fact-intensive judgments, in the absence of any factual record, about the relationships between representatives and proponents, as well as inquire into the precise terms of the agreements governing such relationships to see if proponents have delegated "too much" authority to representatives. *See* Company Letter at 8-9. Of course, the Company's argument does not stop there — it also wants the Staff to delve into the professional and employment relationships of individual proponents, *see Exxon Mobil Corp. (Behar)* (Mar. 24, 2023) and *Exxon Mobil Corp. (Lyles)* (Mar. 24, 2023), as well as unrelated activities and relationships of representatives, *see* Company Letter at 11-20 and *infra*. Such inquiries are inconsistent with the Rule and would constitute an enormous drain on Staff resources.

The Company Letter is an attack on the very idea of shareholder representation, a core component of shareholder democracy. It is inconsistent with Staff precedent, Commission-level guidance, and the purpose of Rule 14a-8. It provides no basis on which to exclude the Proposal.

D. *As You Sow*'s purported relationship with Proxy Impact is not a basis for exclusion

The Company Letter advances a second Rule 14a-8(c) argument that the Proposal should be excluded because *As You Sow* has in the past, with respect to matters having nothing to do with the Proposal, collaborated with another organization that has also submitted a proposal on behalf of a client. The Company argues that *As You Sow* and the other organization, Proxy Impact, are therefore the same "person" under Rule 14a-8(c) and thus can submit only one Proposal. This argument is factually and legally baseless and should be firmly rejected.

As You Sow and Proxy Impact are separate entities, both of which have been in business for decades. The Company Letter points to four instances in which the organizations have collaborated. First, in ominous language, the Company Letter notes that the two organizations co-publish “an annual report and related webinar that analyzes the shareholder proposals submitted each proxy season.” Company Letter at 12. Second, the Company Letter points to the “As You Vote” Guidelines. As the Company Letter describes, these guidelines consist of certain recommendations that allow others to vote based on “ESG-aligned policy.” The publication of proxy voting guidelines by organizations is common; collaborating to produce guidelines is unrelated to the Company or the Proposal.⁵ Third, the Company states that *As You Sow* and Proxy Impact were both members of ‘Coalition United for a Responsible Exxon’ (CURE) which “campaign[ed] . . . against the Company’s director nominees.” Company Letter at 15. CURE is a group in which dozens of other shareholders participated. It was formed after the Company began demonstrating a marked financial decline, resisted material climate action, and disregarded majority shareholder votes. Finally, the Company asserts that there is “substantial leadership overlap” between *As You Sow* and Proxy Impact because Proxy Impact’s CEO is a member of *As You Sow*’s 28-member advisory board and *As You Sow*’s CEO is a member of Proxy Impact’s advisory board. Advisory board membership is generally honorific and entails no leadership role or responsibility in an organization. That the Company Letter is grasping at straws is best demonstrated by its assertion that “50% of [Proxy Impact’s] advisory board is controlled by, or affiliated with, *As You Sow*.” Company Letter at 18. By this, the Company means that *As You Sow*’s CEO is one of four members of Proxy Impact’s advisory board, and one other individual, employed by neither organization, is on both advisory boards.

On these thin factual reeds, the Company Letter attempts to balance several baseless – and largely irrelevant – legal claims.

First, the Company argues that the co-publication of Proxy Preview and the As You Vote Guidelines constitutes a “joint solicitation” demonstrating an “intent to control the Company.” Company Letter at 17, 19-20. This is factually and legally incorrect and, moreover, irrelevant.

⁵ See, e.g., CalPERS, <https://www.calpers.ca.gov/docs/proxy-voting-guidelines.pdf>; CPP Investments, <https://www.cppinvestments.com/wp-content/uploads/2023/03/PVPGs-2023-Final-Englishv1.pdf>; Blackrock, <https://www.blackrock.com/corporate/literature/fact-sheet/blk-responsible-investment-guidelines-us.pdf>; ISS, <https://www.issgovernance.com/file/policy/active/americas/US-Voting-Guidelines.pdf>; Goldman Sachs, https://www.gsam.com/content/dam/gsam/pdfs/us/en/miscellaneous/voting_proxy_policy.pdf?sa=n&rd=n; Fidelity, https://www.fidelity.com/bin-public/060_www_fidelity_com/documents/Full-Proxy-Voting-Guidelines-for-Fidelity-Funds-Advised-by-FMRCo-and-SelectCo.pdf; Lazard, <https://www.lazardassetmanagement.com/docs/-m0-/16376/LazardProxyVotingPolicyAndProcedures.pdf>; Glass Lewis, <https://www.glasslewis.com/voting-policies-current/>; Brown Advisory, https://www.brownadvisory.com/sites/default/files/2024-02/Proxy_Voting_Policy_2023.pdf; Putnam Investments, https://www.putnam.com/static/pdf/proxy/proxy_voting_guidelines.pdf; NYC Comptroller, https://comptroller.nyc.gov/wp-content/uploads/documents/NYCRS-Corporate-Governance-Principles-and-Proxy-Voting-Guidelines_2019-Revised-February-2019.pdf; JP Morgan, <https://am.jpmorgan.com/us/en/asset-management/adv/resources/proxy-information/#>; AFL-CIO, https://aflcio.org/sites/default/files/2017-03/proxy_voting_2012.pdf; Connecticut Treasurer’s Office, <https://portal.ct.gov/-/media/OTT/Pension-Funds/Proxy-Voting/110122CRPTF-Proxy-Voting-Policies-2022.pdf>; and the National Center for Public Policy Research, <https://nationalcenter.org/proxy-navigator-2023/>.

The Company never explains how publishing a descriptive report on proposals submitted during the proxy season is “reasonably calculated to result in the procurement, withholding, or revocation of a proxy.” *See* Rule 14a-1(l)(1)(iii). As the Company appears to tacitly acknowledge, the publication of proxy voting guidelines generally does not constitute a solicitation. *See* Company Letter at 16 n.5 (arguing however that proxy voting guidelines publication may be solicitation *because* they are an “initial step” toward a “continuous plan” intended to result in a solicitation). The proxy voting guidelines at issue here do not constitute a solicitation. They set forth *general* methodologies rather than advice on *specific* votes. *See Exemptions from the Proxy Rules for Proxy Voting Advice*, 85 Fed. Reg. 55082, 55154 (Sept. 3, 2020) (amending definition of “solicitation” to include “proxy voting advice that makes a recommendation to a security holder as to its vote, consent, or authorization *on a specific matter for which security holder approval is solicited*” offered by proxy advisors (emphasis added)). The conversion of those general guidelines into a “voting profile” on the Iconik platform does not alter the fact that the guidelines are not directed at “specific matter[s].” *See id.*; *see also How It Works*, Iconikapp.com, <https://www.iconikapp.com/advisors/how-it-works>. Thus, Proxy Preview and the As You Vote Guidelines do not constitute a joint solicitation even under the expansive definition relied on by the Company Letter.

More to the point, the Company fails to establish that such a joint solicitation, even if it took place, would be relevant to Rule 14a-8(c). Instead, the Company relies on legal sleight of hand to argue that if the two organizations are engaged in a joint solicitation, they are a “group,” and if they are a “group,” they are a “person.” Because a “person” may submit only one proposal under Rule 14a-8(c), the Company argues, the two organizations may submit only one proposal.

Neither premise holds. As noted above, there is no joint solicitation. Further, the Company may not rely on out-of-context quotes from “[p]arallel statutory schemes” to create a new theory of law. *See* Company Letter at 19.

The Company’s first premise – that a joint solicitation by *As You Sow* and Proxy Impact would make them a “group” – is incorrect. The Company Letter relies solely upon the 2023 Beneficial Ownership Final Rules. *See* Exchange Act Release Nos. 33-11253; 34-98704 (Oct. 10, 2023); Company Letter at 19-20. As that document makes clear, the parties who may constitute a “group” under the rules being discussed are limited to “shareholders,” or, more precisely, “beneficial owners” that “act as a . . . group for the purpose of acquiring, holding, or disposing of securities of an issuer.” This rule is in furtherance of a Congressional purpose of “protecting against the evasion of disclosure requirements by persons who collectively sought to change or influence control of an issuer yet who each *acquired and held* an amount of beneficial ownership at or just below the reporting threshold” (emphasis added). *See* 2023 Beneficial Ownership Final Rules at 129-132. *As You Sow* and Proxy Impact are not beneficial owners of their respective proponents’ securities and are not acquiring, holding, or disposing of securities of an issuer with the purpose of avoiding disclosure. Thus, even if they constituted a group, it would be wholly irrelevant to Rule 14a-8’s shareholder proposal process. The Company Letter likewise repeatedly acknowledges the Commission’s statements that a group may be formed by certain joint activities by “shareholders.” *See* Company Letter at 19.

Similarly, Exxon fallaciously attempts to import the definition of a “person” used for the purposes of aggregating beneficial ownership under sections 13(d)(3) and 13(g)(3) into Rule

14a-8(c) in the absence of any Commission guidance indicating that the two terms are related. Indeed, they are explicitly not related. Sections 13(d) and 13(g) relate to ownership reporting requirements for investors who beneficially own (directly or indirectly) more than 5 percent of a covered class of equity securities. As the Company Letter takes pains to point out, the Commission in 2020 expanded the scope of Rule 14a-8(c) from “each shareholder” to “each person,” with the explicit intent of reaching entities *that are not shareholders*. See Company Letter at 6. By contrast, the definition of a “group” provided by sections 13(d)(3) and 13(g)(3) is limited to persons who work together to “be deemed to have acquired beneficial ownership.” Thus, the reference to Rule 14a-8 in the 2023 Beneficial Ownership Final Rules was limited to the question of whether a group is formed “if *shareholders* jointly submit a non-binding shareholder proposal,” and the Commission’s answer was that if submitting and presenting a proposal was all that shareholders did, their “beneficial ownership would not be aggregated for purposes of determining whether the five percent threshold under section 13(d)(1) or 13(g)(1) had been crossed.” 2023 Beneficial Ownership Final Rules at 135-36. This answer does not support or have any relevance to the Company Letter’s suggestion that if two shareholder *representatives* co-publish a report on the proxy season, they are a single person that may submit only one proposal per company.

Each of these legal flaws speaks to a larger conceptual flaw underlying the Company’s argument. *As You Sow* is not the shareholder for the purposes of either proposal submitted to the Company for which it is providing representation. Its ties are irrelevant. Its activities are irrelevant. Its organizational “views” are irrelevant. Whether Exxon would describe it as an “activist” is irrelevant. Rule 14a-8 says nothing about who may serve as a shareholder representative, nor does it purport to limit their unrelated advocacy activities. It certainly does not impute representatives’ activities to the shareholders they represent. Exxon is in receipt of a Proposal from the Suzanne B & Guy L Trust, which designated *As You Sow* as its representative. In the 2020 Rulemaking, the Commission was clear that Rule 14a-8(c) does not impede shareholder’s ability to identify a “representative of choice.” 2020 Rulemaking at 59. The Company’s “group” theory depends entirely on eliding the critical fact that the Suzanne B & Guy L Trust (Natural Resources), not *As You Sow*, is the shareholder of the Company’s securities.

Exxon’s arguments are an attack on shareholder democracy. Shareholder representatives help investors navigate a confusing process in which companies generally have an enormous resource and experience advantage, representation by excellent and expensive lawyers, and a variety of procedural and substantive opportunities to exclude proposals. As is their right, issuers take advantage of those rules and their structural advantages unhesitatingly.⁶ But shareholders have rights, too, including the right to file shareholder proposals and to be represented in activities associated with those proposals. While Exxon would like to limit the ability of shareholders who own “minimal” shares, or who are represented by experienced entities, to submit and move

⁶ For the companies who do so, their willingness to make use of those resources allows them to rack up unnecessary and self-imposed costs, which they can then marshal as evidence that the shareholder proposal process is too expensive. See Complaint, *Exxon Mobil Corp. v. Arjuna Capital, LLC*, No. 24-cv-69, at ECF No. 1 (N.D. Tex. Jan. 21, 2024) (at ¶ 58); Brief of Intervenor, *Nat’l Ctr. for Pub. Pol’y Research v. SEC*, No. 23-60230 at ECF No. 66 (5th Cir. July 21, 2023).

proposals it thinks are not appropriate, this crusade⁷ is not supported by Rule 14a-8. Representation is an important lynchpin for ensuring that retail investors can effectively exercise the rights guaranteed to them under federal law, which the Commission is tasked with upholding.

CONCLUSION

Based on the foregoing, the Company has provided no basis for the conclusion that the Proposal is excludable from the 2024 proxy statement pursuant to Rule 14a-8. We urge the Staff to deny the no action request.

Sincerely,



Luke Morgan
Staff Attorney, *As You Sow*

cc:

Louis Goldberg, Davis Polk & Wardwell LLP
James E. Parsons, Exxon Mobil Corporation

⁷ See, e.g., *Shareholder Proposal Lawsuit – Our responsibility to fight back*, Exxon Mobil (Feb. 26, 2024), <https://corporate.exxonmobil.com/news/corporate-news/shareholder-proposal> (stating that shareholders “with minimal” shares “should not be permitted” to proposals the Company unilaterally has decided “do not grow long-term shareholder value”); Complaint, *Exxon Mobil Corp. v. Arjuna Capital, LLC*, No. 24-cv-69, at ECF No. 1 (N.D. Tex. Jan. 21, 2024) (at ¶¶ 2, 4).