

March 13, 2025

VIA ONLINE PORTAL SUBMISSION

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

Re: *Amazon.com, Inc.*
Shareholder Proposal of the As You Sow Foundation Fund et al.
Securities Exchange Act of 1934—Rule 14a-8

Ladies and Gentlemen:

This letter is to inform you that our client, Amazon.com, Inc. (the “Company”), intends to omit from its proxy statement and form of proxy for its 2025 Annual Meeting of Shareholders (collectively, the “2025 Proxy Materials”) a shareholder proposal (the “Proposal”) and related recitals and statement in support thereof (the “Supporting Statement”) submitted by As You Sow on behalf of the As You Sow Foundation, the Common Market Philadelphia Inc., Ken Olum, and LZFT Descendants TR GST Exempt (collectively, the “Proponents”). Pursuant to Rule 14a-8(j), we have concurrently sent a copy of this correspondence to the Proponents.

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

THE PROPOSAL

The Proposal states:

RESOLVED: Shareholders request that the Board issue a report, at reasonable expense and excluding proprietary information, describing how Amazon could address flexible plastic packaging in alignment with the findings of the Pew Report, or other authoritative sources, to reduce its contribution to plastic pollution.

A copy of the Proposal and the Supporting Statement is attached to this letter as Exhibit A.

BASIS FOR EXCLUSION

We hereby respectfully request that the Staff concur in our view that the Proposal may be excluded from the 2025 Proxy Materials pursuant to Rule 14a-8(i)(5) because the Proposal relates to operations that are not economically significant or otherwise significantly related to the Company's business.

I. The Proposal May Be Excluded Under Rule 14a-8(i)(5) Because It Relates To Operations That Account For Less Than Five Percent Of The Company's Operating Expenses And Total Assets And The Proposal Is Not Otherwise Significantly Related To The Company's Business.

A. Background On Rule 14a-8(i)(5).

Rule 14a-8(i)(5) provides that a shareholder proposal may be excluded "[i]f the proposal relates to operations which account for less than 5 percent of the company's total assets at the end of its most recent fiscal year, and for less than 5 percent of its net earnings and gross sales for its most recent fiscal year, and is not otherwise significantly related to the company's business." The Commission stated in 1982 that it was adopting the economic tests that now appear in Rule 14-8(i)(5) because previously the Staff would not agree with the exclusion of a proposal "where the proposal has reflected social or ethical issues, rather than economic concerns, raised by the issuer's business, and the issuer conducts any such business, no matter how small." Exchange Act Release No. 19135 (Oct. 14, 1982). The Commission stated that this interpretation of the rule may have "unduly limit[ed] the exclusion," and proposed adopting the economic tests that appear in the rule today.

In Staff Legal Bulletin No. 14M (Feb. 12, 2025) ("SLB 14M"), the Staff stated that, although it has at times looked to an early court decision that placed heavy emphasis on "the ethical and social significance" of a proposal when applying Rule 14a-8(i)(5), going forward it "will focus on a proposal's significance to the company's business when it otherwise relates to operations that account for less than 5% of total assets, net earnings and gross sales." The Staff explained that, when assessing whether a proposal is "otherwise significantly related" under Rule 14a-8(i)(5), the Staff will apply a "separate analytical framework[]" from whether the proposal raises a significant policy issue under Rule 14a-8(i)(7)'s "ordinary business" exception. Accordingly, "proposals that raise issues of social or ethical significance may be excludable, notwithstanding their importance in the abstract, based on the application and analysis of each of the factors of Rule 14a-8(i)(5) in determining the proposal's relevance to the company's business." *Id.* In addition, the Staff stated that "[t]he mere possibility of reputational or economic harm alone will not demonstrate that a proposal is 'otherwise significantly related to the company's business'" and that it will not look to its analysis under Rule 14a-8(i)(7) when evaluating arguments under Rule 14a-8(i)(5). *Id.*

B. The Proposal Relates To Operations That Account For Less Than Five Percent Of The Company's Operating Expenses And Total Assets.

The Proposal requests that the Company's board of directors issue a report describing how the Company can "address flexible plastic packaging . . . to reduce its contribution to plastic

pollution.” The Supporting Statement asserts that the Company “markets more than 100 brands of consumer goods, food, and beverages, many of which are packaged in flexible plastic,” and that two of the Company’s grocery operations sell “numerous goods” in flexible multi-layer packaging that cannot be routinely recycled. As such, the Proposal addresses flexible plastic that the Company uses for packaging across the Company’s operations, and does not address a business unit or set of discrete operations of the Company. In the context of such proposals, where a comparison of company expense against gross sales and net earnings would be incommensurate, Rule 14a-8(i)(5)’s five percent tests have instead been applied to a company’s total assets and operating expenses. See *AT&T Co.* (avail. Jan 17, 1990) (“[t]he operation of the program [addressed in the proposal] entails the incurrence of expenses rather than the generation of revenues and net earnings. In fact, the expenses associated with the [program] was less than 1 percent of the Company’s operating expenses and assets for its most recent fiscal year”); see also *Atlantic Richfield Co.* (avail. Jan. 28, 1997) (company noted that spending obligations that were the subject of the proposal represented a de minimis percentage of capital expenditures and assets); *Atlantic Richfield Co.* (avail. Jan. 6, 1995) (same). Applying the foregoing approach, the Company has confirmed that its expenditures for flexible plastic used for packaging for fiscal year 2024 accounted for less than five percent of the Company’s total assets as of December 31, 2024 and less than five percent of the Company’s fiscal 2024 operating expenses. The Company also has confirmed that it expects such expenditures to represent less than five percent of the Company’s total assets and operating expenses for fiscal year 2025.¹ Accordingly, the Proposal does not relate to Company operations that are economically significant to the Company for purposes of the objective standards under Rule 14a-8(i)(5).

C. *The Proposal Is “Not Otherwise Significantly Related” To The Company’s Business, As That Term Is Interpreted Under Rule 14a-8(i)(5).*

The Proposal is “not otherwise significantly related to the [C]ompany’s business.” In SLB 14M, the Staff stated that it “will focus on a proposal’s significance to the company’s business when it otherwise relates to operations that account for less than 5% of total assets, net earnings and gross sales.”

Here, the Proposal and Supporting Statement do not demonstrate that the Proposal is otherwise significant to the Company’s business. The potential regulatory risks and environmental concerns addressed in the Supporting Statement are not targeted at or unique to the Company, and instead reflect general social concerns. Moreover, in the context of the particular circumstances of the Company, and in light of the information about the Company’s efforts to reduce its use of plastic and increase the recyclability of the materials it uses, the Proposal is not otherwise significant to the Company’s overall operations.

¹ While not clearly applicable, as addressed above, the Company also has confirmed that flexible plastic used for packaging accounted for less than five percent of its total assets as of December 31, 2024 and that its expenditures for flexible plastic used for packaging for fiscal year 2024 was less than five percent of the Company’s net sales and net income, and that the Company expects such amounts to represent less than five percent of the Company’s net sales and net income for fiscal year 2025.

The Company has already publicly stated that it is working to reduce plastic waste by promoting reusable and recyclable packaging.² In particular, the Company is addressing four primary areas in its efforts to reduce its use of plastics: (1) plastics for products it repackages for delivery, (2) plastics in physical stores, primarily the Company's grocery business, (3) plastics in the Company's devices and private label products, and (4) plastics in packaging for products manufactured by other companies that it sells to its customers. The Company has reported that, in contrast to consumer-packaged goods companies, its greatest impact comes from reducing the use of plastic for products repackaged for delivery. To measure its progress, the Company publicly reports each year on the amount of single-use plastic being used across its global operations network to ship orders to customers.³

With respect to products that the Company repackages for delivery, the Company's average plastic packaging weight per shipment decreased by 9% in 2023, building on the over 17% reduction achieved in 2022.⁴ As of October 2024, the Company has removed all plastic air pillows from its delivery packaging used at its global fulfillment centers, creating the biggest reduction in its plastic packaging use in North America to date. As part of this transition, the Company expanded its use of paper filler made from 100% recycled content across North America.⁵ This follows the Company having replaced single-use plastic outbound packaging with 100% recyclable paper and cardboard packaging in its fulfillment network in Europe during 2022. In addition, during 2023, the Company continued to expand recyclable paper padded bag use across the U.S. and Canada, replacing 99.7% of harder-to-recycle padded bags that contain both plastic and paper.

With respect to flexible plastic use in the Company's physical stores, the Company's Whole Foods Market was the first U.S. grocer to ban disposable plastic bags at checkout, instead opting for 100% post-consumer recycled-content and Forest Stewardship Council ("FSC")-certified paper grocery bags, and in 2023 Whole Foods Market introduced stronger twist handle bags at select Whole Foods Market stores that are still 100% post-consumer recycled content and FSC-certified, which reduce the need for double bagging, dramatically reducing the amount of bags used at checkout. Whole Foods Market also implemented smaller produce bags at its stores in 2019, a change that significantly reduces the use of plastic annually. In July 2019, Whole Foods Market became the first national retailer to remove all the plastic straws from its cafes and coffee bars, replacing them with FSC-certified paper straws that are recyclable and compostable. Also, in 2019, Whole Foods Market stores replaced all plastic rotisserie chicken

² See Amazon Notice of 2024 Annual Meeting of Shareholders & Proxy Statement at 58, *available at* https://www.sec.gov/ix?doc=/Archives/edgar/data/1018724/000110465924045910/tm2329302d4_def14a.htm.

³ See Amazon 2023 Sustainability Report at 32, *available at* <https://sustainability.aboutamazon.com/2023-sustainability-report.pdf>.

⁴ *Id.*; see also <https://www.aboutamazon.com/news/sustainability/how-amazon-is-reducing-packaging>. This metric is based on the total weight of single-use plastic packaging (in metric tons) from Company-owned and operated global fulfillment operations, including both Amazon-sold and third-party seller products fulfilled by Amazon. This includes plastic packaging used in shipments across the Company's fulfillment operations globally, including Amazon Grocery Logistics shipments. The weight is calculated using actual shipment data multiplied by packaging weights, or through procurement data for plastic protective materials added by the Company. The metric excludes adhesives, tape, labels, and third-party packaging not added by the Company.

⁵ See <https://www.aboutamazon.com/news/sustainability/how-amazon-is-reducing-packaging>.

containers with bags that use approximately 70% less plastic. Whole Foods Market is currently working toward making 100% of its own packaging, including private label and in-store food service packaging, reusable, recyclable, or compostable. Across the Company's own device product lines, the Company averages 98% wood fiber-based materials in its packaging. In 2023, 90% of its new devices and accessories launched with packaging that is 100% recyclable in the United States, up from 79% in 2022.⁶

With respect to products that are manufactured by others and the Company sells, the Company helps manufacturers reduce their use of plastics through programs such as the Ships in Product Packaging ("SIPP") program, which financially incentivizes manufacturers to package their products in easy-to-open, 100% recyclable packaging, including plastics, that allows the Company to ship products in their own containers, eliminating all additional packaging material for these products, including plastics. Through the SIPP program and related packaging design and testing services, the Company has helped manufacturers develop more sustainable packaging. In 2024, nearly 4 million seller products were certified to ship in their own product packaging.

As noted above, neither the Proposal nor the Supporting Statement establish that the Proposal is otherwise significant to the Company's business, particularly in the context of the Company's existing actions and disclosures. The Resolved clause specifically requests a report for how the Company can "address flexible plastic packaging in alignment with the findings of the Pew Report," which Report the Supporting Statement asserts has concluded that "recycling must be coupled with reductions in use, materials redesign, and substitution" and that the "greatest opportunity to reduce or eliminate plastic lies with flexible plastic packaging." The Supporting Statement also states that the requested report should address "actions to achieve fully recyclable packaging including elimination and accelerated research into innovative reusable substitution" and "opportunities to pre-competitively work with peers to research and develop reusable packaging as an alternative to single-use packaging." As demonstrated above, the Company's initiatives relating to recycling as well as its efforts to reduce, redesign, and substitute the Company's use of plastics in its operations, and its collaboration efforts to address plastic packaging industry-wide, already address each of the parameters described in the Proposal and, accordingly, the differences—or the delta—between the Proposal's specific request and the actions the Company has already taken are minor. While the Supporting Statement asserts that the Company "could avoid regulatory, environmental, and competitive risks by adopting a comprehensive approach to addressing flexible plastic packaging use at scale," there is no basis for the assertion that issuing the requested report will be more effective at achieving those goals than the actions the Company has already taken and continues to pursue. Moreover, SLB 14M confirms that "[t]he mere possibility of reputational or economic harm alone will not demonstrate that a proposal is 'otherwise significantly related to the company's business.'"

In light of the Company's particular circumstances, there is an even more compelling basis for exclusion of the Proposal under Rule 14a-8(i)(5) than there was in *Dunkin' Brands Group, Inc.* (avail. Feb. 22, 2018). There, the Staff concurred with the exclusion under Rule 14a-8(i)(5) of a

⁶ See Amazon 2023 Sustainability Report at 33.

proposal seeking a report assessing the environmental impacts of continuing to use K-Cup Pods brand packaging for sales of the company's branded coffee. The company confirmed that its K-Cup Pods brand packaging business was below the relevant five percent thresholds and set forth a number of factors indicating that, even though the proposal and supporting statement raised a number of social or ethical concerns in terms of potential environmental, reputational, and financial implications of the company's K-Cup Pods business, the proposal was not otherwise significantly related to the company's business. In concurring with exclusion in *Dunkin' Brands Group*, the Staff noted "that the [p]roposal's significance to the [c]ompany's business is not apparent on its face, and that the [p]roponent has not demonstrated that it is otherwise significantly related to the [c]ompany's business." Here, consistent with the framework in Staff Legal Bulletin No. 14K (Oct. 16, 2019), the Company's actions have diminished any significance of the Proposal's policy issue to such an extent that the Proposal does not present a policy issue that is significant to the Company. As such, because the Proponent has failed to demonstrate that the Proposal is "otherwise significantly related to the [C]ompany's business," the Proposal properly may be excluded under Rule 14a-8(i)(5).

II. Waiver Of The 80-Day Requirement In Rule 14a-(j)(1) Is Appropriate.

We request that the Staff waive the 80-day filing requirement set forth in Rule 14a-8(j) with respect to the basis for exclusion under Rule 14a-8(i)(5) presented in this letter. Rule 14a-8(j)(1) states that a company that "intends to exclude a proposal from its proxy materials . . . must file its reasons with the Commission no later than 80 calendar days before it files its definitive proxy statement and form of proxy with the Commission." However, Rule 14a-8(j)(1) allows the Staff, in its discretion, to permit a company to make its submission within 80 days of filing its definitive proxy materials if the company demonstrates "good cause" for missing the deadline. In SLB 14M, the Staff stated that it "consider[s] the publication of [SLB 14M] to be 'good cause' if it relates to legal arguments made by" a new no-action request. The legal arguments set forth in this request arise from and relate to the Staff's guidance in SLB 14M. Accordingly, we believe that the Company has "good cause" for its inability to meet the 80-day requirement, and we respectfully request that the Staff waive the 80-day requirement with respect to the economic relevance argument presented in this letter.

CONCLUSION

Based upon the foregoing analysis, the Company intends to exclude the Proposal from its 2025 Proxy Materials, and we respectfully request that the Staff concur that the Proposal may be excluded under Rule 14a-8.

We would be happy to provide you with any additional information and answer any questions that you may have regarding this subject. Correspondence regarding this letter should be sent to shareholderproposals@gibsondunn.com. If we can be of any further assistance in this matter, please do not hesitate to call me at (202) 955-8671, or Mark Hoffman, the Company's Vice President, Associate General Counsel, and Corporate Secretary, at (206) 266-1000.

Sincerely,



Ronald O. Mueller

Enclosures

cc: Mark Hoffman, Amazon.com, Inc.
Conrad MacKerron, As You Sow
shareholderengagement@asyousow.org
Harold Dutton III, The Common Market Philadelphia Inc.
Ken Olum
Julia Barry, LZFT Descendants TR GST Exempt

EXHIBIT A

WHEREAS: Without immediate and sustained new commitments throughout the plastics value chain, annual flows of plastics into oceans could nearly triple by 2040.¹

The growing plastic pollution crisis poses increasing risks to Amazon. Corporations could face an annual financial risk of approximately \$100 billion should governments require them to cover the waste management costs of packaging they produce.² Governments around the world are increasingly enacting such policies, including five new state laws that impose fees on corporations for single-use plastic (SUP) packaging.³ The European Union has banned ten SUP pollutants and taxed some non-recycled plastic packaging.⁴ A French law requires 10% of packaging be reusable by 2027 and Portugal requires 30% reusable packaging by 2030.⁵ Additionally, consumer demand for sustainable packaging is increasing.⁶

Pew Charitable Trusts' groundbreaking study, *Breaking the Plastic Wave* ("Pew Report"), concluded that improved recycling alone is insufficient to address plastic pollution—instead, recycling must be coupled with reductions in use, materials redesign, and substitution.⁷ The Pew Report finds that the greatest opportunity to reduce or eliminate plastic lies with flexible plastic packaging, often used for chips, sweets, and condiments among other uses, and virtually unrecyclable in America. With innovation, redesign, and substitution, 26 million metric tons of flexibles can be avoided globally.⁸

The Company markets more than 100 brands of consumer goods, food, and beverages, many of which are packaged in flexible plastic. Its Whole Foods subsidiary and Happy Belly brand sell numerous goods in flexible multi-layer packaging that cannot be routinely recycled. The Company is also notably absent from participation in the largest pre-competitive corporate initiative to address plastic pollution, the New Plastics Economy Global Commitment. Competitors, including Walmart and Target, have adopted goals to make plastic packaging recyclable, reusable, or compostable by 2025, while Amazon has not.

Our Company could avoid regulatory, environmental, and competitive risks by adopting a comprehensive approach to addressing flexible plastic packaging use at scale.

RESOLVED: Shareholders request that the Board issue a report, at reasonable expense and excluding proprietary information, describing how Amazon could address flexible plastic packaging in alignment with the findings of the Pew Report, or other authoritative sources, to reduce its contribution to plastic pollution.

¹ https://www.pewtrusts.org/-/media/assets/2020/10/breakingtheplasticwave_mainreport.pdf, p.4

² https://www.pewtrusts.org/-/media/assets/2020/10/breakingtheplasticwave_mainreport.pdf, p.9

³ <https://www.packworld.com/sustainable-packaging/recycling/article/22922253/ameripen-shares-key-lessons-from-early-epr-adopters>

⁴ https://environment.ec.europa.eu/topics/plastics/single-use-plastics_en

⁵ <https://www.greenpeace.org/international/story/51843/plastics-reuse-and-refill-laws>

⁶ <https://www.shorr.com/resources/blog/the-2022-sustainable-packaging-consumer-report/>

⁷ https://www.pewtrusts.org/-/media/assets/2020/10/breakingtheplasticwave_mainreport.pdf, p.9

⁸ https://www.pewtrusts.org/-/media/assets/2020/10/breakingtheplasticwave_mainreport.pdf, p.51;

https://www.pewtrusts.org/-/media/assets/2020/10/breakingtheplasticwave_mainreport.pdf, p.51

SUPPORTING STATEMENT: The report should, at Board discretion:

- Assess the reputational, financial, and operational risks associated with continuing to use non-recyclable plastic packaging while plastic pollution grows;
- Evaluate actions to achieve fully recyclable packaging including elimination and accelerated research into innovative reusable substitution; and
- Describe opportunities to pre-competitively work with peers to research and develop reusable packaging as an alternative to single-use packaging.