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

DIVISION OF
CORPORATION FINANCE

March 5, 2025

Lori Zyskowski
Gibson, Dunn & Crutcher LLP

Re: Wells Fargo & Company (the "Company")
Incoming letter dated December 26, 2024

Dear Lori Zyskowski:

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

The Proposal requests the board of directors conduct an evaluation and issue a report evaluating how excluding religious charities from the Company's employee-gift match program impacts the risks related to religious discrimination against employees.

There appears to be some basis for your view that the Company may exclude the Proposal under Rule 14a-8(i)(3). In our view, you have demonstrated objectively that certain factual statements in the Proposal are materially false and misleading such that the Proposal, taken as a whole, is materially false and misleading. Accordingly, we will not recommend enforcement action to the Commission if the Company omits the Proposal from its proxy materials in reliance on Rule 14a-8(i)(3). In reaching this position, we have not found it necessary to address the alternative bases for omission upon which the Company relies.

Copies of all of the correspondence on which this response is based will be made available on our website at https://www.sec.gov/corpfin/2024-2025-shareholder-proposals-no-action.

Sincerely,

Rule 14a-8 Review Team

cc: Pia de Solenni, SThD
IWP Capital, LLC

GIBSON DUNN

Lori Zyskowski
Partner
T: +1 212.351.2309
LZyskowski@gibsondunn.com

December 26, 2024

VIA ONLINE SUBMISSION

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

Re: *Wells Fargo & Company*
Shareholder Proposal of Catholic Diocese of Fort Worth
Securities Exchange Act of 1934—Rule 14a-8

Ladies and Gentlemen:

This letter is to inform you that our client, Wells Fargo & Company (the "Company" or "Wells Fargo"), 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 statement in support thereof (the "Supporting Statement") received from Catholic Diocese of Fort Worth (the "Proponent").

Pursuant to Rule 14a-8(j), we have:

- filed this letter with the Securities and Exchange Commission (the "Commission") no later than eighty (80) calendar days before the Company intends to file its definitive 2025 Proxy Materials with the Commission; and

- concurrently sent copies of this correspondence to the Proponent.

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 Commission or the staff of the Division of Corporation Finance (the "Staff"). Accordingly, we are taking this opportunity to inform the Proponent that if the Proponent elects to submit additional correspondence to the Commission or the Staff with respect to this Proposal, a copy of that 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 the Board of Directors conduct an evaluation and issue a report within the next year, at reasonable cost and excluding proprietary information and disclosure of anything that would constitute an admission of pending litigation, evaluating how excluding religious charities from its employee-gift match program impacts the risks related to religious discrimination against employees.

The Supporting Statement elaborates on the subject of the Proposal by asserting that, according to a third-party survey which purports to assess companies' practices but in which the Company did not participate, "61% of scored companies exclude or threaten to exclude religious organizations from their employee-match programs for the organizations' religious status or advocacy" and that "This includes Wells Fargo." The Supporting Statement also alleges that the Company prohibits any employee-directed grants to religious organizations. As discussed below, this assertion, which serve as the premise for the Proposal, is false.

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

BASES FOR EXCLUSION

For the reasons discussed below, the Proposal properly may be excluded from the 2025 Proxy Materials pursuant to:

- Rule 14a-8(i)(3) because the Proposal is materially false and misleading; and
- Rule 14a-8(i)(7) because the Proposal relates to the Company's ordinary business operations and seeks to micromanage the Company.

ANALYSIS

Wells Fargo encourages employees to contribute to the communities where they live and work and supports employee philanthropy through programs designed to encourage employee giving. As part of the Company's overall employee benefits package, eligible Wells Fargo employees can utilize the Community Care Portal provided by the Company to support eligible charities through personal financial giving (via credit card or payroll deduction) and can also record volunteer hours to participate in Wells Fargo's Community Care Grants Program (the "Grants Program"). Under the Grants Program, Wells Fargo employees can qualify for grants (the "Community Care Grants") of up to $2,000 per year for such personal giving or volunteering, which they can then direct to eligible charities of their choice using the Company's Community Care Portal. The Grants Program is funded and

governed by the Wells Fargo Foundation, an affiliate of Wells Fargo. As of December 2024, the Community Care Portal includes more than one million eligible organizations—including thousands of religious organizations—and employees can choose to direct to one or more of these organizations the Community Care Grants they have earned through eligible personal finance giving or volunteer activities.

In February 2024, the Company changed its policy to allow both houses of worship and religiously affiliated institutions (together, "religious organizations") to be eligible for Community Care Grants. Under the current policy, Community Care Grants can be directed to organizations that meet certain criteria, including for example, charities that primarily qualify as tax-exempt 501(c)(3) organizations, and that are in compliance with applicable laws. The Company uses a third-party administrator to assist with running the Community Care Portal, and the administrator determines the qualified organizations based on this criteria. In addition, organizations may be ineligible if they present additional risk, including reputational and operational risk, to Wells Fargo, as determined by the Company's management-level Public Affairs Risk & Control Committee.

None of the criteria for eligible charities are based on religious status, and these conditions apply to all organizations under the Grants Program, whether or not they are denominated as religious organizations. Put another way, these conditions do not preclude religious organizations from becoming eligible for Community Care Grants.

I. The Proposal May Be Excluded Under Rule 14a-8(i)(3) Because It Is Materially False And Misleading.

Rule 14a-8(i)(3) provides that a company may exclude a shareholder proposal from its proxy materials if the proposal or supporting statement is "contrary to any of the Commission's proxy rules, including [Rule] 14a-9, which prohibits materially false or misleading statements in proxy soliciting materials." Specifically, Rule 14a-9 provides that no solicitation shall be made by means of any proxy statement "containing any statement which, at the time and in light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading." In Staff Legal Bulletin No. 14B (Sept. 15, 2004), the Staff stated that exclusion under Rule 14a-8(i)(3) may be appropriate where "the company demonstrates objectively that a factual statement is materially false or misleading."

The Staff consistently has concurred with the exclusion under Rule 14a-8(i)(3) of entire shareholder proposals that contain statements that are materially false or misleading when those statements are central to the proposal. For example, in *NETGEAR, Inc.* (avail. Apr. 9, 2021, *recon. denied* Apr. 23, 2021), the Staff concurred with the exclusion under Rule 14a-8(i)(3) of a proposal regarding the ability of shareholders to call special meetings. The proposal requested that the company "take the steps necessary to . . . give holders with an aggregate of 15% net long of [the company's] outstanding common stock the power to

call a special shareowner meeting." In support of its request, the proposal's supporting statement asserted, "[o]ur company only allows a majority of the Board, the Chairman of the Board, the Chief Executive Officer or the President to call a special meeting, whereas Delaware law provisions allow shareholders holding 10% of outstanding shareholder [sic] to call such meetings." Contrary to this assertion that the company did not already allow shareholders to call special meetings, the company's bylaws in fact permitted shareholders owning at least 25% of the voting power of the company's stock to call a special meeting of shareholders. The company argued that the proposal's false statements regarding the company's existing special meeting right were material because shareholders would accept them as true and consider them when determining how to vote on the proposal. After concurring that the entire proposal could be excluded under Rule 14a-8(i)(3), the Staff explained in its denial of the proponent's request for reconsideration that the proposal created a false impression about the company's existing special meeting right and therefore contained a materially false and misleading statement. *See also Ferro Corp.* (avail. Mar. 17, 2015) (concurring with the exclusion of a proposal requesting that the company reincorporate in Delaware based on misstatements of Ohio law, which improperly suggested that the shareholders would have increased rights if Delaware law governed the company instead of Ohio law); *General Electric Co.* (avail. Jan. 6, 2009) (concurring with the exclusion of a proposal under which any director who received more than 25% in "withheld" votes would not be permitted to serve on any key board committee for two years because the company did not typically allow shareholders to withhold votes in director elections); *Johnson & Johnson* (avail. Jan. 31, 2007) (concurring with the exclusion of a proposal where the proposal concerned an advisory vote to approve the compensation committee report because it contained misleading implications about SEC rules concerning the contents of the report); *State Street Corp.* (avail. Mar. 1, 2005) (concurring with the exclusion of a proposal requesting shareholder action pursuant to a section of state law that had been recodified and was thus no longer applicable); *Duke Energy Corp.* (avail. Feb. 8, 2002) (concurring with the exclusion of a proposal that urged the company's board to "adopt a policy to transition to a nominating committee composed entirely of independent directors as openings occur" because the company had no nominating committee).

The Staff likewise has applied this approach with proposals that were not addressing corporate governance matters but which were premised on false statements. For example, in *ConocoPhillips* (avail. Mar. 13, 2012), the proposal recommended that the company's board of directors commission an audit of "the compliance controls failing to prevent Foreign Corrupt Practice Act ('FCPA') violations" by the company's chairman in a factual context described in the proposal. The company argued that the proposal could be omitted under Rule 14a-8(i)(3) because it was premised on an accusation without factual basis that the company's chairman had engaged in unlawful conduct. The Staff concurred that the proposal could be excluded under Rule 14a-8(i)(3). Similarly, in *General Magic, Inc.* (avail. May 1, 2000), the Staff concurred with the exclusion of a proposal requesting that the company make "no more false statements" to its shareholders because the proposal created the false impression that the company tolerated dishonest behavior by its employees when in fact the company had corporate policies to the contrary.

Here, like in *NETGEAR*, *ConocoPhillips* and the other precedents cited above, the Proposal is premised on a false and misleading claim that the Grants Program "excludes or threatens to exclude religious organizations from [the program] for the organizations' religious status or advocacy," that the Company "pick[s] and choose[s] certain viewpoints" and "screen[s] out some or all religious charities" from participation in the program, and that the Company otherwise "does not support employee philanthropy for religious employees on equal terms with non-religious employees." Each of these statements is objectively and fundamentally false. Not only is the Proposal premised on these false assertions, but this false premise is embedded in the Resolved clause of the Proposal, which misleadingly requests that the Company "evaluat[e] how excluding religious charities from its employee-gift match program impacts the risks related to religious discrimination against employees," when, in fact, there is no such exclusion.

The materiality under Rule 14a-8(i)(3) of these false and misleading assertions is shown by *NETGEAR*. There, the company's bylaws allowed shareholders' ability to call special meetings subject to conditions that were different than, and more restrictive than, what was requested in the proposal. However, because the proposal's supporting statement asserted that the company did not allow shareholders to call a special meeting under any circumstance, the Staff concurred that the proposal was false and misleading. Similarly here, the Grants Program allows employees to direct the Community Care Grants to religious organizations subject to conditions that the Proponent might not agree with, but the Supporting Statement and the premise of the Proposal are false and misleading by asserting that the Grants Program does not allow any contributions to religious organizations due to the organizations' religious status. Such organizations can, and thousands have, qualified to receive Community Care Grants under the Company's Grants Program because they adhere to certain criteria, none of which are based on religious status. For example, they are tax-exempt 501(c)(3) organizations and are in compliance with applicable laws, as determined by the third-party administrator that runs the Community Care Portal.

The false statements in the Supporting Statement are material to, and would materially affect, how shareholders would view and might vote on the Proposal if it were to appear in the Company's proxy statement, since they form the very premise for and are embedded in the Resolved clause of the Proposal itself. The materiality of statements in a proposal's supporting statement is demonstrated by the court's holding in *Express Scripts Holding Co. v. Chevedden*, 2014 WL 631538, at *4 (E.D. Mo. Feb. 18, 2014). There, in the context of a proposal that sought to separate the positions of chief executive officer and chairman, the court ruled that, "when viewed in the context of soliciting votes in favor of a proposed corporate governance measure, statements in the proxy materials regarding the company's existing corporate governance practices are important to the stockholder's decision whether to vote in favor of the proposed measure" and therefore are material. Analogous to *Express Scripts*, the statements discussed above are misleading because they materially misstate the Company's existing practices related to Grants Program, which are important to a shareholder's decision in whether to vote for a report assessing the

impacts of such practices. Specifically, the statements convey the false impression that the Grants Program excludes religious organizations, which, as in *Express Scripts*, are material because shareholders would assume them to be true and would consider them in the context of determining how to vote on the Proposal.

The premise of and Resolved clause of the Proposal are false and would impermissibly and materially mislead shareholders, just like the proposals in *NETGEAR*, *General Magic* and the other precedent discussed above. By falsely suggesting that the Company's Grants Program excludes matching contributions to religious organizations and requesting an evaluation on "how [this exclusion] impacts the risks related to religious discrimination against employees," the Proposal materially misrepresents the Grants Program and would mislead voting shareholders. Accordingly, the Proposal is excludable under Rule 14a-8(i)(3) for containing materially false and misleading statements that violate Rule 14a-9.

II. The Proposal May Be Excluded Under Rule 14a-8(i)(7) Because The Proposal Relates To The Company's Ordinary Business Operations.

A. Background On The Ordinary Business Standard.

Rule 14a-8(i)(7) permits a company to omit from its proxy materials a shareholder proposal that relates to the company's ordinary business operations. According to the Commission's release accompanying the 1998 amendments to Rule 14a-8, the term "ordinary business" does not "refer[] to matters that are . . . necessarily 'ordinary' in the common meaning of the word," but instead the term "is rooted in the corporate law concept providing management with flexibility in directing certain core matters involving the company's business and operations." Exchange Act Release No. 40018 (May 21, 1998) (the "1998 Release"). In the 1998 Release, the Commission stated that the underlying policy of the ordinary business exclusion is "to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting."

The 1998 Release identified two central considerations that underlie this policy. *Id.* The first of those considerations is that "[c]ertain tasks are so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight." *Id.* The Commission stated that examples of tasks that implicate the ordinary business standard include "the management of the workforce, such as the hiring, promotion, and termination of employees, decisions on production quality and quantity, and the retention of suppliers." *Id.* The second consideration relates to "the degree to which the proposal seeks to 'micro-manage' the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment." *Id.*, *citing* Exchange Act Release No. 12999 (Nov. 22, 1976) (the "1976 Release").

When assessing proposals under Rule 14a-8(i)(7), the Staff considers the terms of the resolution and its supporting statement as a whole. *See* Staff Legal Bulletin No. 14C, part D.2 (June 28, 2005) ("SLB 14C") ("In determining whether the focus of these proposals is a significant social policy issue, we consider both the proposal and the supporting statement as a whole."). A shareholder proposal being framed in the form of a request for a report does not change the nature of the proposal. The Commission has stated that a proposal requesting the dissemination of a report may be excludable under Rule 14a-8(i)(7) if the subject matter of the proposed report is within the ordinary business of the issuer. *See* Exchange Act Release No. 20091 (Aug. 16, 1983); *Johnson Controls, Inc.* (avail. Oct. 26, 1999) ("Where the subject matter of the additional disclosure sought in a particular proposal involves a matter of ordinary business . . . it may be excluded under [R]ule 14a-8(i)(7).").

Likewise, a proposal's request for a review of certain risks also does not preclude exclusion if the underlying subject matter of the proposal is ordinary business. In Staff Legal Bulletin No. 14E (Oct. 27, 2009) ("SLB 14E"), the Staff explained that when evaluating shareholder proposals requesting an evaluation of risks, "[R]ather than focusing on whether a proposal and supporting statement relate to the company engaging in an evaluation of risk, we will instead focus on the subject matter to which the risk pertains or that gives rise to the risk," and "we will consider whether the underlying subject matter of the risk evaluation involves a matter of ordinary business to the company." Consistent with its positions in SLB 14E, the Staff has repeatedly concurred with the exclusion under Rule 14a-8(i)(7) of shareholder proposals seeking risk assessments when the subject matter concerns ordinary business operations. *See, e.g.*, *Netflix, Inc.* (Mar. 14, 2016) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that requested a report describing how company management identifies, analyzes, and oversees reputational risks related to offensive and inaccurate portrayals of Native Americans, American Indians, and other indigenous peoples, how it mitigates these risks, and how the company incorporates these risk assessment results into company policies and decision-making, noting that the proposal related to the ordinary business matter of the "nature, presentation and content of programming and film production"); *FedEx Corp.* (avail. July 11, 2014) (concurring with the exclusion of a proposal asking the board to report on how the company could "better respond to reputational damage from its association with the Washington D.C. NFL franchise team name controversy," which involved ordinary business matters—*i.e.*, the manner in which the company advertises its products and services).

B. The Proposal Is Excludable Because It Relates To General Employee Benefits.

The Proposal directly relates to general employee benefits because the primary focus of the Proposal is on how the Company conducts its Grants Program, a component of

the Company's overall benefits package, and, as such, the Proposal is excludable under Rule 14a-8(i)(7).[1]

The Staff consistently has concurred with the exclusion of shareholder proposals under Rule 14a-8(i)(7) when the proposal relates to the design and terms of employee benefit or employee compensation arrangements. In *Exelon Corp.* (avail. Feb. 21, 2007), the proposal requested the implementation of rules and regulations that would forbid the company's executives from establishing incentive bonuses requiring the reduction of retiree benefits in order to meet such incentive bonuses. The Staff concurred with the exclusion noting that the proposal "relat[es] to [the company's] ordinary business operations (i.e., general employee benefits)." *See also Dollar Tree, Inc.* (avail. May 2, 2022) (concurring with the exclusion of a proposal requesting a report on business strategy risks related to labor market pressure, which was expected to include discussion regarding incentives, including wage and benefits); *Delta Air Lines, Inc.* (avail. Mar. 27, 2012) ("Delta 2012") (concurring with the exclusion of a proposal to prohibit payment under incentive programs for management or executive officers unless an appropriate process to fund retirement accounts of Delta pilots was established and noting that the proposal was an "ordinary business matter of employee benefits"); *Southern Co.* (avail. Jan. 19, 2011) (concurring with exclusion of a proposal requesting that the company's employees and retirees be allowed an active vote in the provision of their prescription drug benefits); *Apache Corp.* (avail. Mar. 5, 2008) (concurring with the exclusion of a proposal which included a request for efforts by the company to prohibit discrimination in the allocation of employee benefits on the basis of sexual orientation or gender identity); *ConocoPhillips* (avail. Feb. 2, 2005) (concurring with the exclusion of a proposal to eliminate pension plan offsets as ordinary business operations relating to employee benefits); *International Business Machines Corp. (Jaracz)* (avail. Jan. 2, 2001) (concurring with the exclusion of a proposal requesting cost of living allowances to the company's retiree pensions as ordinary business operations relating to employee benefits).

Setting aside the false assertions and premise in the Proposal and Supporting Statement, the Proposal is similar to the foregoing precedents in that it seeks to evaluate and second-guess the terms on which Wells Fargo conducts a global employee benefit program. As noted above, Wells Fargo provides the Grants Program as part of its overall benefits package, in part to support employee philanthropy and encourage employee giving. The Supporting Statement reflects that the focus of the Proposal is on employee benefits, stating that "[o]ne of the best ways" the Company can "attract the most qualified talent . . .

---

[1] If the assertions in the Proposal were accurate, the Proposal nonetheless would be excludable under Rule 14a-8(i)(7), as the Staff has long concurred that proposals relating to a company's charitable contributions to specific types of organizations are excludable under Rule 14a-8(i)(7) because they delve into the detail of how a company administers its charitable giving program and do not raise significant social policy issues. *See., e.g.*, *BellSouth Corp.* (avail. Jan. 17, 2006) (concurring that a proposal requesting that the board make no direct or indirect contribution from the company to any legal fund used in defending any politician was excludable under Rule 14a-8(i)(7) because it related to "contributions to specific types of organizations").

[and] promote a diverse and vibrant business culture" is by "supporting employee philanthropy." Therefore, a consideration of the Company's employee benefits program, through an examination of the Grants Program, is essential to the Proposal's request to "evaluat[e] how excluding religious charities from [the Grants Program] impacts the risks related to religious discrimination against employees." As such, the Proposal focuses on a quintessentially routine employee benefits matter and therefore is excludable under Rule 14a-8(i)(7) as relating to the Company's ordinary business operations.

C. The Proposal Is Excludable Because It Relates To The Company's General Legal Compliance.

The Supporting Statement observes that the Company is "required to comply with many laws prohibiting discrimination against employees based on their religious status and views," and asserts that the Company "may be legally exposed if it does not support employee philanthropy for religious employees on equal terms with non-religious employees." And the Proposal itself seeks a report on "the risks" related to what the Supporting Statement inaccurately asserts is "religious discrimination against employees." Thus, while the Proposal primarily focuses on the operation of the Company's employee benefit program, it frames that focus as raising a legal risk and a question about the Company's legal compliance risks.

The Staff has consistently concurred with the exclusion of proposals concerning a company's legal compliance program as relating to matters of ordinary business pursuant to Rule 14a-8(i)(7). *See, e.g.*, *Navient Corp.* (avail. Mar. 26, 2015, *recon. denied* Apr. 8, 2015) (concurring with the exclusion of a proposal requesting "a report on the company's internal controls over student loan servicing operations, including a discussion of the actions taken to ensure compliance with applicable federal and state laws" as "concern[ing] a company's legal compliance program"); *Yahoo! Inc.* (avail. Apr. 3, 2012) (concurring with the exclusion of a proposal that requested the company perform due diligence to minimize damaging results and prevent future abuses regarding transactions involving the Yahoo! Human Rights Fund that the supporting statement described as "unethical and potentially unlawful activities" that involved the "valuable corporate assets in Alibaba" that could subject the company to "legal actions and financial penalties, and place the reputation, assets and stock values of the [c]ompany at risk" because "[p]roposals that concern a company's legal compliance program are generally excludable under [R]ule 14a-8(i)(7)"); *Sprint Nextel Corp.* (avail. Mar. 16, 2010, *recon. denied* Apr. 20, 2010) (concurring with the exclusion of a proposal requesting that the board explain why it has failed to adopt an ethics code designed to, among other things, promote securities law compliance since proposals relating to "adherence to ethical business practices and the conduct of legal compliance programs are generally excludable under [R]ule 14a-8(i)(7)"); *The AES Corporation* (avail. March 13, 2008) (concurring with the exclusion of a proposal seeking "an independent investigation of management's involvement in the falsification of environmental reports" as relating to the company's "general conduct of a legal compliance program"); *The Coca-Cola Co.* (avail. Jan. 9, 2008) (concurring with the exclusion of a proposal seeking an annual

report comparing independent laboratory tests of the company's product quality against applicable national laws and the company's global quality standards because the proposal related to the ordinary business matter of the "general conduct of a legal compliance program"); *Halliburton Co.* (avail Mar. 10, 2006) (concurring with exclusion of a proposal requesting a report on policies and procedures to reduce or eliminate the reoccurrence of certain violations and investigations as relating to ordinary business operations "(i.e., general conduct of a legal compliance program)").

Here, as with the proposals in *Navient Corp.* and *The Coca-Cola Co.* cited above, the Proposal seeks a report on risks from operation of an employee benefit program that the Proponent asserts may violate applicable law. *See also Raytheon Co.* (avail. Mar. 25, 2013) (concurring with the exclusion of a proposal requesting a report on "the board's oversight of the company's efforts to implement the provisions of the Americans with Disabilities Act, the Fair Labor Standards Act, and the Age Discrimination in Employment Act" with the Staff noting that proposals concerning a company's legal compliance program are generally excludable under Rule 14a-8(i)(7)); *Corning Inc.* (avail. Jan. 25, 2012) (concurring with the exclusion of a proposal that requested an investigation into "the alleged 'hostile work environment' for the Information Technology division" of the company, with the Staff noting that "[p]roposals that concern a company's legal compliance program are generally excludable under [R]ule 14a-8(i)(7)"); *FedEx Corp.* (avail. July 14, 2009) (concurring with the exclusion of a proposal requesting a report on "the compliance of both the [c]ompany and its contractors with state and federal laws governing proper classification of employees and independent contractors" on the grounds that proposals concerning a legal compliance program are generally excludable under Rule 14a-8(i)(7)).

Determinations regarding the compliance of employee benefit programs, particularly programs that operate on a worldwide basis, with applicable law require complex analysis, extensive knowledge and understanding of the employment laws and regulations in multiple jurisdictions, and judgments as to the appropriate policies and programs applicable to the Company's employees. These matters are multifaceted, complex, and based on factors that are not appropriate for shareholder voting, reflecting the varied legal jurisdictions and competitive and highly regulated landscapes in which the Company operates. The Proposal's request to have the Company report on whether an employee benefit program is being operated in a discriminatory manner that poses legal risks seeks to interject shareholders into management of complex considerations that are integral to the day-to-day operation of the Company and thus relates squarely to the Company's ordinary business operations and is properly excludable under Rule 14a-8(i)(7).

D. The Proposal Does Not Focus On Any Significant Social Policy Issue That Transcends The Company's Ordinary Business Operations.

In the 1998 Release, the Commission reaffirmed the standards for when proposals are excludable under the "ordinary business" provision that the Commission initially articulated in the 1976 Release. In the 1998 Release, the Commission also distinguished

proposals pertaining to ordinary business matters that are excludable under Rule 14a-8(i)(7) from those that "focus on" significant social policy issues. The Commission stated, "proposals relating to [ordinary business] matters but focusing on sufficiently significant social policy issues (*e.g.*, significant discrimination matters) generally would not be considered to be excludable, because the proposals would transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote." 1998 Release. When assessing proposals under Rule 14a-8(i)(7), the Staff considers the terms of the resolution and its supporting statement as a whole. *See* SLB 14C.

In Staff Legal Bulletin No. 14L (Nov. 3, 2021) ("SLB 14L"), the Staff stated that it "will realign its approach for determining whether a proposal relates to 'ordinary business' with the standard the Commission initially articulated in [the 1976 Release] . . . and which the Commission subsequently reaffirmed in the 1998 Release." In addition, the Staff stated that it will focus on the issue that is the subject of the shareholder proposal and determine whether it has "a broad societal impact, such that [it] transcend[s] the ordinary business of the company." The Staff noted further that "proposals squarely raising human capital management issues with a broad societal impact would not be subject to exclusion solely because the proponent did not demonstrate that the human capital management issue was significant to the company" (citing to the 1998 Release and *Dollar General Corp.* (avail. Mar. 6, 2020) and providing "significant discrimination matters" as an example of an issue that transcends ordinary business matters).

Here, the Proposal requests a report on how the Company purportedly excludes religious organizations from its Grants Program and how that purported exclusion "impacts the risks related to religious discrimination against employees." In doing so, the Proposal seeks information concerning the operation of a routine employee benefit program, with a focus on whether Wells Fargo is conducting this program in a way that the Proponent may not view as most effective. Despite references to the important topic of religious freedom, the focus of the Proposal is not on the issue of religious discrimination in the workplace generally, but instead on the way in which the Company administers an employee benefit arrangement, which traditionally relates to ordinary business matters.

Consistent with long-established Staff precedent, merely referencing topics in passing that might raise significant social policy issues in a different context, but which have only tangential implications for the issues that constitute the central focus of a proposal, do not transform an otherwise ordinary business proposal into one that transcends ordinary business. To this end, the Staff has frequently concurred that a proposal which touches, or may touch, upon significant social policy issues is nonetheless excludable if the proposal does not focus on such issues. For example, in *Delta 2012*, the Staff noted that "although the proposal mentions executive compensation, the thrust and focus of the proposal is on the ordinary business matter of employee benefits." Here, similar to *Delta 2012*, nothing about the Proposal focuses on a significant policy issue beyond day-to-day employee-benefit related matters incidental to the Company's ordinary business operations. *See also*

Walmart Inc. (avail. Apr. 8, 2019) (concurring with the exclusion of a proposal requesting that the board prepare a report evaluating the risk of discrimination that may result from the company's policies and practices for hourly workers taking absences from work for personal or family illness because it related to the company's ordinary business operations, *i.e.*, the company's management of its workforce, and "[did] not focus on an issue that transcends ordinary business matters"); *Amazon.com, Inc. (Domini Impact Equity Fund and the New York State Common Retirement Fund)* (avail. Mar. 28, 2019) (concurring with the exclusion of a proposal requesting a report on the company's "analysis of the community impacts of [the company's] operations" where although the proposal might have touched on significant inequality concerns, the proposal was so broadly worded that the Staff concurred that the proposal did not focus on any single issue that transcended the company's ordinary business); *PetSmart, Inc.* (avail. Mar. 24, 2011) (concurring with the exclusion of a proposal requesting that the board require suppliers to certify that they had not violated animal cruelty-related laws, finding that while animal cruelty is a significant social policy issue, the scope of laws covered by the proposals was too broad).

More recently, in *Fox Corp.* (avail. Sept. 19, 2024), where the company received a proposal requesting a report on the social impact and risks to the company from inadequately distinguishing between news content and opinion content and the viability and benefits of such public differentiation, the company argued that "potential social policy implications in a proposal does not qualify as 'focusing' on such issues, even if the social policies happen to be the subject of substantial public focus." The Staff concurred with the exclusion of the proposal under Rule 14a-8(i)(7). Likewise, in *Shake Shack Inc.* (avail. Apr. 23, 2024), the Staff concurred in the exclusion of a proposal requesting details about the company's claims that its chicken products were hormone-free. The company argued that the proposal was not focused on animal health but instead focused on the company's marketing and advertising of its chicken products, which related to the company's ordinary business. Similarly, in *The Coca-Cola Co.* (avail. Mar. 6, 2024), the Staff concurred with the exclusion under Rule 14a-8(i)(7) of a proposal requesting that the company "move toward more healthy products," because the proposal was not focused on addressing public health concerns but instead questioned the manner in which the company was pursuing those goals, asserting that the company "has addressed this topic until now solely by focusing on sugar and calorie reduction," which the proponent viewed as "insufficient."

Just as in *Fox*, *Coca-Cola* and the other precedents cited above, where the proposals reference topics that could implicate significant policy issues, but focus on a routine aspect of the management of the company, the Proposal likewise focuses not on a significant social policy issue (such as religious discrimination) but instead incorrectly takes that topic as its premise and focuses on alleged concerns relating to the operation of the Grants Program. The Staff's guidance in SLB 14L does not affect the excludability of the Proposal because, unlike *Dollar General*, the Proposal does not raise significant discrimination matters or board-oversight of human capital issues and does not focus on any other issue "with a broad societal impact" such that it transcends ordinary business matters. Instead, the Proposal is concerned with the Company's management of a specific

employee benefit. Thus, as with the precedents cited above, the Proposal may properly be excluded under Rule 14a-8(i)(7).

E. The Proposal Is Excludable Because It Seeks To Micromanage The Company.

The 1998 Release states that micromanagement "may come into play in a number of circumstances, such as where the proposal involves intricate detail, or seeks to impose specific . . . methods for implementing complex policies." In SLB 14L, the Staff stated that not all "proposals seeking detail or seeking to promote timeframes" constitute micromanagement and that going forward the Staff "will focus on the level of granularity sought in the proposal and whether and to what extent it inappropriately limits discretion of the board or management." To that end, the Staff stated that this "approach is consistent with the Commission's views on the ordinary business exclusion, *which is designed to preserve management's discretion on ordinary business matters* but not prevent shareholders from providing *high-level direction* on large strategic corporate matters." SLB 14L (emphasis added).[2]

In SLB 14L, the Staff also stated that, in order to assess whether a proposal probes matters that are "too complex" for shareholders, as a group, to make an informed judgment, it may consider "the sophistication of investors generally on the matter, the availability of data, and the robustness of public discussion and analysis on the topic." The Staff stated that it would also consider "references to well-established national or international frameworks when assessing proposals related to disclosure" as indicative of topics that shareholders are well-equipped to evaluate. *Id.*

---

[2] While the Proposal does not focus on a significant social policy issue that transcends the Company's ordinary business operations, a proposal may be excluded under Rule 14a-8(i)(7) if it seeks to micromanage a company regardless of whether it implicates a significant policy issue or topic that transcends a company's ordinary business. *See* Staff Legal Bulletin No. 14E (Oct. 27, 2009), at note 8, citing the 1998 Release for the standard that "a proposal [that raises a significant policy issue] could be excluded under Rule 14a-8(i)(7), however, if it seeks to micro-manage the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment." For example, since the issuance of SLB 14L, the Staff concurred with the exclusion of proposals addressing how companies interact with their shareholders on significant social policy issues because the proposals sought to micromanage how the companies addressed those policy issues. *See The Kroger Co. (Domini Impact Equity Fund)* (avail. Apr. 25, 2023) (concurring with the exclusion of a proposal that micromanaged the company even though the objective of the proposal was to "mitigate severe risks of forced labor and other human rights violations in the [c]ompany's produce supply chain"); *Amazon.com* (avail. Apr. 7, 2023), *recon. denied* (avail. Apr. 20, 2023) (concurring with the exclusion of a proposal addressing climate change goals due to micromanagement); *Chubb Limited (Green Century Equity Fund)* (avail. Mar. 27, 2023) (same).

In assessing whether a proposal seeks to micromanage a company's ordinary business operations, the Staff evaluates not just the wording of the proposal but also the action called for by the proposal and the manner in which the action called for under a proposal would affect a company's activities and management discretion. For example, in *Merck & Co., Inc.* (avail. Mar. 29, 2023), the proposal requested the company list the recipients of corporate charitable contributions of $5,000 or more on its website, along with the material limitations, if any, and/or the monitoring of the contributions and its uses, if any, that the company undertakes. The proponent of that proposal emphasized that the proposal was intended to cover the company's employee charitable matching gift contributions. As such, the company stated that the company's matching funds program is a broad-based employee benefit in which thousands of the company's employees based in the U.S. and Puerto Rico participate each year, and that preparing the report requested would be burdensome and impractical, and would inappropriately interfere with the operation of the program. The Staff concurred that the proposal accordingly was excludable under Rule 14a-8(i)(7), as it impermissibly sought to micromanage the company.

In *Delta Air Lines, Inc.* (avail. Apr. 24, 2024), the company received a proposal requesting the company to report on "expenditures that are intended or could be viewed as intended to dissuade employees from joining or supporting unions." The company argued that the information required by the proposal would delve deeply into ordinary business operations, noting that workforce management matters are "multi-faceted, complex and based on a range of considerations, and they are the subject of laws of multiple states and foreign countries." The Staff concurred with the exclusion of the proposal, noting that the proposal "[sought] to micromanage the company." *See also, Deere & Co.* (avail. Jan. 3, 2022) and *The Coca-Cola Co.* (avail. Feb. 16, 2022) (both involving a broadly phrased request that required detailed and intrusive actions to implement); *Verizon Communications, Inc. (National Center for Public Policy Research)* (avail. Mar. 17, 2022) (concurring with the exclusion of a proposal requesting the company to annually publish the written and oral content of diversity, inclusion, equity, or related employee training materials because it probed too deeply into matters of a complex nature). Moreover, "granularity" is only one factor evaluated by the Staff. As stated in SLB 14L, the Staff focuses "on the level of granularity sought in the proposal and whether and to what extent it inappropriately limits discretion of the board or management."

Just as with the precedents cited above, the Proposal seeks to micromanage the Company by directing that the Company evaluate its decisions regarding how it manages a broad-based, global employee benefit program, specifically, focusing on the terms and conditions that the Company has determined to include in the execution of its Grants Program. The Supporting Statement notes, "Wells Fargo can partially address [religious discrimination] by allowing employees to direct matching gifts to religious charities." This directly implicates the Company's decisions regarding how it manages its Grants Program, including its criteria for organizations eligible to receive a Community Care Grant, the determination of which involves complex factors such as reputational and operational risk, tax considerations and the potential impacts on employee relations, customer relations and

brand reputation, among others. These evaluations regarding a program that spans hundreds of thousands of employees, millions of charitable organizations and numerous jurisdictions require judgments and considerations that draw on management's day-to-day business experience and assessment of numerous possible consequences and impacts, and do not involve standards that shareholders at large are appropriately positioned to evaluate.

Thus, just as in *Merck & Co.* and the other precedents cited above, the Proposal does not provide "*high-level direction* on large strategic corporate matters" (emphasis added) but instead seeks to micromanage the Company by probing too deeply into a complex matter regarding the Company's choice of terms and conditions regarding its Grants Program, a matter that is too complex for shareholders, as a group, to make an informed judgment. The Proposal thereby micromanages how the Company manages its employee benefits and accordingly is excludable under Rule 14a-8(i)(7).

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 (212) 351-2309 or Amanda Simmons, Senior Counsel, Wells Fargo Legal Department, at (212) 214-7701.

Sincerely,

Lori Zyskowski

Enclosures

cc: Emma Bailey, Corporate Secretary, Wells Fargo Legal Department
Janet McGinness, Associate General Counsel, Wells Fargo Legal Department
Amanda Simmons, Senior Counsel, Wells Fargo Legal Department
Pia de Solenni, SThD, IWP Capital, LLC
Bishop Michael F. Olson, Catholic Diocese of Fort Worth

EXHIBIT A

IWP
CAPITAL, LLC
INVESTING WITH PURPOSE

201 Main Street · Suite 1198
Fort Worth, Texas · 76102

November 14, 2024

Corporate Secretary
MAC# J0193-610
30 Hudson Yards
New York, NY 10001

Re: Proposal regarding Employee Gift Match

Dear Secretary,

I hereby submit the enclosed shareholder proposal ("Proposal") for inclusion in the Wells Fargo & Company (the "Company") 2025 proxy statement to be circulated to Company shareholders in conjunction with the Company's 2025 annual meeting of shareholders. The Proposal is submitted under Rule 14a-8 (Proposals of Security Holders) of the United States Securities and Exchange Commission's proxy regulations (17 CFR § 240.14a-8). The proposal at issue relates to the subject described below.

Proponent:	Catholic Diocese of Fort Worth
Company:	Wells Fargo & Company
Subject:	Employee Charitable Giving Match

I submit the Proposal on behalf of, and with the permission of, the Catholic Diocese of Fort Worth ("Proponent"), which has continuously held at least $25,000 worth of the Company's securities entitled to vote on the proposal, for at least one year, up to and including the date of submission and intends to continue holding the requisite amount of securities through the date of the Company's 2025 annual meeting of shareholders.

Under SEC staff interpretations of Rule 14a-8, Proponent initially proposes the following times for a teleconference meeting to discuss this proposal:

Meeting Time 1: December 9, 2024, 11:00AM ET/10:00AM CT

Meeting Time 2: December 11, 2024, 4:00PM ET/3:00PM CT

If these times are inconvenient, please suggest some other times to speak. Feel free to contact the proponent at [redacted] and cc me at [redacted] so that we can determine the mode and method of that discussion.

A statement authorizing me to act on the Proponent's behalf and providing other supplemental information is attached. A proof of ownership letter attesting to the Proponent's ownership of the shares as of the date of this proposal's submission is forthcoming. Copies of correspondence or any request for a "no-action" letter may be sent to Pia de Solenni, IWP Capital, 201 Main Street, Suite 1198, Fort Worth, TX 76102 or emailed to me at [redacted]

Sincerely,

Pia de Solenni, SThD
Senior Director of Corporate Engagement

November 14, 2024

Corporate Secretary
MAC# J0193-610
30 Hudson Yards
New York, NY 10001

Authorization to File Shareholder Proposal and other Supplemental Information

Dear Corporate Secretary,

In accordance with Securities and Exchange Commission Rule 14a-8 (17 CFR § 240.14a-8)

1. I, Bishop Michael F. Olson hereby authorize IWP Capital, LLC ("Representative") to file a shareholder proposal on behalf of the Catholic Diocese of Fort Worth ("Proponent") with Wells Fargo & Company ("the Company") for inclusion in the Company's 2025 proxy statement.

2. Proponent gives Representative authority to handle, on the Proponent's behalf, submitting the proposal and to otherwise act on Proponent's behalf for any and all aspects of the shareholder proposal, including drafting the proposal and handling any correspondence, meetings, or agreements with the Company. Proponent understands that the Proponent's name may appear on the Company's proxy statement as the filer of the aforementioned proposal, and that the media may mention the Proponent's name in relation to the proposal.

3. The proposal at issue relates to Employee Charitable Giving Match.

4. Proponent supports this proposal.

5. Proponent has continuously owned over $25,000 worth of the Company's securities entitled to vote on the proposal, for at least one year and intends to continue holding the requisite amount of securities through the date of the Company's 2025 annual meeting of shareholders.

6. I am able to meet with the Company via teleconference under the time frame set forth in Rule 14a-8. I initially propose the following times for a telephone conference to discuss this proposal:

   Meeting Time 1: December 9, 2024, 10:00AM CST
   Meeting Time 2: December 11, 2024, 3:00PM CST

If these times prove inconvenient, please suggest some other times to meet. Feel free to contact me at [redacted] copying [redacted] so that we can determine the mode and method of communication.

Sincerely,

+ Michael F. Olson

Bishop Michael F. Olson

Report on Employee Charitable Giving Match

Supporting Statement:

Wells Fargo & Company is one of the largest companies in the United States and employs over 226,000 people. As a major employer, Wells Fargo should support the religious freedom of its employees. Wells Fargo is already required to comply with many laws prohibiting discrimination against employees based on their religious status and views.

Respecting diverse religious views allows Wells Fargo to attract the most qualified talent, promote a diverse and vibrant business culture, and is a key component to make sure it fully engages each of its employees. One of the best ways companies can do that is by supporting employee philanthropy.

Employee-matching gift programs are an important way to foster volunteerism and community engagement within company workforces. But the 2024 edition of the Viewpoint Diversity Score Business Index[1] found that 61% of scored companies exclude or threaten to exclude religious organizations from their employee-match programs for the organizations' religious status or advocacy. This includes Wells Fargo, which prohibits any employee-directed grants to "religious organizations" or organizations that, in Wells Fargo's view, discriminate based on "gender identity" or "sexual orientation."[2]

Wells Fargo should support philanthropic freedom for employees of every religious and political stripe, not pick and choose certain viewpoints and certainly not screening out some or all religious charities. This tells employees that their faith is not welcome at work.

According to the 2023 Freedom at Work survey, 60% of employees were concerned that their company would punish them for expressing their religious or political views at work, and 54% said they feared the same for sharing these views even on their private social media accounts.[3] Wells Fargo can partially address this shortcoming by allowing employees to direct matching gifts to religious charities.

Recent Supreme Court decisions in *Groff v. DeJoy* and *Muldrow v. City of St. Louis* have also clarified that religious protections for employees extend to all terms, conditions, and privileges of employment, not just monetary compensation. Wells Fargo may be legally exposed if it does not support employee philanthropy for religious employees on equal terms with non-religious employees.

Resolved: Shareholders request the Board of Directors conduct an evaluation and issue a report within the next year, at reasonable cost and excluding proprietary information and disclosure of anything that would constitute an admission of pending litigation, evaluating how excluding religious charities from its employee-gift match program impacts the risks related to religious discrimination against employees.

---

[1] https://www.viewpointdiversityscore.org/.

[2] https://www.viewpointdiversityscore.org/company/wells-fargo

[3] https://www.viewpointdiversityscore.org/polling.

ALLIANCE DEFENDING FREEDOM

FOR FAITH. FOR JUSTICE.

January 31, 2025

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

RE: Shareholder Proposal of the Catholic Diocese of Fort Worth at Wells Fargo & Company under Securities Exchange Act of 1934—Rule 14a-8

Ladies and Gentlemen:

I am writing for the Catholic Diocese of Fort Worth ("Proponent") to defend its shareholder proposal ("Proposal") to Wells Fargo & Company ("Wells Fargo" or the "Company").

Lori Zyskowski, legal counsel for Wells Fargo, wrote to you on December 26, 2024, to ask you to concur with Wells Fargo's view that it can exclude Proponent's shareholder proposal from its 2025 Annual Meeting of Shareholders under 17 CFR § 240.14a-8 ("Rule 14a-8"). Wells Fargo has the burden of demonstrating it is entitled to exclude the Proposal under Rule 14a-8(g). But it cannot bear this burden.

The Proposal asks Wells Fargo to report to shareholders how excluding religious charities from its employee-gift match program impacts the risks related to religious discrimination against employees. Wells Fargo raises three separate grounds for exclusion under Rule 14a-8: material falsity (i)(3), significant social policy and ordinary business (i)(7), and micromanagement and ordinary business (i)(7).

The Company's arguments fail on each count. Wells Fargo contends that the Proposal falsely states that the Company excludes religious charities from its employee gift match program. But Wells Fargo's policies, which it publicizes to all charities interested in its charitable grant program, state that Wells Fargo "will not consider grants for . . . religious organizations, unless they are engaged in programs that are non-sectarian, benefit a broad base of the community, and have a separate 501(c)(3) designation." Proponent's accurate description of this policy in the Proposal is thus neither false nor misleading. And Wells Fargo's statements in its no-action request about alleged private and unpublished policy changes confuse, rather than clarify, the nature of its policies.

Wells Fargo contends that the Proposal relates to its ordinary business operations because it involves the Company's employee benefits and legal risks. A Proposal can both relate to the nitty gritty of a company's business and still focus on a significant social policy issue. And the Proposal here does the latter because it focuses on a particular way that Wells Fargo may discriminate against religious employees and religious institutions in broader society. Further, it relates to charitable giving, which Staff have told Wells Fargo directly is "extraordinary in nature and beyond a company's ordinary business operations." *Wells Fargo & Co.* (Feb. 19, 2010). So it cannot be excluded for relating to ordinary business operations, full stop.

Finally, Wells Fargo cannot show that the Proposal would micromanage the Company. The Company contends that the Proposal would interfere with the management of its employee benefits program. But because the Proposal only asks for a risk report, not specific or voluminous disclosures nor the imposition of any specific policy, the Proposal does not micromanage the company.

Wells Fargo is welcome to voice its disagreement in an opposition statement on the proxy ballot. But that disagreement does not give it a right to silence an opposing viewpoint from a bona fide shareholder concerned about the Company's charitable contributions, as Staff have repeatedly recognized. *See, e.g.*, *Target Corporation (NCPPR)* (Apr. 19, 2024); *Kohl's Corp*. (Mar. 14, 2024); *Levi Strauss & Co.* (Mar. 8, 2024); *Dell Tech., Inc.* (Apr. 24, 2024). If anything, this shows only that Wells Fargo may have a blind spot on censorship that needs correcting to bring it in line with its diverse shareholders and other stakeholders.

The Proposal

The Proposal provides:

> **Resolved:** Shareholders request the Board of Directors conduct an evaluation and issue a report within the next year, at reasonable cost and excluding proprietary information and disclosure of anything that would constitute an admission of pending litigation, evaluating how excluding religious charities from its employee-gift match program impacts the risks related to religious discrimination against employees.

The Supporting Statement explains that "Wells Fargo should support the religious freedom of its employees," as "[r]especting diverse religious views allows Wells Fargo to attract the most qualified talent, promote a diverse and vibrant business culture, and is a key component to make sure it fully engages each of its employees." But it explains that because Wells Fargo "exclude[s] or threaten[s] to exclude religious organizations from [its] employee-match program[]," the Company "tells employees that their faith is not welcome at work."

The Statement cites a recent survey finding that 60% of employees were concerned their employer would punish them for expressing their religious views. And it cites two recent Supreme Court cases reaffirming the religious protections afforded to employees. The Statement explains that by addressing religious discrimination through its gift match program, Wells Fargo can create a more welcoming environment for religious employees while also protecting itself from legal risk.

Discussion

A. The Proposal is not materially false under Rule14a-8(i)(3) because it accurately describes Wells Fargo's stated Grant Process.

Wells Fargo contends that the Proposal is materially false and misleading under Rule 14a-8(i)(3) because it states that Wells Fargo excludes religious charities from its gift match program. But the Proposal and Supporting Statement merely describe the policies that Wells Fargo publicizes to all charities interested in its charitable grant program, which explicitly preclude most, if not all, religious charities. Wells Fargo cannot rewrite those policies now or rely on proprietary information when their public statements give every impression that they screen religious charities from gift matching. Proponent accurately describes Wells Fargo's public policies, and the Proposal thus is not false or misleading.

1. A proposal is not materially false just because it makes statements that are debatable or criticize the company.

Under Rule 14a-8(i)(3), a proposal and its supporting statement may not make a "materially false or misleading statement." This is a high bar and Staff have reproved companies that nitpick a "proposal's supporting statement as a means to justify exclusion of the proposal in its entirety." Division of Corporate Finance, Staff Legal Bulletin No. 14B (Sep. 15, 2004). For that reason, Staff have stated that companies should not rely on 14a-8(i)(3) simply because "the company objects to statements because they represent the opinion of the shareholder proponent" or "factual assertions that, while not materially false or misleading, may be disputed or countered." *Id.* Rule 14a-8(l)(2) makes clear that the company is not responsible for the "contents of [a shareholder's] proposal or supporting statement." And a company is free to dispute the proposal in its own proxy statement.

Based on this, Staff have decided that issues that are factually debatable or put the corporation in a bad light are not excludable. *The Bank of New York Mellon Corp.* (Jan. 24, 2022) ("41%-support may have exceeded 51%-support from the share that have access to independent proxy voting advice and are not forced to rely on the biased opinion of management"); *Wells Fargo & Co.* (Feb. 28, 2022) (including 501(c)(4) organizations as "charitable organizations"); *Church & Dwight Co.* (Feb. 28, 2022) (stating the company "currently has one of the highest stock ownership thresholds to call a special meeting – 25% of shares"); *Laboratory Corp. of America*

Holdings (Mar. 3, 2022) ("a theoretical 10% stock ownership requirement can in practice be a 20% stock ownership requirement"); *Arlington Asset Inv. Corp.* (Mar. 31, 2022) ("management has nonetheless been richly compensated at the expense of shareholders").

Staff even allowed one proposal that stated that "[p]rojections have found that limiting global warming to 1.5 degrees versus 2 degrees *will save* $20 trillion globally by 2100" when the source the proposal cited said only that "exceeding 2 degrees could lead to climate damages in the hundreds of trillions" and noted considerable "uncertainty about damages." *Chubb Ltd.* (Mar. 26, 2022) at 11.

This approach makes sense. Shareholders have only 500 words to describe their proposals. It is their prerogative to characterize issues and statements with their preferred framing, and sometimes with strong wording, so long as there is nothing objectively and materially false and misleading.

By contrast, simple statements of fact that are provably false are more susceptible to challenges under (i)(3). Wells Fargo relies primarily on these citations. For example, in *NETGEAR, Inc.* (Apr. 9, 2021, *recon. denied* Apr. 23, 2021), the proposal sought to amend the bylaws to let any shareholders with an aggregate of 15% to call a special shareholder meeting. The Supporting Statement opened by stating that only certain board members or officers can call a special meeting. *Id.* at 2. But that statement directly contradicted the company's bylaws, which already allowed shareholders with at least 25% aggregate holdings to call a special meeting. *Id.* at 6. *See also General Electric Co.* (Jan. 6, 2009) (proposal falsely alleged that company allowed shareholders to withhold votes from candidates on its proxy card); *General Magic, Inc.* (May 1, 2000) (proposal contained baseless accusations of misconduct and unlawful behavior).

2. The Proposal provides an accurate explanation of how Wells Fargo describes eligibility for its grant process.

Wells Fargo asserts that in February 2024, it changed its policy for its employee gift match program, which is called the "Community Care Grants Program," "to allow both houses of worship and religiously affiliated institutions . . . to be eligible for Community Care Grants." No Action Response ("NAR") at 3. It claims that while it does place conditions on charities to be included in the program, "these conditions do not preclude religious organizations from becoming eligible for Community Care Grants." *Id.* In communications between Proponent and the Company, Wells Fargo has also asserted that it does not exclude religious charities regardless of whether they are engaged in non-sectarian programs. Therefore, Wells Fargo argues that the claims in the Supporting Statement and Proposal that Wells Fargo threatens to preclude religious charities from its Community Care Grants Program are materially false.

Wells Fargo's claim that it does not preclude religious charities from this program, however, is also plainly in tension with its published policies. Under its "Community Giving" webpage, Wells Fargo describes the various ways that it provides grants to nonprofit organizations, including its Community Care Grants Program.[1] This page contains a link to the "Grant Process" page, which describes Wells Fargo's "grant eligibility" policies for charities seeking funding through the Company's Community Giving programs.[2] Under that policy, Wells Fargo explicitly states that it "will not consider grants for . . . religious organizations, unless they are engaged in programs that are non-sectarian, benefit a broad base of the community, and have a separate 501(c)(3) designation." *Id.* In addition, charities that discriminate on the basis of "sexual orientation" or "gender identity" are also excluded despite the traditional religious positions many religious charities take on these issues.

Wells Fargo's newly raised assertion that it somehow changed these policies in February of last year thus rings hollow when the Company continues to maintain to all interested nonprofits that it does not, in fact, provide grants to most, if not all, religious charities. It did not attach the policy as an exhibit, which is critical to assess the actual details of the policy. As the Proposal stated, many companies screen religious charities from giving while maintaining policies that prohibit religious groups that operate for sectarian purposes or prohibit alleged "hate," a word that sadly is all too commonly weaponized to target religious groups. Many companies, including Wells Fargo, may argue that these do not constitute religious screens. And Wells Fargo's counsel even seems to implicitly admit that it screens based on at least some of the above criteria when it says that religious organizations are "subject to conditions that the Proponent might not agree with." NAR at 5. So, without a detailed review of the policy, Wells Fargo's unsupported and conflicting statements in its no-action request have little value.

Proponent's assertions about Wells Fargo's Community Cares Grant Program are not false or misleading because they are consistent with the Company's stated policies. The Supporting Statement explains that Wells Fargo "exclude[s] or threaten[s] to exclude religious organizations" from its gift match program through its policy that prohibits grants to "religious organizations" or those that, "in Wells Fargo's view, discriminate on 'gender identity' or 'sexual orientation.'" As explained, that is precisely the policy Wells Fargo currently publicizes to all charities interested in its Community Care Grant Program.

The Supporting Statement also cites the Viewpoint Diversity Score Business Index and its examination of Wells Fargo's policies. That Index asserts that Wells Fargo does not meet its standards on "Respecting Employee Charitable Choice,"

---

[1] *Community Giving*, Wells Fargo, https://www.wellsfargo.com/about/responsibility-and-impact/community-giving/ (last visited Jan. 26, 2025).

[2] *Grant Process*, Wells Fargo, https://www.wellsfargo.com/about/responsibility-and-impact/community-giving/grant-process/ (last visited Jan. 22, 2025).

citing the Community Giving policies and webpages described above.[3] Proponent's concern is also a reasonable one. Groups like the Southern Poverty Law Center have for over a decade worked with government actors and powerful corporations to target funding to religious groups and persons that are on its "hate list."[4] This includes Family Research Council, Dr. Ben Carson, Franklin Graham, and even counsel for the Proponent.[5] And policies prohibiting so-called "hate" and "misinformation" have been used against religious and conservative viewpoints in corporate America through organizations like the Global Alliance for Responsible Media and powerful financial institutions like PayPal and JPMorgan Chase.[6] There is accordingly nothing false or misleading in Proponent's request for Wells Fargo to evaluate its policies "excluding religious charities from its employee-gift match program."

Wells Fargo's purported policy shift is unexplained and unsupported by its public descriptions of its policy. But its point may be that, even though it places conditions on charities that, as explained above, may be weaponized against religious charities, it does not have a per se bar against religious contributions. If that's the Company's point, it is immaterial on multiple fronts.

First, Proponent never asserted that Wells Fargo prohibits contributions to *all* religious charities. Instead, it notes that Wells Fargo is a company that "exclude[s] or *threaten*[*s*] to exclude" religious charities and that the company may be "screening out *some or all* religious charities." (emphasis added). And in any case, the number or percentage of religious charities that are excluded under Wells Fargo's policy is immaterial. As the Supporting Statement makes clear, because the Company's policy threatens to exclude contributions to "some or all religious charities," it should be evaluated.

Second, despite the Company's assertions that it allows donations to religious charities regardless of whether they engage in non-sectarian activities, Wells Fargo's

---

[3] *Wells Fargo*, VIEWPOINT DIVERSITY SCORE 2024 BUSINESS INDEX, https://www.viewpointdiversityscore.org/company/wells-fargo (last visited Jan. 22, 2025).

[4] Ben Schreckinger, *Has a Civil Rights Stalwart Lost Its Way?*, Politico (July/Aug. 2017) ("Time and again, I see the SPLC using the reputation it gained decades ago fighting the Klan as a tool to bludgeon mainstream politically conservative opponents."), https://www.politico.com/magazine/story/2017/06/28/morris-dees-splc-trump-southern-poverty-law-center-215312/; Kimberly A. Strassel, *J.P. Morgan's Hate List*, The Wall Street Journal (Aug. 24, 2017) ("Since the SPLC is a far-left activist group, the map comes down to this: If the SPLC doesn't agree with your views, it tags you as a hater."), https://www.wsj.com/articles/j-p-morgans-hate-list-1503619180.

[5] Southern Poverty Law Center, *Hate Map*, https://www.splcenter.org/hate-map/ (last visited Jan. 26, 2025).

[6] *See, e.g.*, Kate Conger and Tiffany Hsu, Advertising Coalition Shuts Down After X, Owned by Elon Musk, Sues, The N. Y. Times (Aug. 8, 2024), https://www.nytimes.com/2024/08/08/technology/elon-musk-x-advertisers-boycott.html; *Watch Here: Ben Shapiro Testifies to Congress on Censorship*, The Daily Wire (July 10, 2024).

public policies still limit contributions to religious charities "that are non-sectarian, benefit a broad base of the community, and have a separate 501(c)(3) designation." While this policy would, on its face, not amount to a per se bar on religious charities, its allowance for those that are "non-sectarian" is effectively meaningless. Nonsectarian is defined as "not affiliated with or restricted to a particular religious group."[7] Thus, religious charities are, by definition, sectarian because they are, by their very nature, affiliated with a religious group. The use of this particular term of art by Wells Fargo is especially dubious considering the notorious use of the term "sectarian" in state laws known as "Blaine Amendments" that were passed to discriminate against Catholics in public funding. As the Supreme Court has explained, those provisions were "born of bigotry" and have a "shameful pedigree." *Espinoza v. Montana Dep't of Revenue*, 591 U.S. 464, 482 (2020). Accordingly, Wells Fargo's exception for "non-sectarian" religious charities makes no real difference, its policy still very well may be "motivated by hostility toward certain disfavored religions," and the Proposal's concern with this policy is not false or misleading. *Id.* at 494 (Gorsuch, J., concurring).

Wells Fargo's citations to support its position are inapposite. In those decisions, the proposal cited a rule that did not exist, *NETGEAR Inc.* (Apr. 9, 2021, *recon. denied* Apr. 23, 2021); *Gen. Elec. Co.* (Jan. 6, 2009), misstated relevant statutes, *Ferro Corp.* (Mar. 17. 2015); *State Street Corp.* (Mar. 1, 2005), contained baseless and inflammatory accusations of unlawful behavior, *ConocoPhillips* (Mar. 13, 2012); *General Magic, Inc.* (May 1, 2000), or implied the existence of a committee that did not exist, *Duke Energy Corp.* (Feb. 8, 2002). In none of those decisions could the proponent point to specific statements made by the company that supported his assertions.

Here, in contrast, Proponent has accurately characterized policies that Wells Fargo publicizes even now to all charities interested in its Community Care Grants Program. Wells Fargo cannot rewrite those policies now in an attempt to remove a valid shareholder proposal or rely on proprietary information withheld from shareholders even in a no-action request. Relying on these policies and restating them to shareholders as Proponent does here is not false or misleading.

B. The Proposal unambiguously focuses on a significant social policy issue that transcends the Company's ordinary business operations.

To meet its burden of showing that it can exclude Proponent's Proposal for failing to focus on a significant social policy, Wells Fargo must show that the Proposal both does not focus on a significant social policy issue and that it relates to the "nitty-gritty" of the company's ordinary business operations. Wells Fargo cannot bear its burden under either requirement. The Proposal shows a consistent focus on

[7] *Nonsectarian*, Merriam-Webster Dictionary, https://www.merriam-webster.com/dictionary/nonsectarian (last visited Jan. 26, 2025).

discrimination on the basis of religion, which the Commission and Staff guidance have proven is a perennially significant social policy issue. Further, the Proposal only secondarily touches upon employee benefits and legal risk, so it does not relate to Wells Fargo's ordinary business operations.

1. Proposals that focus on a significant social policy issue transcend a company's ordinary business operations.

Under Rule 14a-8(i)(7), a shareholder proposal may be excluded from a company's proxy materials if the proposal "deals with a matter relating to the company's ordinary business operations." This includes "management of the workforce . . . decisions on production quality and quantity, and the retention of suppliers," which are "tasks so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight." Exchange Act Release No. 40018, 63 Fed. Reg. 29106, 29108 (May 21, 1998) (the "1998 Release"). And when assessing a proposal, the Commission looks at the underlying "subject matter" of the proposal, not whether it prescribes a particular policy, board action, or for transparency to address that subject matter. Exchange Act Release No. 20091 (Aug. 16, 1983).

Despite the above, proposals that "focus[] on sufficiently significant social policy issues" are not excludable under Rule 14a-8(i)(7), even if they relate to ordinary business operations. 1998 Release at 29108. This is because they "transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote." *Id.* When determining whether a proposal focuses on a matter of significant social policy, Staff focus on the "presence of widespread public debate," Division of Corporation Finance, Staff Legal Bulletin No. 14A (July 12, 2002), and "broad societal impact" of the issue raised by the proposal. Division of Corporation Finance, Staff Legal Bulletin, No. 14L (Nov. 3, 2021) ("SLB 14L").

Staff do not treat the significant social policy and ordinary business operations rules either as a binary or part of a continuum. Instead, a proposal that focuses on a significant social policy issue simply cannot be excluded for relating to ordinary business operations, period. This is independent of whether a proposal relates to a company's ordinary business operations, as the Commission and Staff have consistently explained:

> [P]roposals relating to [ordinary business] matters but focusing on sufficiently significant policy issues (e.g., significant discrimination matters) generally would not be considered to be excludable, *because* the proposals would transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote.

1998 Release at 29108 (emphasis added). Staff then made this a major focus of Bulletin 14H nearly 10 years ago to correct the misunderstanding that a proposal

must both focus on a "significant social policy" and be "divorced from how a company approaches the nitty-gritty of its core business." Division of Corporate Finance, Staff Legal Bulletin No. 14H (Oct. 22, 2015). As the Bulletin states, "whether a proposal focuses on an issue of social policy that is sufficiently significant is not separate and distinct from whether the proposal transcends a company's ordinary business." *Id.* (quoting *Trinity Wall Street v. Wal-Mart Stores, Inc.*, 792 F.3d 323, 353 (3d Cir. 2015) (Schwartz, J., concurring)). Then, in Bulletin 14L, Staff clarified that the "significant social policy" rule is not an additional requirement for proposals, but an "exception" to the "ordinary business" rule. It added that "[t]his exception is essential for preserving shareholders' right to bring important issues before other shareholders by means of the company's proxy statement." SLB 14L.

Wells Fargo must actually show that the Proposal both does not focus on a significant social policy issue and that it does focus on Wells Fargo's ordinary business operations. But it can do neither.

2. Staff regularly agree that discrimination in civil rights is a significant social policy issue.

The Commission's and Staff's interpretations of the "significant social policy exception" repeatedly cite discrimination in civil rights matters as the prototypical examples of significant social policy issues that transcend ordinary business matters. For example, the Commission's 1998 Release explained that proposals "focusing on sufficiently significant social policy issues (e.g., *significant discrimination matters*) generally would not be considered to be excludable." 1998 Release at 29108 (emphasis added). In Staff Legal Bulletin No. 14L, the Staff reiterated this position by citing "[m]atters related to employment discrimination" as an example of an issue that "may rise to the level of transcending the company's ordinary business operations." SLB 14L.

Staff have consistently approved proposals that relate to discrimination in civil rights matters on a wide range of protected characteristics and in many contexts across a company. *See, e.g.*, *JPMorgan Chase & Co. (Bahnsen)* (Mar. 21, 2023) (report on how customer-facing policies "related to discrimination against individuals based on their . . . religion . . . and whether such discrimination may impact individuals' exercise of their constitutionally protected civil rights"); *PayPal Holdings, Inc.* (Apr. 10, 2023) (same); *CVS Health Corp.* (Mar. 17, 2022) (audit on "Company's impacts on civil rights and non-discrimination" arising from employment practices); *McDonald's Corp.* (Apr. 5, 2022) (audit analyzing the "adverse impact" of the company's "policies and practices on the civil rights of company stakeholders").

This also includes many proposals dealing specifically with religious discrimination. *See, e.g.*, *JPMorgan Chase & Co. (Bahnsen)* (Mar. 21, 2023), *supra*; *Toys "R" Us* (Apr. 8, 1999) (adopt resolution providing for religious non-discrimination

in Northern Ireland); *General Electric* (Feb. 10, 2015) (adopt "Holy Land" principles, including religious non-discrimination).

Staff have also consistently recognized that workforce discrimination, in a wide variety of contexts, is a significant social policy issue that transcends ordinary business operations. *See, e.g.*, *The Walt Disney Co.* (Jan. 19, 2022) (report on both median and adjusted pay gaps across race and gender); *J.B. Hunt Transport Services, Inc.* (Feb. 2, 2024) (adopt and disclose a policy of equitable healthcare coverage for all employees, regardless of sexual orientation or gender identity); *Amazon.com, Inc.* (Apr. 6, 2022) (audit and report on workplace health and safety of warehouse workers); *General Electric Company* (Feb. 10, 2015), *supra*. These proposals, and many others, touch upon discrete workforce issues and what may otherwise be ordinary business operations. But because they focus on significant discrimination matters, Staff have told companies that they are not excludable.

3. The Proposal shows a clear focus on discrimination in civil rights, which is a quintessential significant social policy issue.

Wells Fargo fails to cite to or distinguish the Proposal from any of the Staff's many denials of relief for religious discrimination or other civil rights discrimination proposals. Instead, it argues that the Proposal's focus is "on the way in which the Company administers an employee benefit arrangement, which traditionally relates to ordinary business matters." NAR at 11. But the Proposal deals with religious discrimination, so it does not relate to ordinary business matters. And even if it did, a proposal can both relate to ordinary business matters and still focus on a significant social policy issue, which religious discrimination is under any measure.

Civil rights issues are fundamental questions of social policy that have "broad societal impact" and "widespread public debate." Wells Fargo admits as much when it argues that the Proposal lacks a clear focus on "the important topic of religious freedom." *Id.* Nor, as explained above, could it contest that discrimination is a significant social policy issue. Religious discrimination in particular is prohibited by law in numerous contexts.[8]

Religious discrimination is becoming increasingly relevant to corporate America—particularly with companies' charitable giving. Robby Starbuck, for example, has made national news for his social media campaigns that have resulted in many major companies dropping their commitments to diversity, equity, and inclusion policies, including charitable support for the Human Rights Campaign. Other recent events show this in other corporate contexts. Last spring, a group of 15 state financial officers and 15 state attorneys general sent separate letters to Bank of America

[8] *See, e.g.*, U.S. Const. amend. I; 42 U.S.C. §§ 2000a, 2000e-2, 3604; 15 U.S.C. § 1691; Justia, *Public Accommodations Laws: 50-State Survey*, https://www.justia.com/civil-rights/public-accommodations-laws-50-state-survey.

putting it on notice for de-banking multiple Christian and conservative organizations.[9] And over the summer, members of the U.S. House revealed that the Global Alliance for Responsible Media was colluding with many of the world's biggest ad buyers to boycott X and pressure social media platforms to more aggressively censor "hate" and "offensive" speech. After the House report and a lawsuit from X, GARM quickly disbanded.[10]

The Proposal takes no position on the proper balance of these risks against others. But it is undeniable that they are significant—and are growing in their significance—in our society today.

And the Proposal reflects a clear and consistent focus on these issues from top to bottom. The Supporting Statement cites as the motivation for the Proposal the risks associated with its decision to "pick and choose certain viewpoints" by "screening out some or all religious charities" from its charitable gift matching program. It explains how this type of discrimination is of increasing concern, as a recent survey revealed that "60% of employees were concerned that their company would punish them for expressing their religious or political views at work." And it warns that religious discrimination inhibits Wells Fargo's ability "to attract the most qualified talent" and "promote a diverse and vibrant business culture."

JPMorgan Chase & Co. (Bahnsen) (Mar. 21, 2023) is instructive. There, the proposal requested that the company issue a report evaluating how it oversees risk related to discrimination based on several characteristics. Despite the direct references to discrimination on speech and religion, among other grounds, the company argued that because the proposal still related to products and services, relationships with customers, and management of the workforce, it related to its ordinary business matters and should be excluded. The shareholders responded, however, that "the question of discrimination on grounds including race, color, sex, and religion is the central issue and clear focus" of the proposal, and since that question was a matter of significant social policy, it transcended any ordinary business matters. *Id.* at 8. The Staff concurred with the shareholders, finding that "the Proposal transcend[ed] ordinary business matters." So too here. The Proposal's primary focus is on reducing discrimination, not just Wells Fargo's employee benefits and legal compliance programs, as Wells Fargo alleges.

---

[9] Thomas Catenacci, *State financial officers put Bank of America on notice for allegedly 'de-banking' conservatives*, Fox News (Apr. 18, 2024), https://www.foxnews.com/politics/state-financial-officers-put-bank-of-america-on-notice-for-allegedly-de-banking-conservatives; Gabrielle Saulsbery, *15 AGs put BofA on notice for 'de-banking' conservatives*, Banking Dive (Apr. 18, 2024), https://www.bankingdive.com/news/15-attorneys-general-put-bofa-notice-debanking-conservatives-christians/713618/.

[10] Kate Conger and Tiffany Hsu, *Advertising Coalition Shuts Down After X, Owned by Elon Musk, Sues*, The N. Y. Times (Aug. 8, 2024), https://www.nytimes.com/2024/08/08/technology/elon-musk-x-advertisers-boycott.html.

And as explained above, Staff have also consistently recognized that religious discrimination in the workforce is a significant social policy issue. In *General Electric Company* (Feb. 10, 2015), for example, the proposal asked the company to adopt expansive "Holy Land" principles that covered hiring, recruiting, training, maintaining a respectful work environment, and publicly reporting on all these efforts.

Wells Fargo cites no decision nor makes any argument contesting that religious discrimination is a significant social policy issue. Instead, it merely asserts that the Proposal is related to employee benefits and legal compliance, so it must relate to ordinary business matters. But as addressed in Sections 4.a–b. below, it relates to charitable giving which is not an ordinary business matter.

4. The Proposal does not relate to Wells Fargo's ordinary business operations.

Wells Fargo argues that the Proposal relates to its ordinary business operations because it "relates to general employee benefits" and "rais[es] a legal risk." NAR at 7, 9. This is ultimately irrelevant because the Proposal focuses on a significant social policy issue. But Wells Fargo still fails because charitable giving, even for gift match policies, are not ordinary business matters.

a. The Proposal relates to charitable giving.

Wells Fargo argues that the Proposal may be excluded as focusing on its ordinary business operations "because the primary focus of the Proposal is on how the Company conducts its Grants Program, a component of the Company's overall benefits package." NAR 7–8. Proponent does not dispute that Wells Fargo's gift match program is a part of its employee benefits package, as the Company describes. But as explained, the Proposal's focus is on religious discrimination, which is a significant social policy issue, and it relates to charitable giving, which only tangentially involves employee benefits.

Indeed, the Proposal does not ask the Company to change any policies, employ alternative vendors, give to any specific charities, or otherwise make any changes to how it operates its Community Cares Grant Program. The Company's accusation that the Proposal "focus[es] on whether Wells Fargo is conducting this program in a way the Proponent may not view as most effective" rings hollow. NAR at 11. The Proposal is unconcerned with the nitty-gritty of how it operates. Instead, the Proposal and Supporting Statement repeatedly stress the potential discriminatory effects of the Community Cares Grant Program and require a risk report focused exclusively on risks related to religious discrimination. Thus, that the Proposal additionally touches upon employee benefits is irrelevant, since it "focus[es] on sufficiently significant social policy issues." 1998 Release at 29108.

Staff have also recognized that a Company's charitable giving policies are not ordinary business operations. When writing to Wells Fargo in 2010, Staff denied no-action relief for another charitable giving proposal and stated "that the proposal relates to charitable contributions, which the Division has generally found to involve a matter of corporate policy which is extraordinary in nature and beyond a company's ordinary business operations." *Wells Fargo & Co.* (Feb. 19, 2010); *see also Target Corp. (NCPPR)* (April 19, 2024); *Dell Tech. Inc.* (April 24, 2024); *JPMorgan Chase & Co.* (Mar. 21, 2023); *Levi Strauss & Co.* (March 8, 2024); *Kohl's Corp.* (March 14, 2024).

The decisions that Wells Fargo cites are not to the contrary on either point. Those outdated decisions either did not involve the significant social policy exception, *see Exelon* Corp. (Feb. 21, 2007); *Southern Co.* (Jan. 19, 2011); *ConocoPhillips* (Feb. 2, 2005); *International Business Machines Corp.* (*Jaracz*) (Jan. 2, 2001), lacked a sufficient focus on a significant social policy issue, *Dollar Tree, Inc.* (May 2, 2022) (supporting statement contained only "passing reference to safety concerns"), or required the company to implement specific policies related to employee retirement accounts, hiring, advertising, or sales, *Delta Air Lines, Inc.* (Mar. 27, 2012); *Apache Corp.* (avail. Mar. 5, 2008).

In contrast, the Staff have consistently denied relief when, like here, the proposal related to employee compensation and benefits matters but was focused on a significant social policy issue. *See*, *e.g. CVS Health Corp.* (Mar. 17, 2022) (requiring audit on company's impacts on civil rights and non-discrimination); *Tractor Supply Co.* (Mar. 9, 2022) (requiring report on whether compensation practices prioritized profit over costs of inequality and racial and gender disparities); *The Walt Disney Corp.* (Feb. 1, 2024) (requiring report on health benefits related to gender dysphoria and de-transitioning care); *Walmart Inc.* (April 18, 2024) (requiring institution of wage policies that provide a living wage); *Amazon.com, Inc.* (Apr. 3, 2023) (requiring report on how company protects benefits of retirement plan from climate risks). Like those decisions, while the Proposal involves Wells Fargo's employee gift match program, which happens to be an employee benefit, its focus is on that program's risks related to religious discrimination against employees—a significant social policy issue.

b. The Proposal does not focus on the Company's legal compliance program.

Wells Fargo argues that the Proposal may also be excluded as focusing on its ordinary business operations because it concerns the Company's "legal compliance program." NAR at 9. It contends that "judgments as to the appropriate policies and programs applicable to the Company's employees" involve matters that "are multifaceted, complex, and based on factors that are not appropriate for shareholder voting." NAR at 10. As explained, however, the Proposal's focus is on a significant social policy issue and, therefore, does not relate to Wells Fargo's ordinary business

operations. Indeed, a proposal can both relate to the nitty gritty of workforce management practices and still focus on a significant policy issue

Wells Fargo argues that the Proposal's focus is nevertheless on the Company's legal compliance program based on only a brief comment in the Supporting Statement suggesting that "Wells Fargo may be legally exposed if it does not support employee philanthropy for religious employees on equal terms with non-religious employees." First, Wells Fargo should be concerned about legal compliance on this issue. And to the legitimate legal risk raised by the Proposal raises fiduciary concerns for the Company, its Board, and consequently makes it a material shareholder concern.

Second, the fact that the Proposal and Supporting Statement mention legal exposure and require a risk report does not mean that they focus on the Company's legal compliance program. Indeed, the proposal does not require Wells Fargo to analyze whether it complies with any particular laws nor does it require the Company to do anything to come into compliance. Instead, it asks the Company to assess the risks—legal or otherwise—of its gift match policy on religious discrimination, which is a significant social policy issue. Since no specific action other than the risk report is required, Wells Fargo's concern that shareholders will have to make a decision on "multifaceted" and "complex" matters is wholly misplaced.

Wells Fargo's citations demonstrate the shortcomings in its arguments. For example, in *Navient Corp.* (Mar. 26, 2015), the proposal required the company to describe "the actions taken to ensure compliance with applicable federal and state laws," while it only "generically referenc[ed]" legal violations by student loan servicers, which Staff have not considered a significant social policy issue. *Id.* at 17. In contrast, the Proposal focuses on the perennial significant social policy issue of religious discrimination while requiring nothing near the granularity of a description of past legal compliance actions.

Wells Fargo's other citations are similarly unhelpful. The outdated decisions involve proposals that either did not involve the significant social policy exception, *Sprint Nextel Corp.* (Mar. 16, 2010, *recon. denied* Apr. 20, 2010); *The AES Corp.* (March 13, 2008); *Halliburton Co.* (Mar. 10, 2006); *Corning Inc.* (Jan. 25, 2012); *FedEx Corp.* (July 14, 2009), required the Company to take specific action to minimize legal risk or take corrective action, *Yahoo! Inc.* (Apr. 3, 2012); *The Coca-Cola Co.* (Jan. 9, 2008), or required the company to analyze how it was complying with a specific law, *Raytheon Co.* (Mar. 25, 2013). Unlike those decisions, the Proposal's focus is on a significant social policy issue, and it does not require Wells Fargo to take any corrective action or comply with any particular law.

In this way, the Proposal falls in line with the Staff's decisions to permit proposals that focus on significant social policy issues while also relating to legal compliance. *See, e.g.*, *Lowe's Cos., Inc.* (Apr. 7, 2022) (requiring report on human rights risk resulting from supply chain decisions); *Levi Strauss & Co.* (Feb. 10, 2022) (requiring

racial-equity audit analyzing company's impact on civil rights and nondiscrimination); *Eli Lilly and Co.* (Mar. 8, 2023) (requiring risk report on policies responding to laws regulating abortion); *Pfizer Inc.* (Mar. 8, 2022) (requiring report on how company oversees risks related to anti-competitive practices). Like these decisions, while the Supporting Statement mentions legal risk, the Proposal's focus is on a significant social policy issue and thus transcends the company's ordinary business operations.

C. The Proposal asks for a typical risk report, which is far afield from micromanaging the Company.

Wells Fargo contends that the Proposal micromanages the company because it "directly implicates the Company's decisions regarding how it manages its Grants Program." NAR at 14. But the Company mischaracterizes the Proposal and misunderstands the legal standard. The Proposal does not ask Wells Fargo to implement any methods or policies. It does not seek exhaustive detail. The Proposal, like many others of which Staff approve, simply asks for transparency from the company on how a particular part of the company is impacting a particular social issue.

1. Staff regularly agree that transparency reports do not micromanage a company.

The Commission requires that shareholder proposals not "'micro-manage' the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment." 1998 Release at 29108. This can happen "where the proposal involves intricate detail, or seeks to impose specific time-frames or methods for implementing complex policies." *Id.* But "specific methods, timelines, or detail do not necessarily amount to micromanagement and are not dispositive of excludability." SLB 14L. "[P]roposals may seek a reasonable level of detail without running afoul of these considerations." 1998 Release at 29108.

Staff clarified in Bulletin 14L that they expect proposals to seek a level of detail that is "consistent with that needed to enable investors to assess an issuer's impacts, progress towards goals, risks or other strategic matters appropriate for shareholder input." SLB 14L. To that end, Staff also considers the "sophistication of investors generally on the matter, the availability of data, and the robustness of public discussion and analysis on the topic," including "references to well-established national or international frameworks when assessing proposals related to disclosure . . . as indicative of topics that shareholders are well-equipped to evaluate." *Id.*

This reading of the rule, the Bulletin notes, appropriately accounts for each company's and proposal's particular circumstances while ameliorating the "dilemma many proponents face": crafting a proposal specific enough that the company has not

substantially implemented it while being general enough to avoid micromanaging the company. *Id.*

For this reason, Staff regularly reject micromanagement challenges to proposals asking for a transparency report on particular policies and aspects of a company's business. This includes charitable giving, *Target Corp. (NCPPR)* (Apr. 10, 2024), asking about smoke-free premises, *Boyd Gaming Corp.* (Mar. 18, 2024), *Caesars Entertainment, Inc.* (Apr. 19, 2024), reducing misinformation in targeted advertising, *Meta Platforms, Inc.* (Mar. 30, 2022), *Alphabet Inc.* (Apr. 12, 2022), the misuse of products in war-torn conflict-affected areas, *Texas Instruments Inc.* (Mar. 4, 2024), and underwriting clients who contribute to new fossil fuel supplies, *see, e.g.*, *Citigroup Inc.* (Mar. 7, 2022).

This makes sense. Transparency reports are not prescriptive requests for policy changes, unlike many proposal requests. And even those "do not per se constitute micromanagement." SLB 14L.

2. The Proposal asks for a typical transparency report, which Staff regularly agree do not micromanage companies.

The Proposal here seeks a reasonable level of detail for investors to evaluate Wells Fargo's "impacts, progress towards goals, risks or other strategic matters appropriate for shareholder input" regarding charitable giving and religious discrimination against its employees. *Id.* Wells Fargo does not contest that shareholders are capable of providing input on the Company's charitable giving or employee benefits policies or that this is a topic fit for shareholder review. Nor could it, given the "robust[] public discussion and analysis on the topic" as explained above. *Id.*

Given the above, the Proposal does not "seek[] intricate detail" or "to impose specific time-frames or methods." 1998 Release at 29108. Indeed, it does not ask Wells Fargo to implement, or not implement, any policies at all, much less specific methods or time-frames for said implementation. Nor does it seek voluminous disclosures or detailed methods of reporting. It is, in fact, exceedingly deferential to Wells Fargo.

Wells Fargo argues that "the Proposal seeks to micromanage the Company by directing that the Company evaluate its decisions regarding how it manages a broad-based, global employee benefit program, specifically, focusing on the terms and conditions that the Company has determined to include in the execution of its Grants Program." NAR at 14. It then clings to a brief phrase in the Supporting Statement suggesting that Wells Fargo can address religious discrimination "by allowing employees to direct matching gifts to religious charities" and argues that "[t]his directly implicates the Company's decisions regarding how it manages its Grants Program, including its criteria for organizations eligible to receive a Community Care Grant, the determination of which involves complex factors such as reputational and operational risk, tax considerations and the potential impacts on employee relations,

customer relations and brand reputation, among others." NAR at 14–15. But Proponent asked only for a transparency report. The Proposal does not require Wells Fargo to make any changes to its gift match program or policies, and the Supporting Statement's fleeting suggestion that allowing religious charities may help remedy religious discrimination is in no way a binding directive on the Company.

Wells Fargo's argument also assumes that the "micromanagement" part of Rule 14a-8(i)(7) would treat a proposal prescribing a particular charitable giving policy the same as one asking for transparency on charitable giving policies. It would not because asking for "methods for implementing complex policies" is necessarily different than seeking a risk report. 1998 Release at 29108. Take Wells Fargo's citation to *Merck & Co.* (Mar. 29, 2023), where the proposal asked "the Company to list the recipients of corporate charitable contributions of $5,000 or more on the company website" along with any material limitations on company contributions. Compare that with nearly identical proposals that are simply less prescriptive: "The Proponent requests that the Board of Directors *consider* listing on the Company website any recipient of $10,000 or more of direct contributions." *The Walt Disney Co.* (Jan. 12, 2023) (*emphasis added*); *The Kroger Co.* (*Eichhold Trust*) (Apr. 25, 2023). Staff stated that the former pair micromanaged the company, but that the latter pair did not. Similarly, Staff rejected a micromanagement argument in 2024 for a proposal asking for disclosure of any "material donations from the Company . . . . Optimally, this list would include all recipients of $5,000 or more" or "an explanation of why such donations are not material." *Dell Tech. Inc.* (Apr. 24, 2024).

This is because "micromanagement" focuses primarily on the "specific methods, timelines, or detail" actually requested by the Proposal, not its underlying subject matter. SLB 14L. And here, the Proposal is less prescriptive even than those in *Disney* and *Kroger*, and it is a far cry from Wells Fargo's other citations that, like *Merck*, which Staff noted required detailed disclosures. *See Delta Air Lines, Inc.* (Apr. 24, 2024) (requiring disclosure of all anti-union expenditures); *The Coca-Cola Co.* (Feb. 16, 2022) (requiring disclosure of all political statements for shareholder vote); *Deere & Co.* (Jan. 3, 2022) (requiring disclosure of all employee training materials); *Verizon Communications, Inc.* (*National Center for Public Policy Research*) (Mar. 17, 2022) (same).

Instead, the Proposal does not ask for any disclosures or for Wells Fargo to even consider specific policies. It simply asks the Company to report, providing information of its choosing in a format of its choosing, on how its charitable giving is impacting risks related to religious discrimination. This is in line with many other risk reports which Staff regularly approves and which are far afield from micromanagement.

Conclusion

For these reasons, we request that the Staff reject Wells Fargo's request for relief from The Catholic Diocese of Fort Worth's Proposal. A copy of this correspondence

has been timely provided to Wells Fargo If we can provide additional materials to address any queries the Commission may have on this letter, please feel free to contact me.

Sincerely,

Michael Ross

Cc: Lori Zyskowski

GIBSON DUNN

Lori Zyskowski
Partner
T: +1 212.351.2309
LZyskowski@gibsondunn.com

February 21, 2025

VIA ONLINE SUBMISSION

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

Re: *Wells Fargo & Company*
Supplemental Letter Regarding the Shareholder Proposal of
Catholic Diocese of Fort Worth
Securities Exchange Act of 1934—Rule 14a-8

Ladies and Gentlemen:

On December 26, 2024, Wells Fargo & Company (the "Company" or "Wells Fargo") submitted a letter (the "No-Action Request") notifying the staff of the Division of Corporation Finance (the "Staff") of the Securities and Exchange Commission (the "SEC") that 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") received from the Catholic Diocese of Fort Worth (the "Proponent"). The No-Action Request indicated our belief that the Proposal, including its statement in support thereof (the "Supporting Statement"), could be excluded from the 2025 Proxy Materials pursuant to Rule 14a-8(i)(3) and Rule 14a-8(i)(7) of the Securities Exchange Act of 1934, as amended (the "Exchange Act").

Subsequently, Michael Ross of the Alliance Defending Freedom submitted a letter, dated January 31, 2025, on behalf of the Proponent responding to the No-Action Request (the "Response Letter"). The Response Letter argues that the Proposal: (1) is not materially false under Rule 14a-8(i)(3) because it accurately describes the Company's employee-gift match program; (2) focuses on a significant social policy issue that transcends the Company's ordinary business operations; and (3) does not seek to micromanage the Company. However, for the reasons stated in the No-Action Request and further articulated below, we continue to believe that the Proposal, including its Supporting Statement, is excludable under Rule 14a-8(i)(3) and Rule 14a-8(i)(7), and we wish to respond to the Response Letter.

In addition, on February 12, 2025, the Staff published Staff Legal Bulletin No. 14M ("SLB 14M"), which, among other things, set forth Staff guidance on a number of interpretive issues under Rule 14a-8 of the Exchange Act. SLB 14M states that companies may supplement previously filed no-action requests to exclude shareholder proposals, or submit new no-action requests, based on the standards set forth in SLB 14M. Consistent with this new guidance, and in light of the standards set forth in SLB 14M, we respectfully request that the Staff concur in our view that the Proposal properly may be excluded from the 2025 Proxy Materials pursuant to Rule 14a-8(i)(5) because the Proposal relates to operations of

the Company that account for less than five percent of the Company's assets, earnings and sales, and the Proposal is not otherwise significantly related to the Company's business.

Pursuant to Rule 14a-8(j), we filed the No-Action Request with the Commission no later than eighty (80) calendar days before the Company intends to file its definitive 2025 Proxy Materials with the Commission. We now request that the Staff waive the 80-day filing requirement set forth in Rule 14a-8(j) with respect to the novel 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 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 novel basis for exclusion under Rule 14a-8(i)(5) presented in this letter. Please note that the Company plans to begin printing its 2025 Proxy Materials on March 5, 2025, which is in advance of the date that it plans to file its proxy materials with the Commission due to the size of the Company's shareholder base impacting printing logistics.

I. The Response Letter Focuses On Grantmaking Policies On The Company's Website That Are Not At Issue Under The Proposal.

The Proposal requests that the Company issue a report evaluating how "excluding religious charities from its employee-gift match program impacts the risks related to religious discrimination against employees." The premise of the Proposal is materially false and misleading in a manner that would materially impact shareholders' views of the Proposal because religious charities are not excluded from the Company's employee-gift match program. In the No-Action Request, the Company explained that, as part of its overall employee benefits package, eligible employees can utilize the Company's Community Care Portal to support eligible charities through personal financial giving and can also record volunteer hours to participate in the Company's Community Care Grants Program (the "Grants Program"). Under the Grants Program, employees can qualify for grants (the "Community Care Grants") of up to $2,000 per year, which they can direct to eligible charities of their choice using the Community Care Portal. In February 2024, the Company changed its policy to allow both houses of worship and religiously affiliated institutions (together, "religious organizations") to be eligible for Community Care Grants. Although organizations must satisfy certain criteria to be eligible to receive Community Care Grants (*e.g.*, qualify as a tax-exempt 501(c)(3) organization; comply with applicable laws), none of the criteria for eligible charities are based on religious status, and these conditions do not preclude religious organizations from becoming eligible for Community Care Grants. In fact,

as of December 2024, the more than one million eligible organizations that are qualified to receive Community Care Grants include the Proponent's diocese and thousands of other religious organizations.

In the Response Letter, the Proponent argues that the Proposal is not materially false because it "provides an accurate explanation of how Wells Fargo describes eligibility for its grant process." However, the Response Letter, citing policies published on the Company's "Community Giving" and "Grant Process" webpages, focuses on the eligibility requirements and criteria for organizations seeking grants through application directly from the Company and the Wells Fargo Foundation. The policies referenced by the Proponent and made publicly available on the Company's website do not apply to the Company's employee-directed Community Care Grants, which are the subject of the Proposal.[1] Rather, the eligibility requirements and criteria for employee-directed Community Care Grants are governed by an internal, non-public Company policy, further described herein and in the No-Action Request, which provides that religious organizations are eligible for Community Care Grants directed by employees through the Community Care Portal.

Given that the Proposal is clearly concerned with the Company's "employee-gift match program" and not with the separate and distinct policy governing organizations applying for grants directly from the Company and the Wells Fargo Foundation, we continue to believe that the Proposal, including the Supporting Statement, remains excludable from the 2025 Proxy Materials pursuant to Rule 14a-8(i)(3).

II. The Proposal Relates To General Employee Benefits And Therefore May Be Excluded Under Rule 14a-8(i)(7).

In the Response Letter, the Proponent recharacterizes the Proposal's focus as "relat[ing] to charitable giving, which only tangentially involves employee benefits." To support this contention, the Proponent relies on *Wells Fargo & Co.* (avail. Feb. 19, 2010) ("*Wells Fargo 2010*"), where the Staff was unable to concur with the exclusion of a proposal related to the company's charitable giving, and provided "that the proposal relates to charitable contributions, which the Division has generally found to involve a matter of corporate policy which is extraordinary in nature and beyond a company's ordinary business operations." However, we believe that the Proponent's reliance on *Wells Fargo 2010* is

---

[1] Subsequent to the submission of the Response Letter, the Company updated the public webpage outlining eligibility requirements and criteria for organizations seeking grants directly from the Company and the Wells Fargo Foundation, and it now reflects eligibility criteria similar to those that apply to the Company's employee-directed Community Care Grants. As relevant here, the criteria no longer include the specific conditions cited by the Response Letter relating to the eligibility of religious organizations. Thus, even if the Proposal was concerned with the Company's policies and eligibility criteria for organizations applying for grants directly, the Response Letter's arguments would be moot as a result of the updated guidelines. *See* "Grant Process," *available at* https://www.wellsfargo.com/about/responsibility-and-impact/community-giving/grant-process/.

misplaced and that the Proposal here can be distinguished from the proposal at issue in *Wells Fargo 2010*.

Whereas the proposal in *Wells Fargo 2010* related to the Company's charitable contributions in general by broadly requesting that the Company "list the recipients of corporate charitable contributions of $5,000 or more on the company website," here the Proposal is much more narrowly focused on only one particular aspect of the Company's Grants Program. The Proposal's request for a report on "how excluding religious charities from [the Company's] employee-gift match program impacts the risks related to religious discrimination *against employees*" (emphasis added) demonstrates that the Proposal is not broadly related to the Company's charitable contributions, but rather to a specific Company policy regarding employee-directed Community Care Grants. The Proposal therefore directly relates to the manner in which the Company administers a single component of its overall employee benefits package, a subject which falls within the scope of the Company's ordinary business operations. Thus, the Proponent is attempting to recharacterize the Proposal as one relating to charitable giving, "which only tangentially involves employee benefits," when, in fact, the Proposal relates to employee benefits and only tangentially relates to charitable giving. The Staff has consistently permitted exclusion of shareholder proposals that focused on ordinary business matters, even though they also touched on a significant policy issue.

Certain statements contained in the Supporting Statement further reflect that the focus of the Proposal is on employee benefits, which relate to the Company's ordinary business operations, and not charitable giving. The Supporting Statement provides that "[o]ne of the best ways" the Company can "attract the most qualified talent . . . [and] promote a diverse and vibrant business culture" is "by supporting employee philanthropy" and that "[e]mployee-matching gift programs are an important way to foster volunteerism and community engagement within company workforces." These statements further indicate that the principal objective of the Proposal relates to the design and terms of an aspect of the Company's overall employee benefits package that is used to attract and retain employees, not the Company's charitable contributions. Thus, the Proposal seeks to evaluate and second-guess the terms on which the Company conducts a global employee benefit program, a quintessentially routine employee benefits matter. For the reasons stated above, we continue to believe that the Proposal, including the Supporting Statement, remains excludable from the 2025 Proxy Materials pursuant to Rule 14a-8(i)(7).

III. 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 Total Assets, Net Earnings And Gross Sales, And 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." Historically, issues of broad social or ethical concern were often determined by the Staff to be "otherwise significantly related to the company's business" regardless of the economic relevance of such matter to a company. In SLB 14M, the Staff explained that in interpreting 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." *Id.* The Staff noted that under this framework, "proposals that raise issues of social or ethical significance may be excludable, notwithstanding their importance in the abstract, based on the application and analysis of each of the factors of Rule 14a-8(i)(5) in determining the proposal's relevance to the company's business." *Id.* In addition, the Staff stated that "[w]here a proposal's significance to a company's business is not apparent on its face . . . [it] may be excludable unless the proponent demonstrates that it is 'otherwise significantly related to the company's business'" and "[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.'" *Id.*

B. The Proposal Relates To Operations That Account For Less Than Five Percent Of The Company's Total Assets, Net Earnings And Gross Sales.

In addition to the considerations outlined in the No-Action Request and elaborated above, the Proposal also relates to operations that account for less than five percent of the Company's total assets, net earnings and gross sales. In particular, the Proposal requests an evaluation of specific risks related to the Company's employee-gift match program. The Company is not primarily a philanthropic organization, and while the Company may support certain community giving and other charitable initiatives through the Company's affiliated foundation, such activities are not a significant aspect of the Company's business. Moreover, the Company's employee-gift match program encompasses a narrow subset of such activities. As explained in the No-Action Request, the Company encourages employees to contribute to the communities where they live and work and supports employee philanthropy through programs designed to encourage employee giving. However, the Community Care Grants Program is simply one among a range of benefits the Company offers to its employees, and its administration is incidental to the Company's business as a global financial services company.

As reported in the Company's earnings release for the year ended December 31, 2024 (the Company's most recently completed full fiscal year for which data is publicly available, or the "2024 Fiscal Year"), the Company reported approximately $1.9 trillion in total assets, approximately $19.7 billion in net income, and approximately $82 billion in total revenues. After conducting internal diligence, the Company determined that the aggregate dollar value of employee-directed Community Care Grants in the 2024 Fiscal Year was

equivalent to significantly less than 1% of the Company's total assets at the end of the 2024 Fiscal Year, and significantly less than 1% of net income and 1% of total revenues, in each case for the 2024 Fiscal Year. These amounts are *de minimis* when measured against the scale of the Company's business operations, and the Company expects the amount of employee-directed grants under the Grants Program to represent a similarly insignificant percentage based on the Company's total assets, net earnings and gross sales for fiscal year 2025. Accordingly, the Proposal does not relate to Company operations that are economically significant to the Company and therefore may be excluded under the first prong of the Rule 14a-8(i)(5) test.

C. The Proposal Is Not Otherwise Significantly Related To The Company's Business.

Even if a proposal relates to operations that are not economically significant to a company, Rule 14a-8(i)(5) provides that a proposal may not be excluded if it is "otherwise significantly related to the company's business." In SLB 14M, the Staff indicated that determining whether a proposal is otherwise significantly related to the company's business is "dependent upon the particular circumstances of the company to which the proposal is submitted," and that the proponent must "tie those matters to a significant effect on the company's business." Based on a careful evaluation the Proposal and consideration of the nature of the Company's operations, the Proposal is not significantly related to the Company's business.

The Proposal is focused on a narrow aspect of the Company's employee benefits program. While the Grants Program is meaningful to the employees who participate in it and the organizations that receive employee-directed Community Care Grants, the program ultimately represents a benefit that is a small part of the overall benefits package offered to Wells Fargo employees. Likewise, its administration is tangential to the Company's primary business operations.

Further, the Proponent has not provided any factual or other support in the Proposal or the Response Letter to meet its burden of demonstrating that the Proposal is otherwise significantly related to the Company's business. As explained in the No-Action Request and above, the social issue raised by the Proposal is predicated on false assertions and incorrect assumptions about how the Grants Program is administered, because the program does not preclude religious organizations from becoming eligible for employee-directed Community Care Grants. In any event, the Proponent fails to "tie [the matters raised in the Proposal] to a significant effect on the company's business." SLB 14M. Although the Response Letter refers generally to risks associated with religious discrimination in the abstract, the Proponent provided no evidence of a link between the Grants Program and religious discrimination. As the Staff has clearly stated, "[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'" for purposes of the second prong of Rule 14a-8(i)(5). *Id*.

Finally, the Company has a robust shareholder engagement process. Following the Company's 2024 annual meeting of shareholders, the Company contacted institutional investors representing approximately 61% of total outstanding shares and ultimately engaged with shareholders representing approximately 58% of outstanding shares, as of December 31, 2024. During the course of the Company's engagements with its shareholders, no other investors raised the issue of religious discrimination in connection with the Company's employee-gift match program, nor has it otherwise emerged as a shareholder priority. Neither the Proposal nor the Response Letter meet the Proponent's burden of demonstrating that the Proposal is otherwise significantly related to the Company's business.

Prior to the issuance of Staff Legal Bulletin No. 14L (Nov. 3, 2021), which was rescinded by SLB 14M, the Staff had concurred with the exclusion of proposals consistent with the underlying purpose of Rule 14a-8(i)(5) and the Staff's most recent guidance in SLB 14M, even where such proposals raised an issue of social or ethical significance. *See, e.g.*, *Marriott International, Inc.* (avail. Mar. 13, 2020) (concurring in the exclusion of a proposal requesting a prohibition of wild-animal displays in the company's hotels where company represented that the fees received for these events were economically insignificant, the events occurred in limited situations and were not offered by the company directly, and that no other investor had raised similar concerns); *Chubb Limited.* (avail. Mar. 26, 2021) (concurring in the exclusion of a proposal requesting a report assessing the relationship between company policies and police brutality where the company represented that the proposal related to operations that accounted for less than five percent of total assets, net earnings, and gross sales and did not otherwise significantly relate to the company's business, and that the proponent was the only investor to raise such concerns). The Company's management has conducted an analysis of the Company's operations as they relate to the subject matter of the Proposal similar to the analysis conducted by the board of directors of the companies in the above-cited precedents and believes that similar considerations should apply in this case and that the Proposal is likewise excludable under Rule 14a-8(i)(5).

CONCLUSION

Based upon the foregoing analysis, we respectfully request that the Staff concur that it will take no action if the Company excludes the Proposal from its 2025 Proxy Materials.

We would be happy to provide you with any additional information and answer any questions that you may have regarding this subject. Correspondence regarding this letter should be sent to shareholderproposals@gibsondunn.com. If we can be of any further assistance in this matter, please do not hesitate to call me at (212) 351-2309 or Amanda Simmons, Senior Counsel, Wells Fargo Legal Department, at (212) 214-7701.

Sincerely,

Lori Zyskowski

cc: Emma Bailey, Corporate Secretary, Wells Fargo Legal Department
Janet McGinness, Associate General Counsel, Wells Fargo Legal Department
Amanda Simmons, Senior Counsel, Wells Fargo Legal Department
Pia de Solenni, SThD, IWP Capital, LLC
Bishop Michael F. Olson, Catholic Diocese of Fort Worth