



DIVISION OF
CORPORATION FINANCE

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

April 2, 2025

Ning Chiu
Davis Polk & Wardwell LLP

Re: Masco Corporation (the "Company")
Incoming letter dated December 19, 2024

Dear Ning Chiu:

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

The Proposal asks the Company to take all the steps necessary to reorganize the board of directors in order that each director stands for election at each annual meeting.

There appears to be some basis for your view that the Company may exclude the Proposal under Rule 14a-8(i)(10). We note that the Company will provide shareholders at its 2025 annual meeting with an opportunity to approve an amendment to the Company's governing documents to provide for the annual election of directors. 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)(10).

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: John Chevedden

December 19, 2024

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

Ladies and Gentlemen:

On behalf of Masco Corporation, a Delaware corporation (the “**Company**”), and in accordance with Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), we are filing this letter with respect to the shareholder proposal (the “**Proposal**”) submitted by John Chevedden (the “**Proponent**”) for inclusion in the proxy materials the Company intends to distribute in connection with its 2025 Annual Meeting of Stockholders (the “**2025 Proxy Materials**”). The Proposal is attached hereto as Exhibit A.

We hereby request confirmation that the Staff of the Division of Corporation Finance (the “**Staff**”) will not recommend any enforcement action if, in reliance on Rule 14a-8, the Company omits the Proposal from the 2025 Proxy Materials.

In accordance with relevant Staff guidance, we are submitting this letter and its attachments to the Staff through the Staff’s online Shareholder Proposal Form. In accordance with Rule 14a-8(j), we are simultaneously sending a copy of this letter and its attachments to the Proponent as notice of the Company’s intent to omit the Proposal from the 2025 Proxy Materials. This letter constitutes the Company’s statement of the reasons it deems the omission of the Proposal to be proper. We have been advised by the Company as to the factual matters set forth herein.

THE PROPOSAL

The Proposal states:

RESOLVED, shareholders ask that our Company take all the steps necessary to organize the Board of Directors in order that each director stands for election at each annual meeting.

REASON FOR EXCLUSION OF THE PROPOSAL

The Company believes that the Proposal may be properly omitted from the 2025 Proxy Materials pursuant to Rule 14a-8(i)(10) because the Company has already substantially implemented the Proposal.

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The Proposal May Be Excluded under Rule 14a-8(i)(10) Because the Company Has Substantially Implemented the Proposal.

1. Rule 14a-8(i)(10) Background.

Rule 14a-8(i)(10) permits a company to exclude a shareholder proposal if the company has already “substantially implemented” the proposal. The Staff has stated that the purpose of the predecessor provision to Rule 14a-8(i)(10) was “to avoid the possibility of shareholders having to consider matters which have already been favorably acted upon by management.” *Exchange Act Release No. 12598* (July 7, 1976). The Staff later stated that a formalistic application of the rule requiring full implementation “defeated [the rule’s] purpose,” and then adopted a revised interpretation of the rule to permit the omission of proposals that had been “*substantially* implemented.” (emphasis added) *Exchange Act Release No. 20091* (Aug. 16, 1983) and *Exchange Act Release No. 40018*, at n.30 (May 21, 1998).

The Staff has noted that “a determination that the company has substantially implemented the proposal depends upon whether [the company’s] particular policies, practices and procedures compare favorably with the guidelines of the proposal.” *Texaco, Inc.* (avail. Mar. 28, 1991). The Staff has consistently taken the position that a proposal has been “substantially implemented” and may be excluded under Rule 14a-8(i)(10) when a company can demonstrate that it has already taken actions to address the underlying concerns and essential objectives of the proposal. See, e.g., *Best Buy Co., Inc.* (avail. April 22, 2022); *Eli Lilly and Co.* (avail. Jan. 8, 2018); *Korn/Ferry International* (avail. July 6, 2017); *NETGEAR, Inc.* (avail. Mar. 31, 2015); *Pfizer, Inc.* (avail. Jan. 11, 2013, recon. Mar. 1, 2013); *Exelon, Inc.* (avail. Feb. 26, 2010); *Hewlett-Packard Co.* (avail. Dec. 11, 2007).

The text of the Proposal makes clear that the Proposal’s essential objective is to remove the classified board structure contained in the Company’s Restated Certificate of Incorporation. The Staff has concurred that actions by boards of directors to declassify their structures substantially implements a shareholder declassification proposal, most recently in *Emerson Electric Co.* (avail. Dec. 11, 2024). See, e.g., *Zoetis Inc.* (avail. March 30, 2022); *IQVIA Holdings Inc.* (avail. January 20, 2022); *Marathon Petroleum Corporation* (avail. Feb. 26, 2021); *Boaz Allen Hamilton Holding Corporation* (avail. Apr. 14, 2020); *Hecla Mining Company* (avail. Mar. 1, 2019); *Eli Lilly and Company* (avail. Feb. 22, 2019); *PPG Industries, Inc.* (avail. Jan. 16, 2020); *Costco Wholesale Corp.* (avail. Nov. 16, 2018); *iRobot Corp.* (avail. Feb. 9, 2018); *AbbVie Inc.* (avail. Dec. 22, 2016); *Ryder System, Inc.* (avail. Feb. 11, 2015); *St. Jude Medical, Inc.* (avail. Feb. 3, 2015); *LaSalle Hotel Properties* (avail. Feb. 27, 2014); *Dun & Bradstreet Corp.* (avail. Feb. 4, 2011); *Baxter International Inc.* (avail. Feb. 3, 2011); *Allergan, Inc.* (avail. Jan. 18, 2011); *AmerisourceBergen Corporation* (avail. Nov. 15, 2010); *Textron Inc.* (avail. Jan. 21, 2010); *Del Monte Foods Company* (avail. June 3, 2009); *Visteon Co.* (avail. Feb. 15, 2007); *Northrop Grumman Corp.* (avail. Mar. 22, 2005) (concurring in each case with the exclusion of a shareholder declassification proposal where the board directed the submission of a declassification amendment for shareholder approval).

2. The Company’s Proposal Substantially Implements the Proposal.

At the Company’s 2025 Annual Meeting of Shareholders (the “**2025 Annual Meeting**”), the Board of Directors of the Company (the “**Board**”) will recommend to the Company’s shareholders that they approve an amendment to the Restated Certificate of Incorporation to declassify the Board (the “**Amendment**”), which is precisely what the Proposal seeks to accomplish. If approved by the Company’s shareholders as required by Delaware law, directors in office immediately following the 2025 Annual Meeting would serve out their three-year terms, but would be elected to one-year terms following the expiration of the directors’ existing terms.

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If shareholders approve the Amendment, this means that at the 2028 Annual Meeting of Shareholders and each annual meeting thereafter, all directors will be elected to hold office for a term expiring at the next annual meeting following their election. The Board will no longer be classified. This result is consistent with the precedents noted above where companies had shareholders approve an amendment to their governing documents in the year they received the shareholder proposals, and then began the declassification process at the annual meetings of shareholders for which such proposals were submitted for inclusion.

In accordance with the Restated Certificate of Incorporation, the Amendment will require the affirmative vote of the holders of at least 80% of the voting power of the outstanding capital stock of the Company entitled to vote. If approved by the shareholders, the Amendment would become effective upon filing a Certificate of Amendment with the Secretary of State of the State of Delaware, which the Company would file promptly following the 2025 Annual Meeting. The Board will also approve certain conforming changes to the bylaws.

The Proposal requests that the Company take the steps necessary to implement annual director elections, and allows the option to phase in the Proposal. The first paragraph of the supporting statement states: "Although our management can adopt this proposal topic in one-year and one-year implementation is a best practice, this proposal allows the option to phase it in."

Because the Company has already taken the steps necessary to declassify the Board, the Company has substantially implemented the Proposal. Accordingly, the Company believes that it has satisfied the essential objective of the Proposal. As such, pursuant to Rule 14a-8(i)(10), we respectfully request that the Staff concur in our view that the Proposal may be excluded from the 2025 Proxy Materials.

Respectfully yours,



Ning Chiu

Attachment

cc w/ att: Kenneth G. Cole, Vice President, General Counsel and Secretary, Masco Corporation
John Chevedden

Elect Each Director Annually

RESOLVED, shareholders ask that our Company take all the steps necessary to reorganize the Board of Directors in order that each director stands for election at each annual meeting.

Although Masco Corporation can adopt this proposal topic in one-year and one-year implementation is a best practice, this proposal allows the option to phase it in.

Classified Boards, like the Masco Corporation Board, have been found to be one of 6 entrenching mechanisms that are negatively related to company performance according to "What Matters in Corporate Governance" by Lucien Bebchuk, Alma Cohen and Allen Ferrell of the Harvard Law School.

Arthur Levitt, former Chairman of the Securities and Exchange Commission said, "In my view it's best for the investor if the entire board is elected once a year. Without annual election of each director shareholders have far less control over who represents them."

A total of 79 S&P 500 and Fortune 500 companies, worth more than \$1 trillion, have adopted this important proposal topic since 2012. Annual election of each director could make directors more accountable, and thereby contribute to improved performance and increased company value at no extra cost to shareholders. Thus it was not a surprise that this proposal topic won majority support at Tesla in 2024 even when the biased insider shares, which voted every eligible share, were opposed.

Annual election of each director gives shareholders more leverage if Directors perform poorly. For instance if Directors approve excessive executive pay shareholders can soon vote against Directors on the executive pay committee instead of potentially waiting 3 long years under the current setup.

Only 3 Masco Corporation directors stood for election in 2024 and for extended 3-year terms. Unfortunately 2 of the 3 Masco directors received a high number of against votes- 24% and 34%. It is not right that Masco shareholders cannot not vote again on such directors until 2027. Directors at well performing companies often receive only 5% against votes.