



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 United Church Funds (the "Proponent") for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders.

We are unable to concur in your view that the Company may exclude the Proposal under Rule 14a-8(c). In our view, the Proponent's representative did not submit more than one proposal, directly or indirectly, to the Company.

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/United Church Funds
Securities Exchange Act of 1934 – Rule 14a-8

Ladies and Gentlemen:

On behalf of Exxon Mobil Corporation, a New Jersey corporation (the “**Company**” or “**ExxonMobil**”), 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 United Church Funds (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 names Conrad MacKerron and Genevieve Abedon, employees of As You Sow, as “agents” for the Proposal. 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 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.

REASON FOR EXCLUSION OF THE PROPOSAL

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 the Proponent as required by Rule 14a-8(f) that the Proponent must demonstrate eligibility under Rule 14a-8 (the “**Deficiency Notice**,” which is included as [Exhibit B](#)). The Deficiency Notice specifically advised the Proponent that each person cannot submit more than one proposal to a company, either directly or indirectly, and that the Company believed that the Proponent had submitted multiple proposals in violation of that rule. As required by Rule 14a-8(f), the Deficiency Notice advised the 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 Proponent received the notice.

On January 5, 2024, the Proponent sent a letter responding to the Deficiency Notice and disputing the Company’s argument that the Proponent had submitted multiple proposals. See [Exhibit C](#). To date, the Proponent has not cured the multiple proposal deficiency identified in the Deficiency Notice.

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

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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.

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 was appointed as the representative for another proponent, the Yagan Family Foundation (“**Yagan**”), for a proposal relating to the Company’s report of climate impact on divestments (the “**Divestments Proposal**”). The materials submitted with the Divestments Proposal include a letter from Yagan that clearly states that As You Sow represents Yagan as to “any and all aspects of the shareholder resolution . . . and all other forms of representation necessary in moving the [Proposal].” See the Company’s letter dated January 22, 2024 requesting that the Staff concur in the exclusion of the Divestment Proposal, as submitted to the SEC Office of Corporation Finance in the same manner as the Proposal.

Second, two employees of As You Sow—Conrad MacKerron and Genevieve Abedon—were appointed by the Proponent as the “agents” to handle all communications, engagements and presentation of the Proposal.

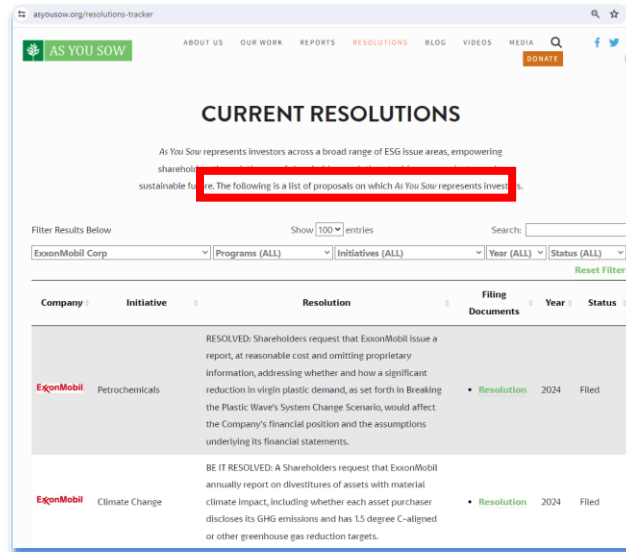
Even though the Proponent did not use the word “representative” or its derivatives to describe Mr. MacKerron’s and Ms. Abedon’s authority in its initial communications with respect to the Proposal, the words “agent” and “representative” are synonymous in this context, as both terms suggest a broad delegation of authority. Furthermore, the Proponent’s delegation of authority to Mr. MacKerron and Ms. Abedon “to act as [its] agents regarding the [Proposal], including engagement, and presentation at the [2024 Annual Meeting]” and request to the Company to “direct all future communications regarding” the 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 the Proponent in connection with the Proposal. The website states that As You Sow “represents investors” in a long list of proposals via its “Current Resolutions” tracker, and both the Proposal and the Divestments Proposal are included within

that list. For these reasons, As You Sow is the representative of both the Proposal and the Divestments Proposal.

As You Sow Resolutions Tracker

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



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 Yagan for the Proposal and the Divestments Proposal, respectively, go beyond mere “assisting” or “advising” and, instead, reach a level of authority that is equal to that of a proponent.

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


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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 94704www.asyousow.org
BUILDING A SAFE, JUST, AND SUSTAINABLE WORLD SINCE 1992

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

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 94704www.asyousow.org
BUILDING A SAFE, JUST, AND SUSTAINABLE WORLD SINCE 1992

Notice of Exempt Solicitation Pursuant to Rule 14a-103

Name of the Registrant: ExxonMobil Corporation (XOM)
Name of persons relying on exemption: As You Sow on behalf of Andrew Behar
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.

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 Divestments Proposal.

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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* (Mar. 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 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 the Proponent, 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 the Proponent, but rather a role of substance. Furthermore, as discussed above, As You Sow touts the Proposal as a resolution that it is representing, implying that As You Sow exercises some authorship and control over the Proposal. This substantive authority over the Proposal means that As You Sow is a person who has indirectly caused the Proposal to be submitted for inclusion in the 2024 Proxy Materials.

Therefore, even though United Church Funds “pressed send” and transmitted the Proposal to the Company, As You Sow has also indirectly submitted the 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 Divestments Proposal and indirectly submitted the Proposal, thereby “giv[ing]

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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 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 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/>



LETTER FROM THE PUBLISHER

The capital market paradigm has shifted and leading companies realize they have the opportunity to outperform by taking into account environmental and social risks coupled with transparent corporate governance. Over the past 50 years shareholder advocates have helped birth this new reality, with help from mainstream investors who now routinely support the new ideas and creative solutions proxy season presents each year. While political efforts to roll back the clock are underway, they will crumble against the wall of economic reality investors and companies deal with every day.

Why the shift? Sustainable markets that consider systemic risks clearly will deliver better outcomes for all stakeholders in the long-term. Climate change induced storms and droughts are currently playing havoc with global commodity supply chains and destroying operational infrastructure. Renewable energy is now far less expensive than burning fossil fuels, heralding the end of the internal combustion engine and its ills. Companies with a more diverse workforce outperform their competitors and the best and brightest jobseekers do not want to work for a CEO who makes 1,000 times more than everyone else. Employees and customers also prefer working and purchasing from companies that do not exploit their workers, have toxins in their products and despoil the environment. Finally, many workers are increasingly choosing sustainable investing for their retirement savings—and are starting to participate in capital market democracy by voting their shares.

Andrew Behar
CEO, As You Sow



ABOUT THE AUTHORS

Heidi Welsh, the founding executive director of the Sustainable Investments Institute (SII), has analyzed corporate responsibility for 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, head research within a unit of what is now MSCI, and consulted on Global Reporting Initiative guidelines. Welsh is the lead author of several corporate political activity governance and spending. She received her B.A. from Carleton College, cum laude, and an M.S. from the Institute for 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 and responsible (SRI). Michael has over 25 years of experience in corporate social responsibility, shareholder advocacy, and philanthropy. For more than 10 years he served as the Senior Program Director for the As You Sow Foundation's Corporate Social Responsibility Program. In 2005 he founded the alert foundations, SRI, pension funds, labor and faith-based communities to upholding shareholder resolutions that are relevant to the 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 also received a Change Business Journal award for a shareholder campaign that achieved the first majority vote for a climate resolution and prompt emission reductions and renewable energy development at public utilities.

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 94-1610001. [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.

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

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

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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 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 Tumoio 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” to make recommendations for about 150 overpaid CEOs.

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.

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.

⁴ <https://vimeo.com/821443970>

As You Vote Website

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

PROXY VOTING: VIDEO

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

Public companies are required by law to report to shareholders. They do this through a variety of means, most notably by inviting shareholders to attend. 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 2, 2022.

Proposals are being challenged in court, on behalf of shareholders generally, by [redacted], and Jim McRitchie. [redacted] is currently in effect are as follows:

Amount of stock needed to file has been raised to \$25,000 if shares have been held to filing; \$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 before January 4, 2020, they will be allowed to file a proposal to be heard at the Annual Meeting in 2022.

Submission 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%, 5%, and 10%.

Advance notice filing. Effective immediately, shareholders wishing to authorize an issue to be discussed at an AGM, or other person or organization to represent them in a 14a-8 proxy statement that they (the shareholder) are willing to meet with the company must provide dates when they are available to meet with the company during a 60-day period before the AGM, even if they represent separate shareholders.

Shareholder advocacy. Immediately, any single person or entity is limited to filing only one shareholder proposal at an AGM, even if they represent separate shareholders.

Shareholder advocacy process using shareholder advocacy is built on a larger body of work by a broad coalition 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 risk and reduce its value over time. ESG and stakeholder advocacy have been endorsed by the World Economic Forum's 2020 Manifesto and the 2020 CEO Letter.

Sorry
This video does not exist.

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 2018 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

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>

Coalition United for a Responsible Exxon (CURE) – Representing Stakeholders with over \$2.2 Trillion in Assets – Calls for New Leadership and Strategy at Exxon

Letter to Board in support of multiple shareholder campaigns advocating change of governance and adoption of new, financially and strategically sustainable business plan

February 02, 2021 | Source: [Coalition United for a Responsible Exxon](#) [Follow](#)

17:30 ET

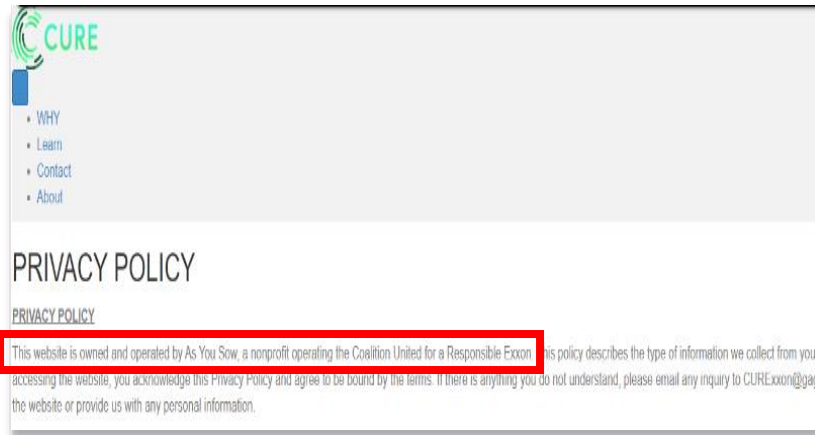
Share

NEW YORK, Feb. 02, 2021 (GLOBE NEWSWIRE) -- The [Coalition United for a Responsible Exxon](#) ("CURE") was launched today with an open letter in support of meaningful change at ExxonMobil Corporation (NYSE: XOM) ("Exxon" or the "Company"). CURE represents a broad spectrum of stakeholders focused on sustainability who are committed to delivering long-term returns that account for the realities of a changing energy sector. As of today, CURE's over 135 members collectively represent over \$2.2 trillion in assets. More details on the coalition can be found at [CURExon.org](#).

In the letter, CURE raises urgent concerns about Exxon's current direction, which is premised on outdated assumptions about high oil prices, demand, and margins that are incompatible with

CURE Website

<https://curexxon.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 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>



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 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.

Davis Polk

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.

As You Vote Proxy Voting Guidelines

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

AS YOU SOW ABOUT US OUR WORK REPORTS RESOLUTIONS BLOG VIDEOS MEDIA Q DONATE

March 27, 2023 - As You Sow

Proxy Voting Guidelines 2023

We actively engage in ongoing shareholder public debates over proxy-related issues such as corporate governance best practices, appropriate executive compensation, shareholder rights, and the materiality of social and environmental risk. We work closely with the broad community of shareholder advocates through our membership in investor networks including the Interfaith Center on Corporate Responsibility, Ceres Investor Network, U.S. Forum for Sustainable and Responsible Investment, Confluence Philanthropy, and the Shareholder Rights Network, as well as through collaboration with the Intentional Endowments Network, Principles for Responsible Investment, and the Council of Institutional Investors.

As You Sow and Proxy Impact staff and management annually review the guidelines to assess if modifications are needed. The As You Vote advisory committee conducts a final review of the guidelines, debate the issues, and add insight to the process.

These guidelines are also intended to inform all investors on how to vote in an ESG-aligned way. They can be adapted and customized for use by foundations, endowments, asset managers, and retail investors. Please use them as a baseline for discussion with your investment committees, trustees, and financial advisors.

METHODOLOGY

In 2012, As You Sow and Proxy Impact conducted an in-depth review of proxy voting policies. We found few guidelines utilizing ESG principles, and almost none that were applied outside the scope of shareholder proposals. From the beginning, ESG principles have been the starting point for our vote guidelines, and for over a decade we have applied them to all key issues including board composition, board accountability, executive compensation, auditor independence, as well as environmental and social shareholder proposals.

We actively engage in ongoing shareholder public debates over proxy-related issues such as corporate governance best practices, appropriate executive compensation, shareholder rights, and the materiality of social and environmental risk. We work closely with the broad community of shareholder advocates through our membership in investor networks including the Interfaith Center on Corporate Responsibility, Ceres Investor Network, U.S. Forum for Sustainable and Responsible Investment, Confluence Philanthropy, and the Shareholder Rights Network, as well as through collaboration with the Intentional Endowments Network, Principles for Responsible Investment, and the Council of Institutional Investors.

As You Sow and Proxy Impact staff and management annually review the guidelines to assess if modifications are needed. The As You Vote advisory committee conducts a final review of the guidelines, debate the issues, and add insight to the process.

The Advisory Committee currently has five members:

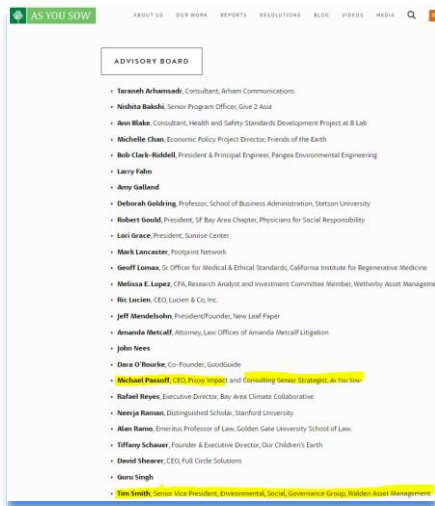
- Andrew Behar, CEO, As You Sow
- Danielle Fugere, President & Chief Counsel, As You Sow
- Nell Minow, Vice Chair, ValueEdge Advisors; co-founder and former President, Institutional Shareholder Services (ISS)
- Renee Morgan, Social Justice Director, Adasina Social Capital
- Michael Passoff, CEO, Proxy Impact

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.

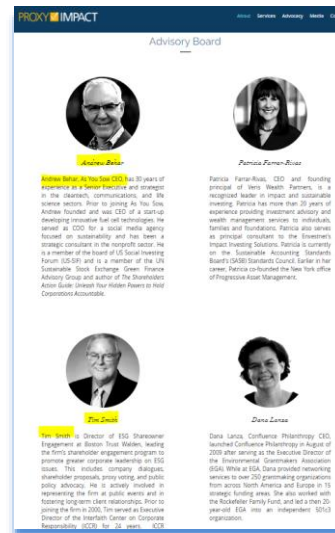
As You Vote Website

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



Proxy Impact Website

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



Davis Polk

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 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 is excludable because As You Sow claims to serve as representative of multiple proposals. Therefore, As You Sow has improperly submitted multiple proposals.

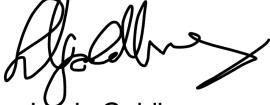
Further, the Proposal is excludable given As You Sow's coordinated actions with Proxy Impact that should cause them to be treated as the same "person" who have impermissibly submitted a total of three proposals.

Davis Polk

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(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
Connor MacKerron, As You Sow
Genevieve Abedon, As You Sow

Proposal

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 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.

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/>

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

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.

Englande, Sherry M

From: Matthew Illian [REDACTED]
Sent: Thursday, December 14, 2023 3:52 PM
To: Shareholder Relations /SM
Cc: Conrad MacKerron; Genevieve Abedon
Subject: Shareholder Resolution
Attachments: 24.XOM.1 ExxonMobil Petrochem Resolution_FIN.pdf; UCF Cover Letter - Exxon.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Greetings,

Please see the attached shareholder resolution and cover letter instructions. We will follow up with custody confirmation.

Best Regards,

Matthew

Matthew Illian
Director of Responsible Investing
United Church Funds
475 Riverside Drive, Suite 1020, New York NY 10027

[REDACTED]
ucfunds.org



VIA FEDEX & EMAIL

December 14, 2023

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

Cc: Conrad MacKerron, [REDACTED]
Genevieve Abedon, [REDACTED]

Dear Mr. Morford,

I am submitting the attached shareholder proposal, which I support, for a vote at Exxon Mobil Corporation's 2024 annual shareholder meeting. The proposal requests that Exxon issue a report addressing whether and how a significant reduction in virgin plastic demand would affect the Company's financial position and the assumptions underlying its financial statements.

I will meet Rule 14a-8 requirements, including retaining continuous ownership of the stock, at the required value, until after the date of the Company's next annual shareholder meeting in 2024. These shares are held by United Church Funds.

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

I am available to meet with Exxon Mobil's representative at the following times:

- Friday, January 4, 2023 at 10am Central Time
- Monday, January 8, 2023 at 2pm Central Time

This letter confirms that I am delegating Conrad MacKerron and Genevieve Abedon to act as my agents regarding this Rule 14a-8 proposal, including engagements, and presentation at the forthcoming shareholder meeting. Please direct all future communications regarding my rule 14a-8 proposal to Conrad MacKerron at [REDACTED] and Genevieve Abedon at [REDACTED] to facilitate prompt communication. Please send all correspondence **with a copy to shareholderengagement@asyousow.org**.

Your consideration and that of the Board of Directors is appreciated in support of the long-term performance of Exxon. Please confirm receipt of my proposal promptly by emailing me at [REDACTED].



Sincerely,

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

Mathew Illian, United Church Funds
Director of Responsible Investing

Enclosures

- Shareholder Proposal

Due Date:

Resolution Title for Website:

Tags/Keywords:

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

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

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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/>

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Follow Up Flag: Follow up
Flag Status: Flagged

Greetings,

I am resending final version of resolution with unnecessary header information removed.

Best,

Matthew

Matthew Illian
Director of Responsible Investing
United Church Funds
475 Riverside Drive, Suite 1020, New York NY 10027

[REDACTED]
ucfunds.org

From: Matthew Illian [REDACTED]
Sent: Thursday, December 14, 2023 4:51 PM
To: shareholderrelations@exxonmobil.com <shareholderrelations@exxonmobil.com>
Cc: Conrad MacKerron [REDACTED] Genevieve Abedon [REDACTED]
Subject: Shareholder Resolution

Greetings,

Please see the attached shareholder resolution and cover letter instructions. We will follow up with custody confirmation.

Best Regards,

Matthew

Matthew Illian
Director of Responsible Investing
United Church Funds
475 Riverside Drive, Suite 1020, New York NY 10027



ucfunds.org



VIA FEDEX & EMAIL

December 14, 2023

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

Cc: Conrad MacKerron, [REDACTED]
Genevieve Abedon, [REDACTED]

Dear Mr. Morford,

I am submitting the attached shareholder proposal, which I support, for a vote at Exxon Mobil Corporation's 2024 annual shareholder meeting. The proposal requests that Exxon issue a report addressing whether and how a significant reduction in virgin plastic demand would affect the Company's financial position and the assumptions underlying its financial statements.

I will meet Rule 14a-8 requirements, including retaining continuous ownership of the stock, at the required value, until after the date of the Company's next annual shareholder meeting in 2024. These shares are held by United Church Funds.

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

I am available to meet with Exxon Mobil's representative at the following times:

- Friday, January 4, 2023 at 10am Central Time
- Monday, January 8, 2023 at 2pm Central Time

This letter confirms that I am delegating Conrad MacKerron and Genevieve Abedon to act as my agents regarding this Rule 14a-8 proposal, including engagements, and presentation at the forthcoming shareholder meeting. Please direct all future communications regarding my rule 14a-8 proposal to Conrad MacKerron at [REDACTED] and Genevieve Abedon at [REDACTED] to facilitate prompt communication. Please send all correspondence **with a copy** to shareholderengagement@asyousow.org.

Your consideration and that of the Board of Directors is appreciated in support of the long-term performance of Exxon. Please confirm receipt of my proposal promptly by emailing me at [REDACTED].



Sincerely,

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

Mathew Illian, United Church Funds
Director of Responsible Investing

Enclosures

- Shareholder Proposal

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>



VIA FEDEX & EMAIL

December 14, 2023

RECEIVED

DEC 15 2023

S.M. ENGLANDE

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

Cc: Conrad MacKerron, [REDACTED]
Genevieve Abedon, [REDACTED]

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Your consideration and that of the Board of Directors is appreciated in support of the long-term performance of Exxon. Please confirm receipt of my proposal promptly by emailing me at [REDACTED]



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Mathew Illian, United Church Funds
Director of Responsible Investing

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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/>

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

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

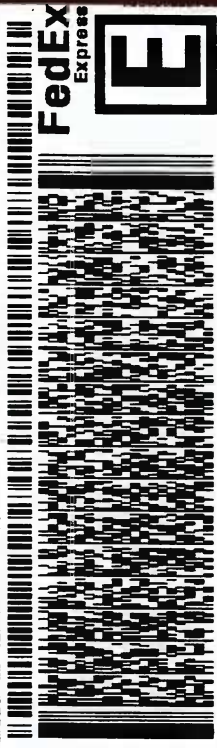
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- Disclosure of key metrics for chemical recycling processes, including inputs, outputs/yield, energy use, carbon and waste emissions, and any related measures taken to ensure safe operations.

EXXON MOBIL CORP
22777 SPRINGWOODS VILLAGE PKWY

SPRING TX 77389

(000) 000-0000 REF:
INVT
PO:

DEPT:



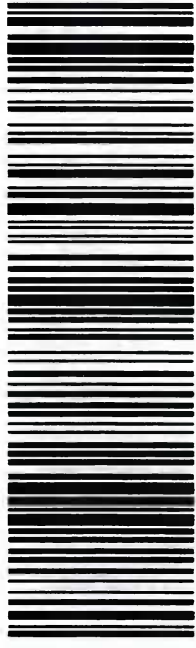
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I'm recyc



Englande, Sherry M

From: Conrad MacKerron [REDACTED]
Sent: Friday, December 15, 2023 12:13 PM
To: Englande, Sherry M
Cc: Shareholder Relations /SM; Genevieve Abedon; Matthew Illian
Subject: Filing, letter to CEO

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Sherry: This is a courtesy notice that United Church Funds has filed the same shareholder proposal with the company for 2024 as filed by As You Sow in 2023. United Church Funds has delegated myself and Genevieve as their agents. We look forward to discussing further at our meeting on Jan. 4.

I also wanted to let you know that later today we will be transmitting a letter to CEO Darren Woods from four ExxonMobil shareholders stating their support of our engagement and encouraging management to be responsive to our concerns. Please advise if there is a separate email we should use to transmit the letter to Mr. Woods, or if we should send to you and the shareholder relations address, and you can pass on to Mr. Woods. Thanks.

Best,

Conrad MacKerron
Senior Vice President
As You Sow

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

[REDACTED] | [REDACTED]
| www.asyousow.org



Englande, Sherry M

From: Conrad MacKerron [REDACTED]
Sent: Monday, December 18, 2023 1:11 PM
To: Englande, Sherry M; Shareholder Relations /SM
Cc: Hirai, Anna; Ashman, Harry; RIOLS Luc (CANDRIAM); Mansvelt van, AE (Arthur); Genevieve Abedon
Subject: Letter to ExxonMobil CEO on engagement on plastic pollution
Attachments: Investor Support Letter - Exxon Mobil 20231218.pdf

Good morning. Please forward this email to Mr. Woods' office.

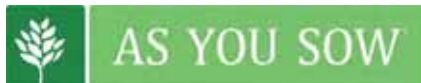
Attached please find a letter to CEO Darren Woods signed by several investors supporting the ongoing engagement led by As You Sow on the risks of production overcapacity for polymers used for single use plastic, the need to plan for reductions in demand for these materials, and responsibly switching operations from fossil-fuel based virgin polymer to recycled polymer production. The letter is private and is being provided to demonstrate that the concerns raised in the dialogue are not limited to the immediate participants but to other investors who hold a significant number of shares.

Best regards,

Conrad MacKerron
Senior Vice President
As You Sow

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

[REDACTED] | [REDACTED]
| www.asyousow.org



December 18, 2023

Darren Woods
Chief Executive Officer
Exxon Mobil Corporation
5959 Las Colinas Blvd.
Irving, Texas 75039

Dear Mr. Woods:

We, the undersigned investors in ExxonMobil Inc., wish to notify you of our support of the ongoing engagement led by As You Sow on the risks of production overcapacity for polymers used for single use plastic, the need to plan for reductions in demand for these materials, and responsibly switching operations from fossil-fuel based virgin polymer to recycled polymer production.

ExxonMobil is the world's largest producer of plastic resins bound for single-use applications (11.5 million tons), which results in up to 6 million tons of plastic waste according to a recent analysis by Minderoo Foundation. It is also the third largest generator of greenhouse gas emissions within the top 100 petrochemical producers of single-use plastic bound resins, according to Minderoo.¹

Recent reports from influential groups including the United Nations Environment Program², Organization for Economic Co-operation and Development³, and National Academy of Science⁴ concur that the current rate of expansion of virgin plastic production is unsustainable, and cuts in plastic production and use are necessary. Brands who use resins manufactured by companies like ExxonMobil are calling for reductions. Coca-Cola Co, Nestle, PepsiCo, Unilever, and Walmart, members of the Business Coalition for a Global Plastics Treaty, have stated that the top priority of a global plastics treaty should be "reduction of plastic production and use," focusing on plastics with high leakage rates, short lives, and made using fossil-based virgin resources.⁵

We encourage you to be responsive to the expectations of investors and their representatives to analyze the impact on the company of a one-third cut in demand for single-use plastic by 2040 as proposed by the Pew Charitable Trusts' widely respected *Breaking the Plastic Wave* report. The group also seeks disclosure of information about the recycling technologies ExxonMobil will use as it begins to generate significant amounts of resin from discarded plastic waste to ensure they are cost-effective, process and energy efficient, and environmentally sound.

There is significant investor support for this engagement. A 2023 shareholder proposal to the company on these topics garnered support of 25% of shares voted with a market value of \$66 billion. We hope this

¹ <https://www.minderoo.org/plastic-waste-makers-index/>

² <https://www.unep.org/news-and-stories/press-release/comprehensive-assessment-marine-litter-and-plastic-pollution>

³ <https://www.oecd.org/newsroom/plastic-pollution-is-growing-relentlessly-as-waste-management-and-recycling-fall-short.htm>

⁴ <https://www.washingtonpost.com/climate-environment/2021/12/01/plastic-waste-ocean-us/>

⁵ <https://www.businessforplasticstreaty.org/>

serves as a message to management to engage in good faith and provide the information sought by the dialogue leaders.

Sincerely,

Michael Marks
Head of Investment Stewardship and Responsible Investment Strategy
Legal & General Investment Management

Peter van der Werf
Head of Engagement
Robeco

Wim Van Hyfte
Global Head of ESG Investments & Research
Candriam

Arthur van Mansvelt
Senior Engagement Specialist
Achmea Investment Management

Englande, Sherry M

From: Englande, Sherry M
Sent: Wednesday, December 20, 2023 5:38 PM
To: Genevieve Abedon
Cc: Conrad MacKerron; Shareholder Relations /SM
Subject: RE: Continuing our dialogue - reschedule needed

Hi Genevieve –

I hope all is well and you are looking ahead to a lovely holiday.

I'm sorry to have to ask, but can we please push our Jan 4 engagement back a few days?

I'm realizing that the subject matter experts I'd like to have in the room to discuss the proposal will not yet be back from the holiday that early.

I think we'll have a more productive discussion with our experts on the call.

Can you join us for the call on either:

- Monday, January 8 from 11:30-Noon PT / 1:30-2:00pm CT, or
- Wednesday, January 10 from 7:30-8:00am PT / 9:30-10:00am CT

If these times don't work, please let me know and I can find some other windows for discussion where our experts will be available.

I apologize for the confusion on our side on calendars.

Thank you!

Sherry

From: Genevieve Abedon [REDACTED]
Sent: Tuesday, December 12, 2023 1:02 PM
To: Englande, Sherry M [REDACTED]
Cc: Conrad MacKerron [REDACTED] Shareholder Relations /SM <shareholderrelations@exxonmobil.com>
Subject: Re: Continuing our dialogue

Hi Sherry,

Thank you for coordinating calendars and offering to send the calendar invitation. The Thursday 1/4 from 11:30-12 pm PST time works well for us. Chat with you in the new year.

Sincerely,

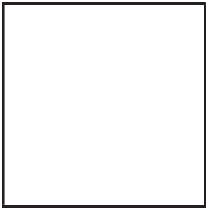
Genevieve Abedon (she/her)

Plastics & Petrochemicals 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]
Sent: Monday, December 11, 2023 11:50 AM
To: Genevieve Abedon [REDACTED]
Cc: Conrad MacKerron [REDACTED] Shareholder Relations /SM <shareholderrelations@exxonmobil.com>
Subject: RE: Continuing our dialogue

Hi Genevieve –
Thank you for your patience while I coordinated calendars.

Can you join us for a call either:

- Thursday, January 4 from 11:30am - Noon PT / 1:30 - 2:00pm CT, or
- Monday, January 8 from 9:00 – 9:30am PT / 11:00-11:30am CT

If one of these days/times works for you, I'd be glad to send a meeting notice with dial in information.

Looking forward to talking with you son.
Thanks –
Sherry

From: Genevieve Abedon [REDACTED]
Sent: Tuesday, December 05, 2023 11:59 AM
To: Englande, Sherry M [REDACTED]
Cc: Conrad MacKerron [REDACTED]
Subject: Re: Continuing our dialogue

External Email - Think Before You Click

Hi Sherry,

We look forward to connecting as soon as you and your team have availability, so please send over some dates at your earliest convenience and we can get something on the calendar for January.

In the meantime, enjoy the rest of your holiday season.

Sincerely,
Genevieve Abedon (she/her)
Plastics & Petrochemicals Coordinator
As You Sow
Main Post Office, P.O. Box 751 | Berkeley, CA 94701

[REDACTED] | www.asyousow.org



AS YOU SOW

-Empowering Shareholders to Change Corporations for Good-

From: "Englande, Sherry M" [REDACTED]
Date: Monday, December 4, 2023 at 7:13 PM
To: Genevieve Abedon [REDACTED]
Cc: Conrad MacKerron [REDACTED]
Subject: RE: Continuing our dialogue

Hi Genevieve –

I hope all is well and you are heading into a good week ahead. I did have a very nice holiday, thank you for asking; I had a nice long visit with my parents, which is always good. I hope you had a nice holiday as well.

With COP28 this week, many of my subject matter experts are out of the country. When that event wraps up, then I start losing folks for the year-end holidays.

Can we look to touch base after the New Year?

I hope this works for your calendar. If so, let's start looking for windows of opportunity on schedules that might work.

Thank you –
Sherry

From: Genevieve Abedon [REDACTED]
Sent: Friday, December 01, 2023 11:58 AM
To: Englande, Sherry M [REDACTED]
Cc: Conrad MacKerron [REDACTED]
Subject: Re: Continuing our dialogue

External Email - Think Before You Click

Hello Sherry,

Happy Friday to you, and I hope you had a nice holiday.

Just following up on this to see if we can schedule a conversation to continue our dialogue with you and your team in the coming weeks, ideally in the next week or two.

Sincerely,

Genevieve Abedon (she/her)
Plastics & Petrochemicals Coordinator
As You Sow

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

[REDACTED] | www.asyousow.org



AS YOU SOW

-Empowering Shareholders to Change Corporations for Good-

From: Genevieve Abedon [REDACTED]

Date: Wednesday, November 15, 2023 at 1:05 PM

To: "Englande, Sherry M" [REDACTED]

Cc: Conrad MacKerron [REDACTED]

Subject: Continuing our dialogue

Hi Sherry,

I hope this email finds you well and healthy.

Even though we are still awaiting the new reports and disclosures that you mentioned on our last call, we would like to touch base again in the next week or two. Please let us know when it would be convenient for a call with your team to continue our conversation.

Sincerely,

Genevieve Abedon (she/her)

Plastics & Petrochemicals Coordinator

As You Sow

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

[REDACTED] | www.asyousow.org



AS YOU SOW

-Empowering Shareholders to Change Corporations for Good-

Englande, Sherry M

From: Englande, Sherry M on behalf of Shareholder Relations /SM
Sent: Thursday, December 21, 2023 2:49 PM
To: Genevieve Abedon
Cc: Conrad MacKerron; Englande, Sherry M
Subject: RE: Continuing our dialogue - reschedule needed

Hi Genevieve –

Thank you for your flexibility in the calendaring.

I'll move the meeting notice. If you can forward to Matthew Illian, I'd appreciate it. I don't think I have his email address.

Happy Holidays to you and your family too!

Thanks again - Sherry

From: Genevieve Abedon [REDACTED]
Sent: Thursday, December 21, 2023 1:20 PM
To: Englande, Sherry M [REDACTED]
Cc: Conrad MacKerron [REDACTED] Shareholder Relations /SM <shareholderrelations@exxonmobil.com>
Subject: Re: Continuing our dialogue - reschedule needed

Hi Sherry,

Happy solstice to you and yours, and likewise on a lovely holiday ahead.

We are fine to move the call to: [Monday, January 8 from 11:30-Noon PT / 1:30-2:00pm CT.](#)

Will you update the calendar invitation, or would you like for me to send one? Matthew Illian from United church Funds will be joining As You Sow on the call.

Sincerely,

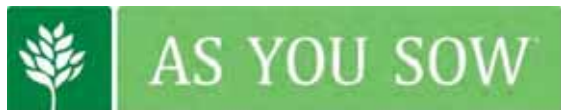
Genevieve Abedon (she/her)

Plastics & Petrochemicals Coordinator

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-Empowering Shareholders to Change Corporations for Good-

From: "Englande, Sherry M" [REDACTED]
Date: Wednesday, December 20, 2023 at 6:38 PM
To: Genevieve Abedon [REDACTED]

Cc: Conrad MacKerron [REDACTED] Shareholder Relations /SM

<shareholderrelations@exxonmobil.com>

Subject: RE: Continuing our dialogue - reschedule needed

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Sent: Tuesday, December 12, 2023 1:02 PM

To: Englande, Sherry M [REDACTED]

Cc: Conrad MacKerron [REDACTED] Shareholder Relations /SM <shareholderrelations@exxonmobil.com>

Subject: Re: Continuing our dialogue

Hi Sherry,

Thank you for coordinating calendars and offering to send the calendar invitation. The Thursday 1/4 from 11:30-12 pm PST time works well for us. Chat with you in the new year.

Sincerely,

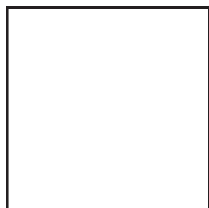
Genevieve Abedon (she/her)

Plastics & Petrochemicals 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]

Sent: Monday, December 11, 2023 11:50 AM

To: Genevieve Abedon [REDACTED]
Cc: Conrad MacKerron [REDACTED] Shareholder Relations /SM <shareholderrelations@exxonmobil.com>
Subject: RE: Continuing our dialogue

Hi Genevieve –
Thank you for your patience while I coordinated calendars.

Can you join us for a call either:

- Thursday, January 4 from 11:30am - Noon PT / 1:30 - 2:00pm CT, or
- Monday, January 8 from 9:00 – 9:30am PT / 11:00-11:30am CT

If one of these days/times works for you, I'd be glad to send a meeting notice with dial in information.

Looking forward to talking with you soon.

Thanks –
Sherry

From: Genevieve Abedon [REDACTED]
Sent: Tuesday, December 05, 2023 11:59 AM
To: Englande, Sherry M [REDACTED]
Cc: Conrad MacKerron [REDACTED]
Subject: Re: Continuing our dialogue

External Email - Think Before You Click

Hi Sherry,

We look forward to connecting as soon as you and your team have availability, so please send over some dates at your earliest convenience and we can get something on the calendar for January.

In the meantime, enjoy the rest of your holiday season.

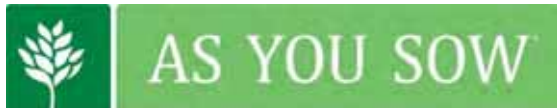
Sincerely,

Genevieve Abedon (she/her)
Plastics & Petrochemicals 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]
Date: Monday, December 4, 2023 at 7:13 PM
To: Genevieve Abedon [REDACTED]

Cc: Conrad MacKerron [REDACTED]
Subject: RE: Continuing our dialogue

Hi Genevieve –

I hope all is well and you are heading into a good week ahead. I did have a very nice holiday, thank you for asking; I had a nice long visit with my parents, which is always good. I hope you had a nice holiday as well.

With COP28 this week, many of my subject matter experts are out of the country. When that event wraps up, then I start losing folks for the year-end holidays.
Can we look to touch base after the New Year?

I hope this works for your calendar. If so, let's start looking for windows of opportunity on schedules that might work.

Thank you –
Sherry

From: Genevieve Abedon [REDACTED]
Sent: Friday, December 01, 2023 11:58 AM
To: Englande, Sherry M [REDACTED]
Cc: Conrad MacKerron [REDACTED]
Subject: Re: Continuing our dialogue

External Email - Think Before You Click

Hello Sherry,

Happy Friday to you, and I hope you had a nice holiday.

Just following up on this to see if we can schedule a conversation to continue our dialogue with you and your team in the coming weeks, ideally in the next week or two.

Sincerely,

Genevieve Abedon (she/her)
Plastics & Petrochemicals 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: Genevieve Abedon [REDACTED]
Date: Wednesday, November 15, 2023 at 1:05 PM
To: "Englande, Sherry M" [REDACTED]
Cc: Conrad MacKerron [REDACTED]
Subject: Continuing our dialogue

Hi Sherry,

I hope this email finds you well and healthy.

Even though we are still awaiting the new reports and disclosures that you mentioned on our last call, we would like to touch base again in the next week or two. Please let us know when it would be convenient for a call with your team to continue our conversation.

Sincerely,

Genevieve Abedon (she/her)

Plastics & Petrochemicals Coordinator

As You Sow

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AS YOU SOW

-Empowering Shareholders to Change Corporations for Good-

Englande, Sherry M

From: Microsoft Outlook
To: Genevieve Abedon; Conrad MacKerron
Sent: Thursday, December 21, 2023 2:49 PM
Subject: Relayed: RE: Continuing our dialogue - reschedule needed

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

[Genevieve Abedon](#) [REDACTED]

[Conrad MacKerron](#) [REDACTED]

Subject: RE: Continuing our dialogue - reschedule needed



RE: Continuing
our dialogue - ...

Englande, Sherry M

Subject: As You Sow / ExxonMobil Plastics Engagement
Location: [REDACTED]
Start: Mon 1/8/2024 1:30 PM
End: Mon 1/8/2024 2:00 PM
Recurrence: (none)
Meeting Status: Accepted
Organizer: Investor-Relations /SM
Required Attendees: Genevieve Abedon; Conrad MacKerron; Englande, Sherry M

Hi Genevieve – We'll look forward to talking with you soon. Thank you for engaging with us.

Zoom Meeting Invite

[Join Meeting](#)

Meeting URL: [REDACTED]

Meeting ID: [REDACTED]

Phone One Tap: [REDACTED]

Join by Telephone

Dial by your location:

+1 346 248 7799 US (Houston) +1 669 444 9171 US +1 669 900 9128 US (San Jose) +1 719 359 4580 US +1 253 205 0468 US +1 253 215 8782 US (Tacoma) +1 646 931 3860 US +1 689 278 1000 US +1 301 715 8592 US (Washington DC) +1 305 224 1968 US +1 309 205 3325 US +1 312 626 6799 US (Chicago) +1 360 209 5623 US +1 386 347 5053 US +1 507 473 4847 US +1 564 217 2000 US +1 646 558 8656 US (New York)

Find your local number: <https://exxonmobil.zoom.us/j/accsVbv661>

Join from a Zoom room

Meeting ID: [REDACTED]

Password: [REDACTED]

Join by SIP

963 7850 5918@zoomcrc.com

Want more Zoom tips? Visit [goto/zoom](https://goto.zoom).

[Data Privacy Policy](#)

Englande, Sherry M

From: Genevieve Abedon [REDACTED]
Sent: Thursday, December 21, 2023 4:52 PM
To: Shareholder Relations /SM
Cc: Conrad MacKerron; Englande, Sherry M
Subject: Re: Continuing our dialogue - reschedule needed

Categories: External Sender

External Email - Think Before You Click

Done and done. Thank you, and speak with you in the new year!

Happy holidays,

Genevieve Abedon (she/her)

Plastics & Petrochemicals Coordinator

As You Sow

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

[REDACTED] | www.asyousow.org



AS YOU SOW

-Empowering Shareholders to Change Corporations for Good-

From: "Englande, Sherry M" [REDACTED] on behalf of Shareholder Relations /SM
<shareholderrelations@exxonmobil.com>
Date: Thursday, December 21, 2023 at 3:49 PM
To: Genevieve Abedon [REDACTED]
Cc: Conrad MacKerron [REDACTED] "Englande, Sherry M" [REDACTED]
Subject: RE: Continuing our dialogue - reschedule needed

Some people who received this message don't often get email from shareholderrelations@exxonmobil.com. [Learn why this is important](#)

Hi Genevieve –

Thank you for your flexibility in the calendaring.

I'll move the meeting notice. If you can forward to Matthew Illian, I'd appreciate it. I don't think I have his email address.

Happy Holidays to you and your family too!

Thanks again - Sherry

From: Genevieve Abedon [REDACTED]
Sent: Thursday, December 21, 2023 1:20 PM

To: Englande, Sherry M [REDACTED]
Cc: Conrad MacKerron [REDACTED] Shareholder Relations /SM <shareholderrelations@exxonmobil.com>
Subject: Re: Continuing our dialogue - reschedule needed

Hi Sherry,

Happy solstice to you and yours, and likewise on a lovely holiday ahead.

We are fine to move the call to: Monday, January 8 from 11:30-Noon PT / 1:30-2:00pm CT.

Will you update the calendar invitation, or would you like for me to send one? Matthew Illian from United church Funds will be joining As You Sow on the call.

Sincerely,

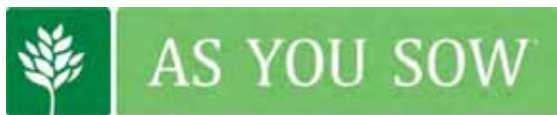
Genevieve Abedon (she/her)

Plastics & Petrochemicals 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]
Date: Wednesday, December 20, 2023 at 6:38 PM
To: Genevieve Abedon [REDACTED]
Cc: Conrad MacKerron [REDACTED], Shareholder Relations /SM
<shareholderrelations@exxonmobil.com>
Subject: RE: Continuing our dialogue - reschedule needed

Hi Genevieve –

I hope all is well and you are looking ahead to a lovely holiday.

I'm sorry to have to ask, but can we please push our Jan 4 engagement back a few days?

I'm realizing that the subject matter experts I'd like to have in the room to discuss the proposal will not yet be back from the holiday that early.

I think we'll have a more productive discussion with our experts on the call.

Can you join us for the call on either:

- Monday, January 8 from 11:30-Noon PT / 1:30-2:00pm CT, or
- Wednesday, January 10 from 7:30-8:00am PT / 9:30-10:00am CT

If these times don't work, please let me know and I can find some other windows for discussion where our experts will be available.

I apologize for the confusion on our side on calendars.

Thank you!

Sherry

From: Genevieve Abedon [REDACTED]
Sent: Tuesday, December 12, 2023 1:02 PM
To: Englande, Sherry M [REDACTED]
Cc: Conrad MacKerron [REDACTED] Shareholder Relations /SM <shareholderrelations@exxonmobil.com>
Subject: Re: Continuing our dialogue

Hi Sherry,

Thank you for coordinating calendars and offering to send the calendar invitation. The Thursday 1/4 from 11:30-12 pm PST time works well for us. Chat with you in the new year.

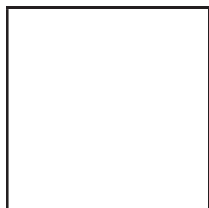
Sincerely,

Genevieve Abedon (she/her)
Plastics & Petrochemicals 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]
Sent: Monday, December 11, 2023 11:50 AM
To: Genevieve Abedon [REDACTED]
Cc: Conrad MacKerron [REDACTED] Shareholder Relations /SM <shareholderrelations@exxonmobil.com>
Subject: RE: Continuing our dialogue

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Can you join us for a call either:

- Thursday, January 4 from 11:30am - Noon PT / 1:30 - 2:00pm CT, or
- Monday, January 8 from 9:00 – 9:30am PT / 11:00-11:30am CT

If one of these days/times works for you, I'd be glad to send a meeting notice with dial in information.

Looking forward to talking with you son.

Thanks –

Sherry

From: Genevieve Abedon [REDACTED]
Sent: Tuesday, December 05, 2023 11:59 AM
To: Englande, Sherry M [REDACTED]

Cc: Conrad MacKerron [REDACTED]
Subject: Re: Continuing our dialogue

External Email - Think Before You Click

Hi Sherry,

We look forward to connecting as soon as you and your team have availability, so please send over some dates at your earliest convenience and we can get something on the calendar for January.

In the meantime, enjoy the rest of your holiday season.

Sincerely,

Genevieve Abedon (she/her)

Plastics & Petrochemicals Coordinator

As You Sow

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

[REDACTED] | www.asyousow.org



AS YOU SOW

-Empowering Shareholders to Change Corporations for Good-

From: "Englande, Sherry M" [REDACTED]
Date: Monday, December 4, 2023 at 7:13 PM
To: Genevieve Abedon [REDACTED]
Cc: Conrad MacKerron [REDACTED]
Subject: RE: Continuing our dialogue

Hi Genevieve –

I hope all is well and you are heading into a good week ahead. I did have a very nice holiday, thank you for asking; I had a nice long visit with my parents, which is always good. I hope you had a nice holiday as well.

With COP28 this week, many of my subject matter experts are out of the country. When that event wraps up, then I start losing folks for the year-end holidays.

Can we look to touch base after the New Year?

I hope this works for your calendar. If so, let's start looking for windows of opportunity on schedules that might work.

Thank you –
Sherry

From: Genevieve Abedon [REDACTED]
Sent: Friday, December 01, 2023 11:58 AM
To: Englande, Sherry M [REDACTED]

Cc: Conrad MacKerron [REDACTED]
Subject: Re: Continuing our dialogue

External Email - Think Before You Click

Hello Sherry,

Happy Friday to you, and I hope you had a nice holiday.

Just following up on this to see if we can schedule a conversation to continue our dialogue with you and your team in the coming weeks, ideally in the next week or two.

Sincerely,

Genevieve Abedon (she/her)
Plastics & Petrochemicals Coordinator

As You Sow

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

[REDACTED] | www.asyousow.org



AS YOU SOW

-Empowering Shareholders to Change Corporations for Good-

From: Genevieve Abedon [REDACTED]

Date: Wednesday, November 15, 2023 at 1:05 PM

To: "Englande, Sherry M" [REDACTED]

Cc: Conrad MacKerron [REDACTED]

Subject: Continuing our dialogue

Hi Sherry,

I hope this email finds you well and healthy.

Even though we are still awaiting the new reports and disclosures that you mentioned on our last call, we would like to touch base again in the next week or two. Please let us know when it would be convenient for a call with your team to continue our conversation.

Sincerely,

Genevieve Abedon (she/her)
Plastics & Petrochemicals Coordinator

As You Sow

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

[REDACTED] | www.asyousow.org



AS YOU SOW

~Empowering Shareholders to Change Corporations for Good~

Englande, Sherry M

From: Englande, Sherry M on behalf of Shareholder Relations /SM
Sent: Friday, December 22, 2023 4:27 PM
To: Matthew Illian
Cc: Conrad MacKerron; Genevieve Abedon
Subject: RE: Shareholder Resolution
Attachments: As You Sow (Plastics) Acknowledgement Letter.pdf; § 240.14a-8 Shareholder proposals_.pdf; Attachments_SEC Rule 14a-8_Nov-4-2020 and SLB 14F_Oct-18-2011.pdf; Attachments_SEC Rule 14a-8_SLB 14_July-13-2001.pdf; Attachments_SEC Rule 14a-8_SLB 14L Nov-3-2021.pdf

Sent on behalf of Jennifer Driscoll:

Please see the communication attached regarding your shareholder proposal.

From: Matthew Illian [REDACTED]
Sent: Thursday, December 14, 2023 4:30 PM
To: Shareholder Relations /SM <shareholderrelations@exxonmobil.com>
Cc: Conrad MacKerron [REDACTED]; Genevieve Abedon [REDACTED]
Subject: Re: Shareholder Resolution

Greetings,

I am resending final version of resolution with unnecessary header information removed.

Best,

Matthew

Matthew Illian

Director of Responsible Investing

United Church Funds

475 Riverside Drive, Suite 1020, New York NY 10027

[REDACTED]
[REDACTED]
ucfunds.org

From: Matthew Illian [REDACTED]
Sent: Thursday, December 14, 2023 4:51 PM
To: shareholderrelations@exxonmobil.com <shareholderrelations@exxonmobil.com>
Cc: Conrad MacKerron [REDACTED] Genevieve Abedon [REDACTED]
Subject: Shareholder Resolution

Greetings,

Please see the attached shareholder resolution and cover letter instructions. We will follow up with custody confirmation.

Best Regards,

Matthew

Matthew Illian

Director of Responsible Investing

United Church Funds

475 Riverside Drive, Suite 1020, New York NY 10027

[REDACTED]

[REDACTED]

ucfunds.org



VIA EMAIL

December 22, 2023

Conrad MacKerron
As You Sow
2020 Milvia St. Ste. 500
Berkeley, CA 94704

Dear Mr. MacKerron:

Thank you for your interest in ExxonMobil. This letter acknowledges that we've received your shareholder proposal concerning Report on Plastic Production Under SCS Scenario (the "Proposal"), which you have submitted on behalf of United Church Funds (the "Proponent") in connection with ExxonMobil's 2024 annual meeting of shareholders. The Proposal contains certain deficiencies, which the Securities and Exchange Commission ("SEC") regulations require us to bring to your attention. Additionally, consistent with SEC rules, we expect the Proponent to participate on our call, with failure to do so being an additional deficiency.

Does Not Meet Ownership Eligibility

In order to be eligible to submit a shareholder proposal, Rule 14a-8, as amended (copy enclosed), requires that United Church Funds 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 14, 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.

You do not appear in our records as a registered shareholder. Moreover, to date we have not received proof that United Church Funds 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 14, 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 14, 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 14, 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 14, 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 14, 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 14, 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.

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 Yagan Family Foundation regarding asset divestments (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 the Proponent’s shares (and the Yagan Family Foundation’s shares) to submit multiple proposals in violation of this requirement. To remedy this deficiency, the Proponent 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, the Proponent 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

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>

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 Climate Impacts of Divestments (As You Sow)
2. Emission Reduction Targets (Arjuna Capital)
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. 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.

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>

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 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.

Conrad MacKerron
Page 6

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.

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.

In the event there are co-filers for this Proposal and in light of the guidance in SEC Staff Legal Bulletin No. 14F dealing with co-filers of shareholder proposals, it is important to ensure that the lead filer has clear authority to act on behalf of all co-filers, including with respect to any potential negotiated withdrawal of the proposal. Unless the lead filer 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 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 look forward to our virtual meeting scheduled in January.

Sincerely,



JKD/sme

Enclosures

c: Genevieve Abedon
Matthew Illian
shareholderengagement@asyousow.org

Attached Proposals

1. Report on Climate Impacts of Divestments (As You Sow)
2. Emission Reduction Targets (Arjuna Capital)
3. Report on Racial and Gender Pay Gap (Proxy Impact)

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

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: Matthew Illian; Conrad MacKerron; Genevieve Abedon
Sent: Friday, December 22, 2023 4:30 PM
Subject: Relayed: RE: Shareholder Resolution

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

[Matthew Illian](#) [REDACTED]

[Conrad MacKerron](#) [REDACTED]

[Genevieve Abedon](#) [REDACTED]

Subject: RE: Shareholder Resolution



RE: Shareholder
Resolution

Englande, Sherry M

From: Conrad MacKerron [REDACTED]
Sent: Friday, December 22, 2023 4:32 PM
To: Englande, Sherry M
Subject: Automatic reply: Shareholder Resolution

Categories: External Sender

External Email - Think Before You Click

Hi: Our office is closed for the holidays until January 2. I will be delayed in returning your message. Happy Holidays.

Best, Conrad

Englande, Sherry M

From: Genevieve Abedon [REDACTED]
Sent: Friday, December 22, 2023 4:32 PM
To: Englande, Sherry M
Subject: Automatic reply: Shareholder Resolution

Categories: External Sender

External Email - Think Before You Click

Hello,

Happy holiday time to you and yours.

I am out of the office through January 1, and will get back to you upon my return. Chat with you next year!

Sincerely,

Genevieve Abedon (she/her)

Plastics & Petrochemicals 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-

Englande, Sherry M

From: Matthew Illian [REDACTED]
Sent: Friday, December 22, 2023 12:11 PM
To: Shareholder Relations /SM
Cc: Conrad MacKerron; Genevieve Abedon
Subject: Re: Shareholder Resolution
Attachments: UCF Verification of Ownership - XOM.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Greetings,

I am following up with our shares confirmation from our custodian, BNY Mellon.

Best Regards,

Matthew

Matthew Illian
Director of Responsible Investing
United Church Funds
475 Riverside Drive, Suite 1020, New York NY 10027

[REDACTED]
ucfunds.org

From: Matthew Illian [REDACTED]
Sent: Thursday, December 14, 2023 5:29 PM
To: shareholderrelations@exxonmobil.com <shareholderrelations@exxonmobil.com>
Cc: Conrad MacKerron [REDACTED] Genevieve Abedon [REDACTED]
Subject: Re: Shareholder Resolution

Greetings,

I am resending final version of resolution with unnecessary header information removed.

Best,

Matthew

Matthew Illian
Director of Responsible Investing
United Church Funds
475 Riverside Drive, Suite 1020, New York NY 10027

[REDACTED]
ucfunds.org

From: Matthew Illian [REDACTED]
Sent: Thursday, December 14, 2023 4:51 PM
To: shareholderrelations@exxonmobil.com <shareholderrelations@exxonmobil.com>
Cc: Conrad MacKerron [REDACTED] Genevieve Abedon [REDACTED]
Subject: Shareholder Resolution

Greetings,

Please see the attached shareholder resolution and cover letter instructions. We will follow up with custody confirmation.

Best Regards,

Matthew

Matthew Illian
Director of Responsible Investing
United Church Funds
475 Riverside Drive, Suite 1020, New York NY 10027

[REDACTED]
ucfunds.org



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: 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

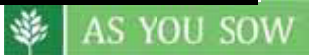
Rachel Lowy (she/her/hers)

Shareholder Relations Sr. Coordinator

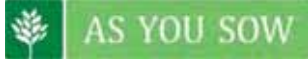
As You Sow®

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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: Saturday, January 06, 2024 9:00 AM
To: Genevieve Abedon
Cc: Conrad MacKerron; Englande, Sherry M
Subject: RE: Continuing our dialogue - reschedule needed

Hi Genevieve –
Happy New Year!
I hope you had a wonderful holiday.

I just wanted to reach out to let you know that we're looking forward to talking with you and Matthew on Monday. You should have a meeting notice with Zoom link.

If you have any questions before the call, just let me know.
Thank you
Sherry

From: Genevieve Abedon [REDACTED]
Sent: Thursday, December 21, 2023 4:52 PM
To: Shareholder Relations /SM <shareholderrelations@exxonmobil.com>
Cc: Conrad MacKerron [REDACTED] Englande, Sherry M [REDACTED]
Subject: Re: Continuing our dialogue - reschedule needed

External Email - Think Before You Click

Done and done. Thank you, and speak with you in the new year!

Happy holidays,
Genevieve Abedon (she/her)
Plastics & Petrochemicals 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>
Date: Thursday, December 21, 2023 at 3:49 PM
To: Genevieve Abedon [REDACTED]

Cc: Conrad MacKerron [REDACTED] "Englande, Sherry M" [REDACTED]

Subject: RE: Continuing our dialogue - reschedule needed

Some people who received this message don't often get email from shareholderrelations@exxonmobil.com. [Learn why this is important](#)

Hi Genevieve –

Thank you for your flexibility in the calendaring.

I'll move the meeting notice. If you can forward to Matthew Illian, I'd appreciate it. I don't think I have his email address.

Happy Holidays to you and your family too!

Thanks again - Sherry

From: Genevieve Abedon [REDACTED]

Sent: Thursday, December 21, 2023 1:20 PM

To: Englande, Sherry M [REDACTED]

Cc: Conrad MacKerron [REDACTED] Shareholder Relations /SM <shareholderrelations@exxonmobil.com>

Subject: Re: Continuing our dialogue - reschedule needed

Hi Sherry,

Happy solstice to you and yours, and likewise on a lovely holiday ahead.

We are fine to move the call to: Monday, January 8 from 11:30-Noon PT / 1:30-2:00pm CT.

Will you update the calendar invitation, or would you like for me to send one? Matthew Illian from United church Funds will be joining As You Sow on the call.

Sincerely,

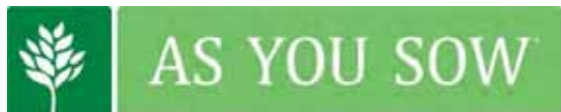
Genevieve Abedon (she/her)

Plastics & Petrochemicals 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]

Date: Wednesday, December 20, 2023 at 6:38 PM

To: Genevieve Abedon [REDACTED]

Cc: Conrad MacKerron [REDACTED] Shareholder Relations /SM

<shareholderrelations@exxonmobil.com>

Subject: RE: Continuing our dialogue - reschedule needed

Hi Genevieve –

I hope all is well and you are looking ahead to a lovely holiday.

I'm sorry to have to ask, but can we please push our Jan 4 engagement back a few days?

I'm realizing that the subject matter experts I'd like to have in the room to discuss the proposal will not yet be back from the holiday that early.

I think we'll have a more productive discussion with our experts on the call.

Can you join us for the call on either:

- Monday, January 8 from 11:30-Noon PT / 1:30-2:00pm CT, or
- Wednesday, January 10 from 7:30-8:00am PT / 9:30-10:00am CT

If these times don't work, please let me know and I can find some other windows for discussion where our experts will be available.

I apologize for the confusion on our side on calendars.

Thank you!

Sherry

From: Genevieve Abedon [REDACTED]
Sent: Tuesday, December 12, 2023 1:02 PM
To: Englande, Sherry M [REDACTED]
Cc: Conrad MacKerron [REDACTED] Shareholder Relations /SM <shareholderrelations@exxonmobil.com>
Subject: Re: Continuing our dialogue

Hi Sherry,

Thank you for coordinating calendars and offering to send the calendar invitation. The Thursday 1/4 from 11:30-12 pm PST time works well for us. Chat with you in the new year.

Sincerely,

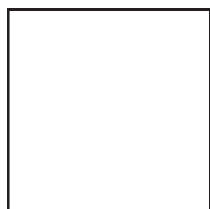
Genevieve Abedon (she/her)

Plastics & Petrochemicals 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]
Sent: Monday, December 11, 2023 11:50 AM
To: Genevieve Abedon [REDACTED]
Cc: Conrad MacKerron [REDACTED] Shareholder Relations /SM <shareholderrelations@exxonmobil.com>
Subject: RE: Continuing our dialogue

Hi Genevieve –

Thank you for your patience while I coordinated calendars.

Can you join us for a call either:

- Thursday, January 4 from 11:30am - Noon PT / 1:30 - 2:00pm CT, or
- Monday, January 8 from 9:00 – 9:30am PT / 11:00-11:30am CT

If one of these days/times works for you, I'd be glad to send a meeting notice with dial in information.

Looking forward to talking with you son.

Thanks –
Sherry

From: Genevieve Abedon [REDACTED]
Sent: Tuesday, December 05, 2023 11:59 AM
To: Englande, Sherry M [REDACTED]
Cc: Conrad MacKerron [REDACTED]
Subject: Re: Continuing our dialogue

External Email - Think Before You Click

Hi Sherry,

We look forward to connecting as soon as you and your team have availability, so please send over some dates at your earliest convenience and we can get something on the calendar for January.

In the meantime, enjoy the rest of your holiday season.

Sincerely,

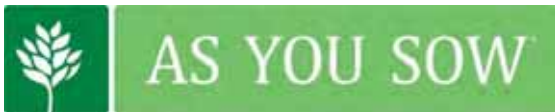
Genevieve Abedon (she/her)

Plastics & Petrochemicals 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]
Date: Monday, December 4, 2023 at 7:13 PM
To: Genevieve Abedon [REDACTED]
Cc: Conrad MacKerron [REDACTED]
Subject: RE: Continuing our dialogue

Hi Genevieve –

I hope all is well and you are heading into a good week ahead. I did have a very nice holiday, thank you for asking; I had a nice long visit with my parents, which is always good. I hope you had a nice holiday as well.

With COP28 this week, many of my subject matter experts are out of the country. When that event wraps up, then I start losing folks for the year-end holidays.

Can we look to touch base after the New Year?

I hope this works for your calendar. If so, let's start looking for windows of opportunity on schedules that might work.

Thank you –
Sherry

From: Genevieve Abedon [REDACTED]
Sent: Friday, December 01, 2023 11:58 AM
To: Englande, Sherry M [REDACTED]
Cc: Conrad MacKerron [REDACTED]
Subject: Re: Continuing our dialogue

External Email - Think Before You Click

Hello Sherry,

Happy Friday to you, and I hope you had a nice holiday.

Just following up on this to see if we can schedule a conversation to continue our dialogue with you and your team in the coming weeks, ideally in the next week or two.

Sincerely,

Genevieve Abedon (she/her)

Plastics & Petrochemicals 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: Genevieve Abedon [REDACTED]
Date: Wednesday, November 15, 2023 at 1:05 PM
To: "Englande, Sherry M" [REDACTED]
Cc: Conrad MacKerron [REDACTED]
Subject: Continuing our dialogue

Hi Sherry,

I hope this email finds you well and healthy.

Even though we are still awaiting the new reports and disclosures that you mentioned on our last call, we would like to touch base again in the next week or two. Please let us know when it would be convenient for a call with your team to continue our conversation.

Sincerely,

Genevieve Abedon (she/her)

Plastics & Petrochemicals 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-

Englande, Sherry M

From: Microsoft Outlook
To: Genevieve Abedon; Conrad MacKerron
Sent: Saturday, January 06, 2024 9:00 AM
Subject: Relayed: RE: Continuing our dialogue - reschedule needed

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

[Genevieve Abedon](#) [REDACTED]

[Conrad MacKerron](#) [REDACTED]

Subject: RE: Continuing our dialogue - reschedule needed



RE: Continuing
our dialogue - ...

Englande, Sherry M

From: Genevieve Abedon [REDACTED]
Sent: Monday, January 08, 2024 11:41 AM
To: Englande, Sherry M; Shareholder Relations /SM
Cc: Conrad MacKerron; Matthew Illian
Subject: Re: Continuing our dialogue - reschedule needed

Categories: External Sender

External Email - Think Before You Click

Hi and happy new year to you as well.

Indeed, we are looking forward to chatting in just a couple of hours and have the calendar information with zoom link. Thanks for confirming.

Sincerely,

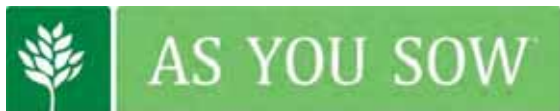
Genevieve Abedon (she/her)

Plastics & Petrochemicals 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>
Date: Saturday, January 6, 2024 at 10:00 AM
To: Genevieve Abedon [REDACTED]
Cc: Conrad MacKerron [REDACTED] "Englande, Sherry M" [REDACTED]
Subject: RE: Continuing our dialogue - reschedule needed

Some people who received this message don't often get email from shareholderrelations@exxonmobil.com. [Learn why this is important](#)

Hi Genevieve –

Happy New Year!

I hope you had a wonderful holiday.

I just wanted to reach out to let you know that we're looking forward to talking with you and Matthew on Monday. You should have a meeting notice with Zoom link.

If you have any questions before the call, just let me know.

Thank you
Sherry

From: Genevieve Abedon [REDACTED]
Sent: Thursday, December 21, 2023 4:52 PM
To: Shareholder Relations /SM <shareholderrelations@exxonmobil.com>
Cc: Conrad MacKerron [REDACTED] Englande, Sherry M [REDACTED]
Subject: Re: Continuing our dialogue - reschedule needed

External Email - Think Before You Click

Done and done. Thank you, and speak with you in the new year!

Happy holidays,
Genevieve Abedon (she/her)
Plastics & Petrochemicals 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>
Date: Thursday, December 21, 2023 at 3:49 PM
To: Genevieve Abedon [REDACTED]
Cc: Conrad MacKerron [REDACTED] "Englande, Sherry M" [REDACTED]
Subject: RE: Continuing our dialogue - reschedule needed

Some people who received this message don't often get email from shareholderrelations@exxonmobil.com. [Learn why this is important](#)

Hi Genevieve –

Thank you for your flexibility in the calendaring.

I'll move the meeting notice. If you can forward to Matthew Illian, I'd appreciate it. I don't think I have his email address.

Happy Holidays to you and your family too!

Thanks again - Sherry

From: Genevieve Abedon [REDACTED]
Sent: Thursday, December 21, 2023 1:20 PM
To: Englande, Sherry M [REDACTED]
Cc: Conrad MacKerron [REDACTED] Shareholder Relations /SM <shareholderrelations@exxonmobil.com>
Subject: Re: Continuing our dialogue - reschedule needed

Hi Sherry,

Happy solstice to you and yours, and likewise on a lovely holiday ahead.

We are fine to move the call to: Monday, January 8 from 11:30-Noon PT / 1:30-2:00pm CT.

Will you update the calendar invitation, or would you like for me to send one? Matthew Illian from United church Funds will be joining As You Sow on the call.

Sincerely,

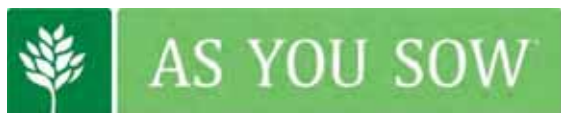
Genevieve Abedon (she/her)

Plastics & Petrochemicals 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]
Date: Wednesday, December 20, 2023 at 6:38 PM
To: Genevieve Abedon [REDACTED]
Cc: Conrad MacKerron [REDACTED] Shareholder Relations /SM
<shareholderrelations@exxonmobil.com>
Subject: RE: Continuing our dialogue - reschedule needed

Hi Genevieve –

I hope all is well and you are looking ahead to a lovely holiday.

I'm sorry to have to ask, but can we please push our Jan 4 engagement back a few days?

I'm realizing that the subject matter experts I'd like to have in the room to discuss the proposal will not yet be back from the holiday that early.

I think we'll have a more productive discussion with our experts on the call.

Can you join us for the call on either:

- Monday, January 8 from 11:30-Noon PT / 1:30-2:00pm CT, or
- Wednesday, January 10 from 7:30-8:00am PT / 9:30-10:00am CT

If these times don't work, please let me know and I can find some other windows for discussion where our experts will be available.

I apologize for the confusion on our side on calendars.

Thank you!

Sherry

From: Genevieve Abedon [REDACTED]
Sent: Tuesday, December 12, 2023 1:02 PM

To: Englande, Sherry M [REDACTED]
Cc: Conrad MacKerron [REDACTED] Shareholder Relations /SM <shareholderrelations@exxonmobil.com>
Subject: Re: Continuing our dialogue

Hi Sherry,

Thank you for coordinating calendars and offering to send the calendar invitation. The Thursday 1/4 from 11:30-12 pm PST time works well for us. Chat with you in the new year.

Sincerely,

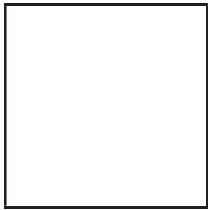
Genevieve Abedon (she/her)

Plastics & Petrochemicals 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]
Sent: Monday, December 11, 2023 11:50 AM
To: Genevieve Abedon [REDACTED]
Cc: Conrad MacKerron [REDACTED] Shareholder Relations /SM <shareholderrelations@exxonmobil.com>
Subject: RE: Continuing our dialogue

Hi Genevieve –

Thank you for your patience while I coordinated calendars.

Can you join us for a call either:

- **Thursday, January 4 from 11:30am - Noon PT / 1:30 - 2:00pm CT, or**
- **Monday, January 8 from 9:00 – 9:30am PT / 11:00-11:30am CT**

If one of these days/times works for you, I'd be glad to send a meeting notice with dial in information.

Looking forward to talking with you son.

Thanks –

Sherry

From: Genevieve Abedon [REDACTED]
Sent: Tuesday, December 05, 2023 11:59 AM
To: Englande, Sherry M [REDACTED]
Cc: Conrad MacKerron [REDACTED]
Subject: Re: Continuing our dialogue

Hi Sherry,

We look forward to connecting as soon as you and your team have availability, so please send over some dates at your earliest convenience and we can get something on the calendar for January.

In the meantime, enjoy the rest of your holiday season.

Sincerely,

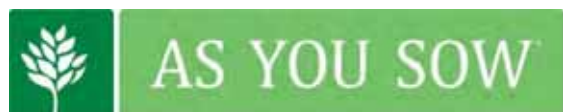
Genevieve Abedon (she/her)

Plastics & Petrochemicals 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]
Date: Monday, December 4, 2023 at 7:13 PM
To: Genevieve Abedon [Redacted]
Cc: Conrad MacKerron [Redacted]
Subject: RE: Continuing our dialogue

Hi Genevieve –

I hope all is well and you are heading into a good week ahead. I did have a very nice holiday, thank you for asking; I had a nice long visit with my parents, which is always good. I hope you had a nice holiday as well.

With COP28 this week, many of my subject matter experts are out of the country. When that event wraps up, then I start losing folks for the year-end holidays.

Can we look to touch base after the New Year?

I hope this works for your calendar. If so, let's start looking for windows of opportunity on schedules that might work.

Thank you –
Sherry

From: Genevieve Abedon [Redacted]
Sent: Friday, December 01, 2023 11:58 AM
To: Englande, Sherry M [Redacted]
Cc: Conrad MacKerron [Redacted]
Subject: Re: Continuing our dialogue

Hello Sherry,

Happy Friday to you, and I hope you had a nice holiday.

Just following up on this to see if we can schedule a conversation to continue our dialogue with you and your team in the coming weeks, ideally in the next week or two.

Sincerely,

Genevieve Abedon (she/her)

Plastics & Petrochemicals 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: Genevieve Abedon [REDACTED]
Date: Wednesday, November 15, 2023 at 1:05 PM
To: "Englande, Sherry M" [REDACTED]
Cc: Conrad MacKerron [REDACTED]
Subject: Continuing our dialogue

Hi Sherry,

I hope this email finds you well and healthy.

Even though we are still awaiting the new reports and disclosures that you mentioned on our last call, we would like to touch base again in the next week or two. Please let us know when it would be convenient for a call with your team to continue our conversation.

Sincerely,

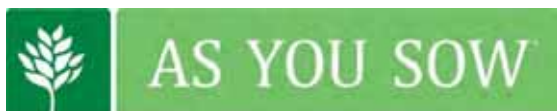
Genevieve Abedon (she/her)

Plastics & Petrochemicals 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-

Englande, Sherry M

From: Conrad MacKerron [REDACTED]
Sent: Monday, January 08, 2024 12:56 PM
To: Englande, Sherry M
Cc: Genevieve Abedon; Matthew Illian
Subject: Our dialogue today

Categories: External Sender

External Email - Think Before You Click

Hi Sherry: A quick share on some issues we will be raising today.

Scenario analysis

--In the past, the company has declined to do the requested scenario analysis based on the Pew study, maintaining it did not agree with the likelihood of a reduced demand scenario. According to one analysis from last summer, this appears to be contradicted by data indicating ongoing as well as long-term oversupply of polyethylene (PE). The sobering outlook for PE was summarized by ICIS in an August 2023 [analysis](#). "Average annual capacity exceeding demand was 10million tonnes in 2000-2022 with the average annual operating rate across the three grades at 86%. But average annual capacity exceeding demand is forecast to be 26 million tonnes in 2023-2030."

Disclosure

--During our last call, the company agreed to get back to us with how much gasification vs pyrolysis is being used, as well as what term best describes the technology you are using, since you indicated you prefer not to use the term pyrolysis. We never received this information. Is it something you are still willing to provide?

--Thank for the information on carbon footprint assessment done by Sphera re emissions for the Exxtend advanced recycling technology. We appreciate the finding that every 1,000 tons of waste plastics processed results in 185-525 tons CO2e (19-49%) lower GHG emissions than processing the same amount of fossil-based feedstock. However, without transparency around data and methodology, or even the assessment itself, we do not consider it adequate disclosure. Further, the calculated reduction does not appear to include GHG impacts of diverting waste plastic from alternative end of life dispositions, such as landfill or incineration, and waste-to-energy recovery.

Regards,

Conrad MacKerron
Senior Vice President
As You Sow

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

[REDACTED] | www.asyousow.org



Deficiency Notice

Englande, Sherry M

From: Englande, Sherry M on behalf of Shareholder Relations /SM
Sent: Friday, December 22, 2023 4:27 PM
To: Matthew Illian
Cc: Conrad MacKerron; Genevieve Abedon
Subject: RE: Shareholder Resolution
Attachments: As You Sow (Plastics) Acknowledgement Letter.pdf; § 240.14a-8 Shareholder proposals_.pdf; Attachments_SEC Rule 14a-8_Nov-4-2020 and SLB 14F_Oct-18-2011.pdf; Attachments_SEC Rule 14a-8_SLB 14_July-13-2001.pdf; Attachments_SEC Rule 14a-8_SLB 14L Nov-3-2021.pdf

Sent on behalf of Jennifer Driscoll:

Please see the communication attached regarding your shareholder proposal.

From: Matthew Illian [REDACTED]
Sent: Thursday, December 14, 2023 4:30 PM
To: Shareholder Relations /SM <shareholderrelations@exxonmobil.com>
Cc: Conrad MacKerron [REDACTED] Genevieve Abedon [REDACTED]
Subject: Re: Shareholder Resolution

Greetings,

I am resending final version of resolution with unnecessary header information removed.

Best,

Matthew

Matthew Illian

Director of Responsible Investing

United Church Funds

475 Riverside Drive, Suite 1020, New York NY 10027

[REDACTED]
[REDACTED]
ucfunds.org

From: Matthew Illian [REDACTED]
Sent: Thursday, December 14, 2023 4:51 PM
To: shareholderrelations@exxonmobil.com <shareholderrelations@exxonmobil.com>
Cc: Conrad MacKerron [REDACTED] Genevieve Abedon [REDACTED]
Subject: Shareholder Resolution

Greetings,

Please see the attached shareholder resolution and cover letter instructions. We will follow up with custody confirmation.

Best Regards,

Matthew

Matthew Illian

Director of Responsible Investing

United Church Funds

475 Riverside Drive, Suite 1020, New York NY 10027

[REDACTED]

[REDACTED]

ucfunds.org



VIA EMAIL

December 22, 2023

Conrad MacKerron
As You Sow
2020 Milvia St. Ste. 500
Berkeley, CA 94704

Dear Mr. MacKerron:

Thank you for your interest in ExxonMobil. This letter acknowledges that we've received your shareholder proposal concerning Report on Plastic Production Under SCS Scenario (the "Proposal"), which you have submitted on behalf of United Church Funds (the "Proponent") in connection with ExxonMobil's 2024 annual meeting of shareholders. The Proposal contains certain deficiencies, which the Securities and Exchange Commission ("SEC") regulations require us to bring to your attention. Additionally, consistent with SEC rules, we expect the Proponent to participate on our call, with failure to do so being an additional deficiency.

Does Not Meet Ownership Eligibility

In order to be eligible to submit a shareholder proposal, Rule 14a-8, as amended (copy enclosed), requires that United Church Funds 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 14, 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.

You do not appear in our records as a registered shareholder. Moreover, to date we have not received proof that United Church Funds 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 14, 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 14, 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 14, 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 14, 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 14, 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 14, 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.

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 Yagan Family Foundation regarding asset divestments (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 the Proponent’s shares (and the Yagan Family Foundation’s shares) to submit multiple proposals in violation of this requirement. To remedy this deficiency, the Proponent 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, the Proponent 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

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>

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 Climate Impacts of Divestments (As You Sow)
2. Emission Reduction Targets (Arjuna Capital)
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. 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.

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>

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 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.

Conrad MacKerron
Page 6

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.

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.

In the event there are co-filers for this Proposal and in light of the guidance in SEC Staff Legal Bulletin No. 14F dealing with co-filers of shareholder proposals, it is important to ensure that the lead filer has clear authority to act on behalf of all co-filers, including with respect to any potential negotiated withdrawal of the proposal. Unless the lead filer 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 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 look forward to our virtual meeting scheduled in January.

Sincerely,



JKD/sme

Enclosures

c: Genevieve Abedon
Matthew Illian
shareholderengagement@asyousow.org

Attached Proposals

1. Report on Climate Impacts of Divestments (As You Sow)
2. Emission Reduction Targets (Arjuna Capital)
3. Report on Racial and Gender Pay Gap (Proxy Impact)

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

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

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

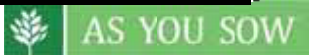
Rachel Lowy (she/her/hers)

Shareholder Relations Sr. Coordinator

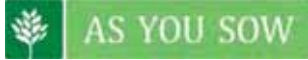
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-Empowering Shareholders to Change Corporations for Good-



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

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 a Report on Effects of Reduction in Virgin Plastic Demand on Behalf of United Church Funds

Ladies and Gentlemen:

United Church Funds (the “Proponent”), a beneficial owner of common stock of Exxon Mobil Corporation (the “Company” or “Exxon”), has submitted a shareholder proposal (the “Proposal”) requesting the Company issue a report on whether and how a significant reduction in virgin plastic demand would affect its financial position and the assumptions underlying its financial statements. After submitting the Proposal, the Proponent designated *As You Sow* employees to act as its representatives 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 claims that *As You Sow* submitted two proposals to the same shareholder meeting, in violation of Rule 14a-8(c). As the Company Letter acknowledges, its position is in contravention to well-settled Commission-level rulemaking and Staff guidance. The Company Letter therefore provides no basis 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

United Church Funds submitted a proposal to Exxon requesting that it issue a report analyzing the effect of a significant reduction in virgin plastic demand on its financial position, and the assumptions used by the company. United Church Funds subsequently appointed two *As You Sow* employees to serve as its representatives. Separately, another shareholder appointed *As You Sow* to serve as its representative with respect to a different proposal submitted to the Company. The Company argues that, by representing two shareholders who have submitted proposals to the same meeting, *As You Sow* is running afoul of Rule 14a-8(c).

As the Company Letter acknowledges, this expansive interpretation of that Rule is wholly at odds with explicit Commission-level rulemaking confirming that a single representative may represent multiple shareholders at the same meeting. The Company’s argument must therefore be rejected.

The Company Letter also argues that the Proposal should be excluded under Rule 14a-8(c) because *As You Sow* engages in occasional activities – for instance the co-publication of an annual report summarizing the proxy season – in collaboration with another organization that has submitted a proposal to the Company this year. Solely on the basis of limited and irrelevant collaboration, the Company argues that *As You Sow* is “acting in concert as a single ‘person’” with that organization, and therefore the two groups should not be permitted to each file (or represent filers of) proposals. This argument is factually irrelevant, legally baseless, and provides no support for exclusion of the Proposal.

ANALYSIS

I. 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”).

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

Although the Proponent designated two *As You Sow* employees, rather than *As You Sow* as an entity, to serve as its representatives, *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 3-4.

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 4. 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 5. These representative actions, the Company Letter claims, “reach a level of authority that is equal to that of a proponent.” Company Letter at 4.

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.”¹ To *represent* shareholders in the shareholder proposal process, *As You Sow* must

¹ *Represent*, Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/represent>.

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 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. Company Letter at 5. 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, *see* Company Letter at 5, 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 6. 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 6.²

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

² 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>. The Company does not argue that *As You Sow* delivered the Proposal to the Company. *See* Company Letter at 6.

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 United Church Funds. The Company has offered no argument that United Church Funds lacks an independent interest in the filing of the Proposal. It worked with *As You Sow* to put forth a proposal in which the Church Fund believes. 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 4-5, 6. 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 7-15 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 7. 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.³ 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 10. 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

³ 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/>.

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 14. 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 12-13. This is factually and legally incorrect and, moreover, irrelevant. 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 12 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 15.

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 10, 15. 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 15.

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. Section 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 2-3. By contrast, the definition of a “group” provided by 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 United Church Funds which submitted the Proposal and is represented by *As You Sow*. 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 United Church Funds, 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.⁴ 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 proposals it thinks are not appropriate, this crusade⁵ 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 Corp.

⁴ 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 (6th Cir. July 21, 2023).

⁵ *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,” and complaining about “a decrease in no-action relief”); 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 United Church Funds (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.

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

As You Sow does not concede that it “submitted” the Proposal since it is merely “assisting” the proponent and the proponent transmitted the 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 Proposal cannot preclude a simultaneous “indirect” submission without eliminating the concept of an “indirect” submission entirely.

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.”

² <https://www.sec.gov/files/corpfir/no-action/14a-8/asyousownatexxon012224-14a8-incomingq.pdf>, Exhibit C.

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 Divestitures Proposal. *Proponent Response Letter* at 9. 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 Proposal, makes clear that As You Sow has crossed beyond mere assistance to indirectly submitting the proposals in violation of Rule 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 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 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 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

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

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 As You Sow, disclaiming any “responsibility” held by advisory board members like Michael Passoff, CEO of Proxy Impact. *Proponent Response Letter* at 7. 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 6. 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 No-Action Letter in an apparent effort to sidestep or selectively ignore the arguments in the No-Action Letter.

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

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>.

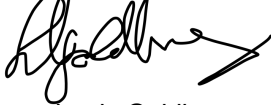
⁶ <https://www.linkedin.com/in/michael-passoff-7127431/>; last visited March 7, 2024.

For the reasons noted above, 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(c).

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 long horizontal stroke extending to the right.

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/United Church Funds
Securities Exchange Act of 1934 – Rule 14a-8

Ladies and Gentlemen:

On behalf of Exxon Mobil Corporation, a New Jersey corporation (the “**Company**” or “**ExxonMobil**”), 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 United Church Funds (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 names Conrad MacKerron and Genevieve Abedon, employees of As You Sow, as “agents” for the Proposal. 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 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.

REASON FOR EXCLUSION OF THE PROPOSAL

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 the Proponent as required by Rule 14a-8(f) that the Proponent must demonstrate eligibility under Rule 14a-8 (the “**Deficiency Notice**,” which is included as [Exhibit B](#)). The Deficiency Notice specifically advised the Proponent that each person cannot submit more than one proposal to a company, either directly or indirectly, and that the Company believed that the Proponent had submitted multiple proposals in violation of that rule. As required by Rule 14a-8(f), the Deficiency Notice advised the 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 Proponent received the notice.

On January 5, 2024, the Proponent sent a letter responding to the Deficiency Notice and disputing the Company’s argument that the Proponent had submitted multiple proposals. See [Exhibit C](#). To date, the Proponent has not cured the multiple proposal deficiency identified in the Deficiency Notice.

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

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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.

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 was appointed as the representative for another proponent, the Yagan Family Foundation (“**Yagan**”), for a proposal relating to the Company’s report of climate impact on divestments (the “**Divestments Proposal**”). The materials submitted with the Divestments Proposal include a letter from Yagan that clearly states that As You Sow represents Yagan as to “any and all aspects of the shareholder resolution . . . and all other forms of representation necessary in moving the [Proposal].” See the Company’s letter dated January 22, 2024 requesting that the Staff concur in the exclusion of the Divestment Proposal, as submitted to the SEC Office of Corporation Finance in the same manner as the Proposal.

Second, two employees of As You Sow—Conrad MacKerron and Genevieve Abedon—were appointed by the Proponent as the “agents” to handle all communications, engagements and presentation of the Proposal.

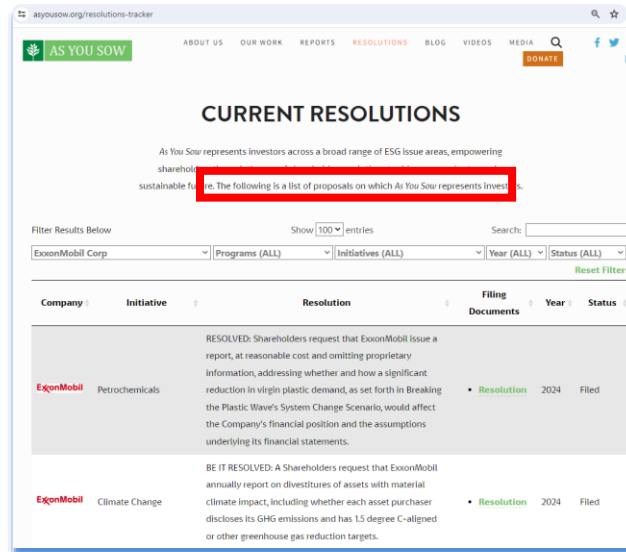
Even though the Proponent did not use the word “representative” or its derivatives to describe Mr. MacKerron’s and Ms. Abedon’s authority in its initial communications with respect to the Proposal, the words “agent” and “representative” are synonymous in this context, as both terms suggest a broad delegation of authority. Furthermore, the Proponent’s delegation of authority to Mr. MacKerron and Ms. Abedon “to act as [its] agents regarding the [Proposal], including engagement, and presentation at the [2024 Annual Meeting]” and request to the Company to “direct all future communications regarding” the 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 the Proponent in connection with the Proposal. The website states that As You Sow “represents investors” in a long list of proposals via its “Current Resolutions” tracker, and both the Proposal and the Divestments Proposal are included within

that list. For these reasons, As You Sow is the representative of both the Proposal and the Divestments Proposal.

As You Sow Resolutions Tracker

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



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 Yagan for the Proposal and the Divestments Proposal, respectively, go beyond mere “assisting” or “advising” and, instead, reach a level of authority that is equal to that of a proponent.

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


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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 94704www.asyousow.org
BUILDING A SAFE, JUST, AND SUSTAINABLE WORLD SINCE 1992

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

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 94704www.asyousow.org
BUILDING A SAFE, JUST, AND SUSTAINABLE WORLD SINCE 1992

Notice of Exempt Solicitation Pursuant to Rule 14a-103

Name of the Registrant: ExxonMobil Corporation (XOM)
Name of persons relying on exemption: As You Sow on behalf of Andrew Behar
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.

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 Divestments Proposal.

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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* (Mar. 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 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 the Proponent, 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 the Proponent, but rather a role of substance. Furthermore, as discussed above, As You Sow touts the Proposal as a resolution that it is representing, implying that As You Sow exercises some authorship and control over the Proposal. This substantive authority over the Proposal means that As You Sow is a person who has indirectly caused the Proposal to be submitted for inclusion in the 2024 Proxy Materials.

Therefore, even though United Church Funds “pressed send” and transmitted the Proposal to the Company, As You Sow has also indirectly submitted the 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 Divestments Proposal and indirectly submitted the Proposal, thereby “giv[ing]

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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 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 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/>

LETTER FROM THE PUBLISHER

The capital market paradigm has shifted and leading companies realize they have the opportunity to outperform by taking into account environmental and social risks coupled with transparent corporate governance. Over the past 50 years shareholder advocates have helped birth this new reality, with help from mainstream investors who now routinely support the new ideas and creative solutions proxy season presents each year. While political efforts to roll back the clock are underway, they will crumble against the wall of economic reality investors and companies deal with every day.

Why the shift? Sustainable markets that consider systemic risks clearly will deliver better outcomes for all stakeholders in the long-term. Climate change induced storms and droughts are currently playing havoc with global commodity supply chains and destroying operational infrastructure. Renewable energy is now far less expensive than burning fossil fuels, heralding the end of the internal combustion engine and its ills. Companies with a more diverse workforce outperform their competitors and the best and brightest jobseekers do not want to work for a CEO who makes 1,000 times more than everyone else. Employees and customers also prefer working and purchasing from companies that do not exploit their workers, have toxins in their products and despoil the environment. Finally, many workers are increasingly choosing sustainable investing for their retirement savings—and are starting to participate in capital market democracy by voting their shares.

Andrew Behar
CEO, As You Sow

ABOUT THE AUTHORS

Heidi Welsh, the founding executive director of the Sustainable Investments Institute (SII), has analyzed corporate responsibility for 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, head research within a unit of what is now MSCI, and consulted on Global Reporting Initiative guidelines. Welsh is the lead author of several corporate political activity governance and spending. She received her B.A. from Carleton College, cum laude, and an M.S. from the Institute for 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 and responsible (SRI). Michael has over 25 years of experience in corporate social responsibility, shareholder advocacy, and philanthropy. For more than 20 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 alert foundations, SRI, pension funds, labor and faith-based communities to upholding shareholder resolutions that are relevant to the 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 also received a Change Business Journal award for a shareholder campaign that achieved the first majority vote for a climate resolution and prompt emission reductions and renewable energy development at public utilities.

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 94-1618000. [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.

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

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

Davis Polk

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 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 Tumoio 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” to make recommendations for about 150 overpaid CEOs.

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.

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.

⁴ <https://vimeo.com/821443970>

As You Vote Website

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

PROXY VOTING: VIDEO

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

Public 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 2, 2022.

Proposals are being challenged in court, on behalf of shareholders generally, by [redacted], and Jim McRitchie. [redacted] resolutions currently in effect are as follows:

Cost of stock needed to file has been raised to \$25,000 if shares have been held to filing; \$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.

Proposal 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%, 5%, and 10%.

Advance notice filing. Effective immediately, shareholders wishing to authorize an issue to be discussed at an annual meeting must file a 14a-8 statement that they (the shareholder) are willing to meet with the company and must provide dates when they are available to meet with the company during the annual meeting.

Shareholder rights. Effective immediately, any single person or entity is limited to filing only one shareholder proposal at an annual meeting, even if they represent separate shareholders.

Shareholder advocacy. Access 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 risk and reduce its value over time. ESG and stakeholder principles have been endorsed by the World Economic Forum's 2020 Manifesto and the 2020 CEO Letter.

Sorry
This video does not exist.

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 2018 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

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>

Coalition United for a Responsible Exxon (CURE) – Representing Stakeholders with over \$2.2 Trillion in Assets – Calls for New Leadership and Strategy at Exxon

Letter to Board in support of multiple shareholder campaigns advocating change of governance and adoption of new, financially and strategically sustainable business plan

February 02, 2021 | Source: [Coalition United for a Responsible Exxon](#) [Follow](#)

17:30 ET

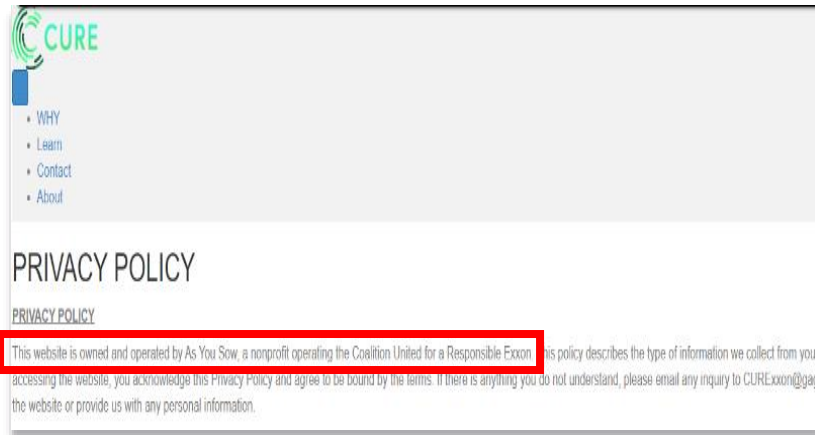
Share

NEW YORK, Feb. 02, 2021 (GLOBE NEWSWIRE) -- The [Coalition United for a Responsible Exxon](#) ("CURE") was launched today with an open letter in support of meaningful change at ExxonMobil Corporation (NYSE: XOM) ("Exxon" or the "Company"). CURE represents a broad spectrum of stakeholders focused on sustainability who are committed to delivering long-term returns that account for the realities of a changing energy sector. As of today, CURE's over 135 members collectively represent over \$2.2 trillion in assets. More details on the coalition can be found at [CURExson.org](#).

In the letter, CURE raises urgent concerns about Exxon's current direction, which is premised on outdated assumptions about high oil prices, demand, and margins that are incompatible with

CURE Website

<https://curexxon.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 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>



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 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.

Davis Polk

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.

As You Vote Proxy Voting Guidelines

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

AS YOU SOW ABOUT US OUR WORK REPORTS RESOLUTIONS BLOG VIDEOS MEDIA Q DONATE

March 27, 2023 - As You Sow

Proxy Voting Guidelines 2023

We actively engage in ongoing shareholder public debates over proxy-related issues such as corporate governance best practices, appropriate executive compensation, shareholder rights, and the materiality of social and environmental risk. We work closely with the broad community of shareholder advocates through our membership in investor networks including the Interfaith Center on Corporate Responsibility, Ceres Investor Network, U.S. Forum for Sustainable and Responsible Investment, Confluence Philanthropy, and the Shareholder Rights Network, as well as through collaboration with the Intentional Endowments Network, Principles for Responsible Investment, and the Council of Institutional Investors.

As You Sow and Proxy Impact staff and management annually review the guidelines to assess if modifications are needed. The As You Vote advisory committee conducts a final review of the guidelines, debate the issues, and add insight to the process.

These guidelines are also intended to inform all investors on how to vote in an ESG-aligned way. They can be adapted and customized for use by foundations, endowments, asset managers, and retail investors. Please use them as a baseline for discussion with your investment committees, trustees, and financial advisors.

METHODOLOGY

In 2012, As You Sow and Proxy Impact conducted an in-depth review of proxy voting policies. We found few guidelines utilizing ESG principles, and almost none that were applied outside the scope of shareholder proposals. From the beginning, ESG principles have been the starting point for our vote guidelines, and for over a decade we have applied them to all key issues including board composition, board accountability, executive compensation, auditor independence, as well as environmental and social shareholder proposals.

We actively engage in ongoing shareholder public debates over proxy-related issues such as corporate governance best practices, appropriate executive compensation, shareholder rights, and the materiality of social and environmental risk. We work closely with the broad community of shareholder advocates through our membership in investor networks including the Interfaith Center on Corporate Responsibility, Ceres Investor Network, U.S. Forum for Sustainable and Responsible Investment, Confluence Philanthropy, and the Shareholder Rights Network, as well as through collaboration with the Intentional Endowments Network, Principles for Responsible Investment, and the Council of Institutional Investors.

As You Sow and Proxy Impact staff and management annually review the guidelines to assess if modifications are needed. The As You Vote advisory committee conducts a final review of the guidelines, debate the issues, and add insight to the process.

The Advisory Committee currently has five members:

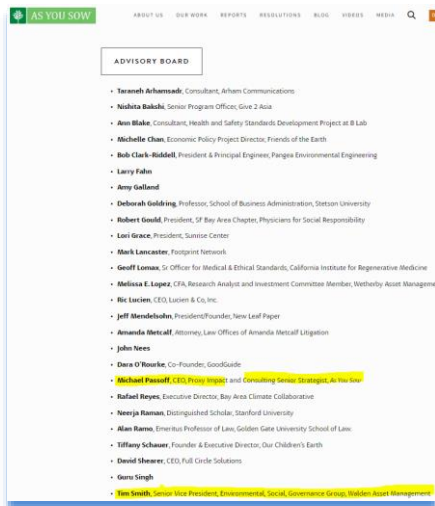
- Andrew Behar, CEO, As You Sow
- Danielle Fugere, President & Chief Counsel, As You Sow
- Nell Minow, Vice Chair, ValueEdge Advisors; co-founder and former President, Institutional Shareholder Services (ISS)
- Renee Morgan, Social Justice Director, Adasina Social Capital
- Michael Passoff, CEO, Proxy Impact

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.

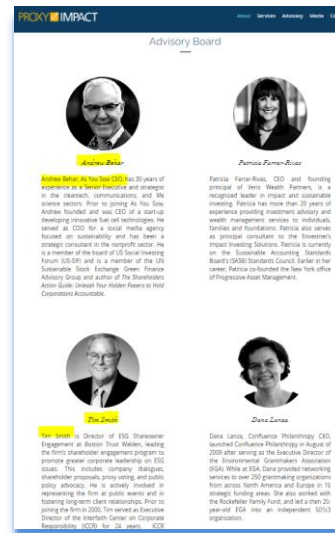
As You Vote Website

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



Proxy Impact Website

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



Davis Polk

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 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 is excludable because As You Sow claims to serve as representative of multiple proposals. Therefore, As You Sow has improperly submitted multiple proposals.

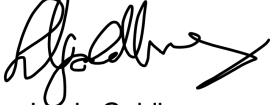
Further, the Proposal is excludable given As You Sow's coordinated actions with Proxy Impact that should cause them to be treated as the same "person" who have impermissibly submitted a total of three proposals.

Davis Polk

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(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,

A handwritten signature in black ink, appearing to read "L. Goldberg", with a long horizontal flourish extending to the right.

Louis Goldberg

Attachment

cc w/ att: James E. Parsons, Exxon Mobil Corporation
Connor MacKerron, As You Sow
Genevieve Abedon, 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 a Report on Effects of Reduction in Virgin Plastic Demand on Behalf of United Church Funds

Ladies and Gentlemen:

United Church Funds (the “Proponent”), a beneficial owner of common stock of Exxon Mobil Corporation (the “Company” or “Exxon”), has submitted a shareholder proposal (the “Proposal”) requesting the Company issue a report on whether and how a significant reduction in virgin plastic demand would affect its financial position and the assumptions underlying its financial statements. After submitting the Proposal, the Proponent designated *As You Sow* employees to act as its representatives 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 claims that *As You Sow* submitted two proposals to the same shareholder meeting, in violation of Rule 14a-8(c). As the Company Letter acknowledges, its position is in contravention to well-settled Commission-level rulemaking and Staff guidance. The Company Letter therefore provides no basis 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

United Church Funds submitted a proposal to Exxon requesting that it issue a report analyzing the effect of a significant reduction in virgin plastic demand on its financial position, and the assumptions used by the company. United Church Funds subsequently appointed two *As You Sow* employees to serve as its representatives. Separately, another shareholder appointed *As You Sow* to serve as its representative with respect to a different proposal submitted to the Company. The Company argues that, by representing two shareholders who have submitted proposals to the same meeting, *As You Sow* is running afoul of Rule 14a-8(c).

As the Company Letter acknowledges, this expansive interpretation of that Rule is wholly at odds with explicit Commission-level rulemaking confirming that a single representative may represent multiple shareholders at the same meeting. The Company’s argument must therefore be rejected.

The Company Letter also argues that the Proposal should be excluded under Rule 14a-8(c) because *As You Sow* engages in occasional activities – for instance the co-publication of an annual report summarizing the proxy season – in collaboration with another organization that has submitted a proposal to the Company this year. Solely on the basis of limited and irrelevant collaboration, the Company argues that *As You Sow* is “acting in concert as a single ‘person’” with that organization, and therefore the two groups should not be permitted to each file (or represent filers of) proposals. This argument is factually irrelevant, legally baseless, and provides no support for exclusion of the Proposal.

ANALYSIS

I. 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”).

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

Although the Proponent designated two *As You Sow* employees, rather than *As You Sow* as an entity, to serve as its representatives, *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 3-4.

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 4. 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 5. These representative actions, the Company Letter claims, “reach a level of authority that is equal to that of a proponent.” Company Letter at 4.

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.”¹ To *represent* shareholders in the shareholder proposal process, *As You Sow* must

¹ *Represent*, Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/represent>.

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 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. Company Letter at 5. 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, *see* Company Letter at 5, 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 6. 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 6.²

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

² 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>. The Company does not argue that *As You Sow* delivered the Proposal to the Company. *See* Company Letter at 6.

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 United Church Funds. The Company has offered no argument that United Church Funds lacks an independent interest in the filing of the Proposal. It worked with *As You Sow* to put forth a proposal in which the Church Fund believes. 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 4-5, 6. 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 7-15 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 7. 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.³ 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 10. 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

³ 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/>.

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 14. 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 12-13. This is factually and legally incorrect and, moreover, irrelevant. 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 12 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 15.

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 10, 15. 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 15.

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. Section 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 2-3. By contrast, the definition of a “group” provided by 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 United Church Funds which submitted the Proposal and is represented by *As You Sow*. 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 United Church Funds, 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.⁴ 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 proposals it thinks are not appropriate, this crusade⁵ 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 Corp.

⁴ 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 (6th Cir. July 21, 2023).

⁵ 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,” and complaining about “a decrease in no-action relief”); 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 11, 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 a Report on Effects of Reduction in Virgin Plastic Demand on Behalf of United Church Funds

Ladies and Gentlemen:

On behalf of United Church Funds (the “Proponent”), *As You Sow* responds in brief sur-reply to the Company’s March 7, 2024 supplemental letter in support of its no-action request (the “Supplemental Letter”). A copy of this letter is being emailed concurrently to the Company and its counsel.

I. Proponent is allowed its choice of representative.

Nothing in the Supplemental Letter alters the clear import of the 2020 Rulemaking, which states plainly that “while in some cases shareholder-proponents may need to submit a proposal on their own” because their “representative of choice . . . has already made submission on behalf of another client,” they may nonetheless “enjoy *all of the benefits* of being represented by a representative of their choosing” (emphasis added). The Company asks the Staff to overrule the Commission and state that shareholder-proponents may enjoy only *some* of the benefits of representation. Such a position is contrary to the Rule and to the purpose of shareholder democracy, which is to allow all shareholders a voice with their companies. The benefits to shareholders of representation are substantial and should be protected.

Ironically, while the Supplemental Letter leads with the argument that Proponent is too narrowly parsing language, *see* Supplemental Letter at 2, the Company’s entire argument itself depends on doing exactly that. The Company’s argument, focused on a narrow definition of the word “assist,” depends on setting aside entire pages of the 2020 Rulemaking confirming that nothing in Rule 14a-8(c) is intended to limit the use of representatives, including “representatives who specialize in active engagement.” 2020 Rulemaking at 59-60. It would also entail setting aside decades of Staff precedent — precedent the Company Letter concedes is adverse to its argument — rejecting issuers’ “nominal shareholder” arguments against representatives and applying the Rule against those who use the shares of others with no independent interest in the proposal, like their children or entities they control. And it requires ignoring the Commission’s statement in the 2020 Rulemaking that the authorization letter requirements in Rule 14a-8(b)(1)(iv) “provide a meaningful degree of assurance as to the shareholder-proponent’s identity, *role, and interest in a proposal.*” 2020 Rulemaking at 61 (emphasis added).

Rule 14a-8(c) does not relegate representatives to ministerial work. Once more, the 2020 Rulemaking is clear on that front. Representatives are expressly permitted by the 2020 Rulemaking to undertake:

- “active engagement,” 2020 Rulemaking at 59-60;
- “dialogue” with companies — the 2020 Rulemaking acknowledges that using representatives for dialogue may reduce costs “because proponents may have less experience and expertise than representatives at effectively communicating with management,” 2020 Rulemaking at 153;
- “drafting a proposal” — the 2020 Rulemaking acknowledges that using representatives for drafting may reduce costs because “the proposals submitted by inexperienced proponents may be less well-drafted than those submitted by experienced representatives,” 2020 Rulemaking at 60, 153;
- “utilizing and/or navigating the submission process,” 2020 Rulemaking at 46; and
- “presenting the proposal at the annual meeting” 2020 Rulemaking at 154.

In short: Rule 14a-8(c) “*will restrict a representative’s ability to submit a proposal on the proponent’s behalf but otherwise will not limit*” the assistance a representative may provide. 2020 Rulemaking at 154 (emphasis added).

Apart from attempting to limit the “assistance” a representative may provide to shareholders, the crux of the Company’s argument is that if a representative does ‘too much’ on behalf of a proponent, it crosses some invisible boundary into having “indirectly” submitted the proposal. Apart from the very real due process problems posed by such a rule, it makes little sense. For one, it would require time-travel: after all, the Company’s argument depends in no insignificant part on *As You Sow*’s *post-submission* conduct of corresponding on the Proponent’s behalf and engaging with the Company. *See* Company Letter at 4. Expanding the word “submit” to include conduct that takes place *after* the submission of the proposal would introduce arbitrariness into a term that is clear and well defined and serves a specific purpose.

Instead, the Rule should be applied as the Staff has consistently been applying it for decades. A father proponent “indirectly submits” a second proposal when he has his daughter send it in for him. *See, e.g., General Electric Co.* (Jan. 10, 2008). But a representative does not “indirectly submit” a proposal merely because a proponent takes full advantage of “all of the benefits” of representation. *See, e.g., IQVIA Holdings Inc.* (Nov. 18, 2021) (company unsuccessfully 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).

Finally, the specific *As You Sow* actions of which the Company complains demonstrate the flaws in its approach. For example, Exxon notes that *As You Sow* engaged it during the proxy off-

season on the subject of the Proposal. To a proponent, having a representative who engages in the subject matter of the proposal year-round can reasonably be considered one component of the “all of the benefits” of representation spoken about in the 2020 Rulemaking. After all, Rule 14a-8(c) is not intended to disadvantage representatives who “specialize in active engagement.” The 2020 Rulemaking is clear that Rule 14a-8(c) should not be read to interfere with representatives’ ability to engage with companies on behalf of multiple shareholders, because “meaningful dialogue” is more likely to result due to representatives’ “experience and expertise . . . at effectively communicating with management.” 2020 Rulemaking at 153.¹

II. The Proxy Impact argument provides no basis for exclusion.

The Supplemental Letter continues to advance the argument that a history of two entities collaborating — on matters having nothing to do with either entities’ current proposal to a company — merges those entities into a single “person” under Rule 14a-8(c).² There is no basis for this new extension of “person,” and the Company’s factual arguments have grown yet more attenuated.

The Supplemental Letter focuses on Proponent’s observation that common advisory board membership hardly constitutes “substantial leadership overlap” indicative of shared “control” over legally separate organizations. It argues that *As You Sow* made a “similar” argument last season, citing to a no-action response letter filed by an *As You Sow* board member concerning a proposal made in her individual capacity. *As You Sow* did not make *any* argument in that matter, but Proponent observes that Exxon’s attempt to extend the definition of “person” under Rule 14a-8(c) — to prohibit a person associated with an entity that submitted a proposal from submitting a proposal in their individual capacity — was unsuccessful there. This attempt should likewise fail.

The remainder of the Company’s argument stems from this confusing start. It claims that *As You Sow* has somehow stated that “both the board and the advisory board do not play the role generally expected of boards.” Supplemental Letter at 4. The only thing *As You Sow* has asserted about its governance structure is that the CEO of Proxy Impact does not control *As You Sow* by virtue of having one seat on *As You Sow*’s 28-member advisory board. Nevertheless, the Company continues: because *As You Sow* has allegedly disclaimed the existence of any board governance, *As You Sow* must therefore be absolutely controlled by its CEO. And because the

¹ The Company describes *As You Sow* as “casting [proponents] to the side” to engage with companies. *See* Supplemental Letter at 3. The investors with which *As You Sow* works obviously have a different perspective on the benefits of representation, which gets to the crux of the matter: clearly, Exxon would rather deal with unrepresented shareholders than with represented ones. This is not surprising. For one, as the Commission has acknowledged, an increase in unrepresented shareholders would likely result in an increase in no-action requests being granted. *See* 2020 Rulemaking at 153. But it’s not Exxon’s choice to make.

² The Company never satisfactorily answers the question of why representatives’ unrelated relationships can be imputed to *proponents*, preventing *proponents* from submitting a proposal because of an organizational collaboration in their *representative*’s past, meaning that this argument logically is premised on its incorrect assertion that *As You Sow* indirectly submitted the Proposal. *See* Supplemental Letter at 4. Because that argument fails, *see supra*, this one must too.

CEO “occupies one of only four Proxy Impact board seats,” he must also exert control over Proxy Impact. Supplemental Letter at 4. Of course, the Company dropped a word: Behar occupies one of only four Proxy Impact *advisory* board seats. This is not a demonstration of “control.” That the two organizations occasionally collaborate, and that employees lend their expertise as advisory board members if and when called to do so, is not “control” such that the two entities constitute a single “person” for Rule 14a-8(c).

Finally, *As You Sow* would be remiss in failing to point out the simple unfairness of issuers using legally independent entities’ occasional collaborations as a basis for excluding proposals. Issuers obviously pool resources in the 14a-8 process; as the Staff is aware, *As You Sow* received on behalf of proponents three no-action letters from three different companies this season that were essentially word-for-word identical except for company-specific facts. Reliance on the expertise of representatives familiar with the Rule 14a-8 process is efficient for all parties — shareholder-proponents included. Companies who make use of firms with Rule 14a-8 expertise also pay, directly or indirectly, for the same kinds of retrospective proxy-season reports that the Company suggests amounts to concerted action to influence proxies in the Company Letter.³ Issuers are also members of or contributors to industry groups and organizations that routinely lobby the Commission for various changes to the proxy rules and litigate about them. Rule 14a-8(c) is not intended to make proponents choose between submitting proposals and the associational freedom that issuers enjoy.

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 Corp.

³ See, e.g., *Shareholder Proposal Developments During the 2023 Proxy Season*, Gibson Dunn (July 25, 2023), <https://www.gibsondunn.com/shareholder-proposal-developments-during-the-2023-proxy-season/>.