



Texas Instruments Incorporated  
12500 TI Blvd, MS 8658  
Dallas, Texas 75243

December 22, 2023

**VIA ELECTRONIC SUBMISSION**

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

Re: Texas Instruments Incorporated  
Shareholder proposal submitted by Friends Fiduciary Corporation

Ladies and Gentlemen:

Texas Instruments Incorporated (the “Company” or “TI”) hereby submits this letter pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934 (the “Exchange Act”) to request confirmation from the staff of the Division of Corporation Finance (the “Staff”) that it will not recommend enforcement action to the U.S. Securities and Exchange Commission (the “SEC” or “Commission”) if the Company excludes a shareholder proposal (the “Proposal”) submitted by Friends Fiduciary Corporation and co-filers (collectively, the “Proponent”) from the proxy materials for its 2024 annual meeting of shareholders. A copy of the Proposal, which concerns the Company’s product-related due diligence process, and the cover letter to the Proposal from the Proponent are attached hereto as Exhibit A.

In accordance with the Staff’s announcement of November 7, 2023, we are submitting this letter via the Staff’s electronic shareholder proposal submission form. We are simultaneously sending a copy of this letter to the Proponent as notice of the Company’s intent to omit the Proposal from its 2024 proxy materials in accordance with Exchange Act Rule 14a-8(j). We take this opportunity to inform the Proponent that a copy of any correspondence the Proponent submits to the Commission or the Staff with respect to the Proposal should be provided concurrently to the Company pursuant to Rule 14a-8(k) and Staff Legal Bulletin No. 14D (Nov. 7, 2008), and request that a copy also be provided to the undersigned at the email address herein.

## THE PROPOSAL

The Proposal states, in part:

**Resolved:** Shareholders request that the Board of Directors commission an independent third-party report, at reasonable expense and excluding proprietary information, on Texas Instruments' (TI) due diligence process to determine whether customers' misuse of its products expose the company to human rights and other material risks.

## BASES FOR EXCLUSION

We request that the Staff concur that the Company may exclude the Proposal from its 2024 proxy materials pursuant to Rule 14a-8(i)(7) because the Proposal deals with a matter relating to the Company's ordinary business operations and seeks to micromanage the Company.

## BACKGROUND

### *TI's Semiconductors*

TI manufactures and sells semiconductors ("chips") that are designed to serve a broad range of basic electronic functions in everyday products like dishwashers and cars. These functions include helping efficiently manage power, accurately sensing and transmitting data, and providing core control and processing to electronic systems. Given that every home, personal, and other electronic device needs to perform at least one of these functions, TI's chips are the basic building blocks of electronic products. Any device that plugs into the wall or has a battery likely uses at least one TI chip.

TI customers often use more than a dozen TI chips per subsystem, and there can be multiple subsystems in basic electronics used every day, like vehicles. TI has more than 100,000 customers and a catalog of more than 80,000 parts. In 2021 and 2022, TI sold more than 100 billion chips.

### *U.S. Export Controls of TI's Chips*

The U.S. Department of Commerce under its Export Administration Regulations ("EAR") regulates the export, reexport, and transfer (within countries other than the United States) of almost all goods, technology, and software exported from the United States.

Most of the items that the Commerce Department regulates do not require any U.S. government licenses to be exported, reexported, or transferred around the world. These items are primarily low-technology consumer goods classified for export control purposes as "EAR99" items – the least controlled type of product. Given the chips TI designs and manufactures, more than 98% of the units shipped by TI in 2022 were EAR99 products and did not require a U.S. government license to ship to most jurisdictions or end users or for most end uses. When TI's products required licenses, they were obtained from the Commerce Department.

## *TI's Trade Compliance and the Global Trade in Chips*

NGO and media reports have noted that bad actors continue to find ways to obtain and divert semiconductors into Russia. TI strongly opposes its chips' use in Russian military equipment and (as explained below) invests significant resources on its own and with the industry and U.S. government to prevent bad actors from obtaining TI's chips.

Even advanced weapons systems require ordinary chips to perform basic functions like managing power and sensing and transmitting data. Ordinary chips can perform the same basic functions in household items like toys and appliances. To keep the Company's products out of the hands of bad actors – and to comply with U.S. and other government export controls and sanctions – the Company has a long-standing, robust Global Trade Compliance (“GTC”) program that touches every aspect of the Company's operations. The GTC team screens customers and orders, engages with regulators, and works with various law enforcement organizations to help combat illicit use of TI's products.

The global GTC team works diligently to implement the Company's program to comply with export control laws. GTC continually assesses whether the Company's compliance policies and practices can be strengthened to better block the efforts of bad actors seeking to divert the Company's chips to unauthorized parties and uses. The Company's Corporate Compliance program, including GTC, is overseen by the audit committee of the Board of Directors.

Despite the Company's, the industry's and the U.S. government's best efforts, the inherent nature of the global trade in chips makes it possible for bad actors to divert chips. This is a complex, difficult challenge that TI regularly assesses to evaluate the strategies and actions it takes to combat this illicit activity. In particular, TI's compliance experts and management team must comprehend and navigate the following facets of the global trade in chips:

- Companies who are not authorized distributors buy chips to resell to others, and other companies resell chip inventories that they thought they would need but end up not needing. As a result, there are many resellers of chips in a large, global secondary market from whom bad actors can try to obtain chips long after a chip manufacturer sold them to its original customers.
- Chips are ubiquitous. One industry report found that 1.15 trillion chips shipped worldwide in 2021. TI alone manufactures and sells tens of billions of chips each year. Any device that plugs into the wall or has a battery likely uses at least one TI chip.
- As explained above, even chips designed for the most basic electronics can be misused. Chips from everyday electronics can be repurposed with relative ease, and the same inexpensive chip that helps conduct battery power in a toothbrush or flashlight may be harvested from those devices to perform a similar function in a drone.
- Chips are long-lasting. Chips from 10 to 15 years ago and even older can still function without significant degradation or loss of function. Even today, hundreds of thousands, if not millions, of chips shipped before the Russian invasion of Ukraine in early 2022 are likely sitting unused in storerooms around the globe. This means that new export controls

can take years to have any effect because significant supply may still be accessed. For example, before February 2022, U.S. export policies allowed most chip exports to Russia without any licensing requirements.

- There are illegal counterfeiting operations trading in chips that are able to mimic the appearance of TI's and other manufacturers' products.
- Sanctioned countries run sophisticated operations to evade export controls. The low cost and small size of many chips compounds this issue—chips acquired legally in the United States, Canada, Japan, the United Kingdom, or any number of other countries could easily be hand-carried or placed in small envelopes and sent out of the country without the awareness of chip manufacturers and suppliers and without much chance of detection by authorities.

Analyzing these challenges and trying to address them is integral to TI's compliance strategies and efforts.

### ***The Proposal***

Notwithstanding the foregoing and the Company's substantial investment in its compliance programs aimed at keeping chips out of the hands of bad actors, the Proponents seek to interfere in the Company's ordinary business operations and to micromanage this complex effort. As seen from above, operating the Company's trade compliance program and overseeing it require substantial expertise in – and knowledge of – the applicable law, the supply chain and global trade in chips, the Company's operations, and the Company's customers and sales channels, among other areas. The Proponents inappropriately seek to substitute their judgments for those of the Company's compliance professionals, leadership, and Board of Directors in deciding how best to operate and assess the Company's compliance efforts.

Given the foregoing, we request that the Staff concur that the Company may exclude the Proposal from the proxy materials for its 2024 annual meeting of shareholders.

### **ANALYSIS**

**The Proposal should be excluded under Rule 14a-8(i)(7) because it seeks to deal with a matter relating to the Company's ordinary business operations and seeks to micromanage the Company.**

Rule 14a-8(i)(7) permits the exclusion of a shareholder proposal from a company's proxy materials if the proposal "deals with a matter relating to the company's ordinary business operations." The Commission has stated that the purpose of the ordinary business exception 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." *Amendments to Rules on Shareholder Proposals*, SEC Rel. No. 34-40018 (May 21, 1998) (the "1998 Release"). The Commission has further stated that the policy underlying this exclusion rests on two "central considerations," specifically whether the proposal (i) concerns tasks that are "so fundamental to management's ability to run a company on

a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight” and (ii) “seeks to ‘micromanage’ 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.*; *see also* Staff Legal Bulletin No. 14L (Nov. 3, 2021) (“SLB 14L”).

**A. The Proposal should be excluded under Rule 14a-8(i)(7) because it concerns the Company’s ordinary business operations.**

*The Proposal should be excluded because it concerns the Company’s ordinary business operations, including the Company’s products and services, legal and compliance programs, and supplier relationships.*

*Products and Services*

The Proposal relates to the Company’s products and services, as evidenced by the numerous references to the Company’s products in the Proposal’s resolved clause, whereas clauses, and supporting statement. For example, the resolved clause states that the requested report should evaluate alleged misuse of “[the Company’s] products.” Additionally, the whereas clauses in the Proposal refer to the Company’s export of its products, the alleged import of Company products into Russia, alleged misuse of Company products, and the Company’s mitigation of the alleged misuse of its products. Furthermore, the supporting statement specifically requests an assessment of the risk to shareholder value “posed by product misuse.” Finally, the Proposal intends “products” to refer to semiconductors and similar microelectronic components designed, manufactured, and delivered by the Company. Footnoted sources included within the body of the Proposal discuss semiconductors and similar microelectronic components, which, as noted in the Background section above, are the Company’s core product portfolio.

The Staff has long determined that proposals relating to a company’s products and services are excludable under Rule 14a-8(i)(7), as they relate to ordinary business matters. *See MetLife, Inc.* (Apr. 24, 2023) (requesting a report on the risks created by the company’s business practices that prioritize non-pecuniary factors when it comes to establishing, rejecting or failing to continue client relationships); *JPMorgan Chase & Co.* (Mar. 21, 2023) (seeking a report regarding requests to close, or issuing warnings regarding imminent closure of, customer accounts by governmental authorities); *American Express Co.* (Mar. 9, 2023) (requesting a report regarding risks associated with tracking, collecting or sharing information regarding payment processing for the sale and purchase of firearms); *JPMorgan Chase & Co.* (Mar. 25, 2022) (requesting a report regarding the impact of underwriting multiclass share offerings); *Walgreens Boots Alliance, Inc.* (Nov. 7, 2016, *recon. denied* Nov. 22, 2016) (requesting a report assessing the financial risk of continued sales of tobacco products); *Wells Fargo & Co.* (Jan. 28, 2013, *recon. denied* Mar. 4, 2013) (requesting a report addressing the social and financial impacts of the company’s direct deposit advance lending service); *The Coca-Cola Co.* (Jan. 21, 2009, *recon. denied* Apr. 21, 2009) (requesting a report evaluating new or expanded options to enhance transparency of information to consumers of bottled beverages); *Bank of America Corp.* (Feb. 27, 2008) (requesting a report detailing, in part, the company’s policies and practices regarding the issuance of credit cards and lending of mortgage funds to individuals without Social Security numbers).

The Staff has also permitted exclusion under Rule 14a-8(i)(7) for proposals that concern the alleged misuse of a company's products. *See FMC Corp.* (Feb. 25, 2011, *recon. denied* Mar. 16, 2011) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that concerned the misuse of a company product and the harmful impact of that misuse on animal populations); *Cardinal Health, Inc.* (Aug. 4, 2017) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that concerned the company's distribution systems for preventing the diversion of company products); *McKesson Corp.* (Jun. 1, 2017) (same); *AbbVie Inc.* (Mar. 16, 2017) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that concerned the company's disposal of its products and steps the company could take to prevent customers from misusing those products); *Pfizer Inc.* (Mar. 1, 2016) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that concerned the company's distribution system for preventing the diversion of company products); *Johnson & Johnson* (Jan. 30, 2017) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that concerned the company's disposal of its products and steps the company could take to prevent customers from misusing those products).

The Proposal is similar to the proposal in *FMC*, which concerned the alleged misuse of an insecticide produced by the company that ultimately led to the deaths of mammals, birds, and other animals. The proposal focused on instances of product misuse and the company's oversight of the product and also raised concern over perceived financial and reputational risks stemming from the misuse of the product. The Staff permitted exclusion of the proposal under Rule 14a-8(i)(7) as the proposal related to "the products offered for sale by the company" and the proposal did "not focus on a significant social policy issue."

The Proposal is also similar to the proposals in *Cardinal Health*, *McKesson*, and *Pfizer*, which related to the sale and distribution of company products and the alleged misuse of some of those products. In *Cardinal Health* and *McKesson*, the proposals requested a report "describing the controlled distribution systems [the company] implements on behalf of manufacturers to prevent the diversion of restricted medicines to prisons for use in executions and the process for monitoring and auditing those systems." Both companies distributed medicinal products that were sought by several states for use in executions, and the proposals expressed concern with perceived commercial and legal risks associated with such misuse. The Staff permitted exclusion of the proposals under Rule 14a-8(i)(7), concluding that the proposals related "to the sale or distribution of particular products to [the company's] customers." In *Pfizer*, a similar proposal requested a report "describing the steps the [c]ompany has taken or will take to identify and remedy the flaws in the current distribution system" for company products used in some states as part of procedures for carrying out death penalty sentences. The company opposed the misuse of its products and had implemented a restricted distribution system covering seven products likely to be sought by states for use in executions. The company argued that the proposal "relate[d] to Pfizer's sale or distribution of particular products, as well as the use of such products by customers," and the Staff permitted exclusion under Rule 14a-8(i)(7).

Similar to *FMC*, *Cardinal Health*, *McKesson* and *Pfizer*, the Proposal relates to Company products and the alleged misuse of some of those products. Accordingly, the Proposal is excludable under Rule 14a-8(i)(7) because the Proposal relates to the Company's products and services, an ordinary business matter.

## *Legal and Compliance Programs*

The Proposal also focuses on the Company's legal and compliance programs, which the Staff has determined to be ordinary business matters. The supporting statement to the Proposal states that the report should describe "TI's due diligence process to prevent access [to Company products] by prohibited users or for prohibited uses" of Company products and should describe TI's "assessment of additional policies, practices, and governance measures" needed to mitigate these alleged compliance risks. The whereas clauses of the Proposal also address legal and compliance matters, such as the Company's adherence to sanctions and trade controls imposed, now or in the future, by the United States government, the United Nations, the European Union and other legislative bodies. These statements regarding product misuse due diligence and compliance policies, practices and governance all invoke the Company's global compliance program, which is discussed in further detail below. The Company maintains a robust global compliance program that is designed to address a range of risks inherent in the Company's business, including risks relating to product misuse, and to prevent access to Company products by prohibited persons. The Company's compliance program already includes due diligence efforts that are designed to ensure that customer use of Company products does not violate applicable export controls and sanctions, including sanctions against Russia. Evaluating export control issues and ensuring that the Company's policies relating to these matters are aligned with applicable law are critical to management's ability to operate the Company on a day-to-day basis. Overseeing the due diligence process, refining compliance policies and procedures, and developing and enhancing the Company's internal compliance program all involve complex matters that require management's insight and focus.

The Staff has routinely permitted the exclusion of proposals that relate to a company's legal and compliance programs. For example, in *Navient Corp.* (Mar. 26, 2015, *recon. denied* Apr. 8, 2015), a proponent requested that the company "prepare 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." The company argued that internal controls over student loans concerned the company's legal compliance practices. The Staff permitted exclusion under Rule 14a-8(i)(7) and stated that "[p]roposals that concern a company's legal compliance program are generally excludable under rule 14a-8(i)(7)." *See also, Eagle Bancorp, Inc.* (Mar. 29, 2022) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting an independent review of certain investigations performed by the company regarding alleged illegal and unethical activity); *Raytheon Co.* (Mar. 25, 2013) (permitting exclusion under Rule 14a-8(i)(7) 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," noting that "proposals that concern a company's legal compliance program are generally excludable under Rule 14a-8(i)(7)"); *Yahoo! Inc.* (Apr. 3, 2012) (permitting the exclusion of a proposal under Rule 14a-8(i)(7) that directed the board to "minimize the damaging results" of possible "legal actions and financial penalties" resulting from the company's potential unlawful activities, because, according to the Staff, the proposal "concern[ed the] company's legal compliance program"); *FedEx Corp.* (July 14, 2009) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting a report concerning the proper classification of employees and contractors in compliance with state and federal laws, as "[the proposal] relating to FedEx's ordinary business

operations (i.e., general legal compliance program)"). Similar to these precedents, the Proposal is excludable under Rule 14a-8(i)(7) because it relates to the Company's legal and compliance programs.

### *Supplier Relationships*

The Proposal includes direct and indirect references to the Company's supplier relationships. The Proposal states that "misuse of TI's products ... may result in heightened human rights and financially material risks through potential exposure to sanctioned parties in ***the company's value chain*** ..." (emphasis added). The Company's value chain encompasses the supply chain for its products, and the Staff has determined that supplier relationships are ordinary business operations. *See, e.g., Foot Locker, Inc.* (Mar. 3, 2017) (a proposal concerning the company's monitoring of the use of subcontractors by the company's overseas apparel suppliers was excludable under Rule 14a-8(i)(7) as "the proposal relates broadly to the manner in which the company monitors the conduct of its suppliers and their subcontractors"). In addition, the Staff has permitted the exclusion of proposals that sought an assessment of a specific aspect of a company's supply chain. *See, e.g., The Home Depot, Inc.* (Mar. 20, 2020) (permitting exclusion under Rule 14a-8(i)(7) for a proposal that called for a report on the extent of known usage of prison labor in the company's supply chain); *The TJX Companies, Inc.* (Mar. 20, 2020) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that called for a report assessing the effectiveness of current company policies for preventing prison labor in the company's supply chain). The Proposal relates to the Company's supplier relationships including its supply chain, and therefore is excludable under Rule 14a-8(i)(7).

*The Proposal focuses on ordinary business matters and not on a significant social policy issue under Rule 14a-8(i)(7).*

The Proposal contains passing references to human rights risks stemming from product misuse, but the emphasis of the Proposal is on a broader array of ordinary business matters and business risks. As noted above, the language of the Proposal focuses on the Company's sanctions and export control processes and governance, in addition to the Company's products and services, legal and compliance programs, and supplier relationships, all of which relate to the Company's ordinary business operations. Furthermore, when the Proposal raises perceived risks relating to product misuse, the language of the Proposal implicates a broad array of business risks. For example, the resolved clause of the Proposal requests that the Company assess whether product misuse can lead to "human rights ***and other material risks***" (emphasis added). The Proposal then identifies examples of "other material risks" that the Company should consider when preparing the report requested by the Proposal, including "financially material risks," regulatory risks and reputational risks. In light of the broad range of ordinary business matters and business risks raised by the Proposal, including those associated with any potential misuse of Company products and the Company's processes for managing related business risks, the Proposal is not focused on a significant social policy issue.

The Staff has permitted the exclusion of proposals under Rule 14a-8(i)(7) even where significant social policy issues have been raised in the body of the proposal but are not the "focus" of the proposal. *See Amazon.com, Inc.* (Apr. 8, 2022) (proposal requesting a report on

the distribution of stock-based incentives throughout the company's workforce was excludable under Rule 14a-8(i)(7) as the proposal's references to wealth inequality and workplace benefits "relate[d] to, but [did] not transcend, ordinary business matters"); *BlackRock, Inc.* (Apr. 4, 2022) (proposal requesting a public report on the potential risks of omitting "viewpoint" and "ideology" from the company's equal employment opportunity policy was excludable under Rule 14a-8(i)(7) as these issues "relate[d] to, but [did] not transcend, ordinary business matters"); *The Goldman Sachs Group, Inc.* (Mar. 8, 2022, *recon. denied* Mar. 21, 2022) (proposal requesting a study on the external costs created by the company's underwriting multi-class equity offerings was excludable under Rule 14a-8(i)(7) as the proposal "relate[d] to, but [did] not transcend, ordinary business matters"); *The TJX Companies, Inc.* (Apr. 9, 2021) (proposal seeking information about the company's monitoring of supplier compliance with the Company's policy that prohibited prison labor was excludable under Rule 14a-8(i)(7) because the proposal "[did] not transcend the [c]ompany's ordinary business operations").

As discussed by the Staff in the various no-action letters cited above, ancillary references to significant social policy issues will not immunize a proposal from exclusion under the ordinary business exception if the proposal does not focus on a significant social policy issue. As noted above, the Staff permitted exclusion under Rule 14a-8(i)(7) in *FMC* for a proposal that raised, but did not focus on, the significant social policy issue of animal welfare. In *FMC*, the proposal discussed the animal welfare consequences of alleged product misuse, but the proposal's focus was on the company's oversight of the potential misuse and further actions the company could take to address the alleged misuse. For example, the proposal requested the company act to prevent future product misuse, work with foreign governments on training and educational programs and establish an independent scientific advisory panel to assist with these requests. Similarly, the Proposal seeks a report focused the Company's oversight of potential product misuse, including any "additional policies, practices and governance measures needed to mitigate identified risks." Like the *FMC* no-action letter, the central emphasis of the Proposal is on ordinary business matters relating to the Company's products and its compliance program for those products, and it does not focus on a significant social policy issue. Therefore, the Proposal is excludable under Rule 14a-8(i)(7) because it relates to, but does not transcend, ordinary business matters.

**B. The Proposal should be excluded under Rule 14a-8(i)(7) because it seeks to micromanage the Company.**

The Commission and Staff have long determined that a proposal that seeks to micromanage a company is excludable under Rule 14a-8(i)(7). The Commission has stated that the exclusion of a proposal under Rule 14a-8(i)(7) on the grounds that the proposal micromanages a company "may come into play in a number of circumstances, such as where the proposal involves intricate detail, or seeks to impose specific time-frames or methods for implementing complex policies." *1998 Release*. The Commission further stated that the micromanagement consideration stands for "the general proposition that some proposals may intrude unduly on a company's 'ordinary business' operations by virtue of the level of detail that they seek." *Id.*

*The proposal probes 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.*

The Proposal micromanages the Company by probing too deeply into a range of complex matters on which management, and not shareholders, are in a position to make an informed judgment. Building, implementing and operating a compliance program to address sanctions and export controls involves a complex, detailed, industry-specific process. This requires a thorough knowledge of industry standards, current laws and regulations, and an understanding of geopolitical and economic factors. The Company has put significant effort and resources into export control and sanctions compliance, with multiple levels of oversight and review.

In light of the intricate and multifaceted aspects of export control and sanctions issues, differing laws and regulations across various jurisdictions, and the unique nature of the semiconductor industry, the Company has established a robust compliance program. This program is a fundamental and integrated part of the Company's sales and distributor processes, as well as the Company's management of its customer relationships. TI's compliance processes are intrinsic to TI's day-to-day business operations.

As noted in the Background above, the GTC team is responsible for maintaining a complex trade compliance program designed to address country-specific import, export, sanctions, and customs regulations and licensing requirements worldwide. Key responsibilities include identifying export and import classifications of the Company's products, obtaining and managing licenses, screening orders for compliance with restrictions and sanctioned party lists, and managing government inquiries and licenses or other authorizations. GTC, in coordination with and at the direction of the Company's legal department, also serves as the primary point of contact for the Company's engagements with regulatory agencies and law enforcement officials to support the effectiveness of export controls and sanctions. The Company's Corporate Compliance program is overseen by the audit committee of the Board of Directors. As noted above, the Company's management, as overseen by the Board, is best placed to make informed judgements regarding these complex matters and therefore, the Proposal micromanages the Company by probing too deeply into those matters.

*The proposal micromanages the Company's export control and sanctions compliance processes by imposing specific methods for implementing complex policies and inappropriately limiting the Company's discretion.*

The Proposal micromanages the Company's export control and sanctions compliance processes by imposing specific methods for implementing complex policies and inappropriately limits the Company's discretion. The Proposal seeks to micromanage the Company in several ways. In particular, the Proposal removes the discretion of the Board and management to determine whether commissioning a third-party report and disclosing TI's due diligence process and compliance function is an appropriate method to mitigate business risks relating to product misuse. The Proposal requires the Company to retain a third party, even though the Company is in the best position to manage the diligence efforts. The Proposal also would require publication of a report from that third party that assesses TI's "policies, practices, and governance measures." In addition to potentially requiring the Company to publish a report that provides

sensitive compliance information for the public, including potential bad actors, to see, it is also not industry standard. Even the UN Guiding Principles on Business and Human Rights (the “UNGP”) cited in the Proposal do not require companies to conduct an independent third-party review of due diligence processes,<sup>1</sup> which demonstrates that an independent third-party report is neither the only industry-accepted approach nor an international norm when it comes to review of due diligence processes. As such, requiring an independent third-party report leaves no room for the Board and management to determine, after consideration of compliance requirements, the complex semiconductor supply chain, business goals, and other factors, an alternative method to conduct due diligence relating to product misuse. The supporting statement references “at board and management discretion” but is limited only to the specific requests listed in the bullet points noted at the end of the statement, rather than the third-party report cited to in the resolution that is the central element of the Proposal’s request.

Additionally, the Proposal requires the Company to conduct an assessment of its due diligence that is solely focused on the “misuse” of the Company’s products and related risks. The supporting statement directs the Company to analyze due diligence processes to prevent access in specific conflict-affected and high-risk areas. These granular requirements impermissibly restrict the Board and management from exercising their discretion, taking into consideration the Company’s size, circumstances and strategic objective of minimizing risks to shareholders and shareholder value, to determine what type of reporting on product use would be most appropriate for a due diligence analysis.

The Company’s distribution channels, compliance programs and monitoring processes are complex matters that are integrally intertwined with its ordinary business operations and fundamental to management’s ability to run the Company’s operations on a day-to-day basis. The Proposal, if adopted, would remove management’s fundamental ability to run the Company’s day-to-day operations by restricting management’s discretion. In this regard, the Proposal’s prescriptive approach does not provide the Company “high-level direction on large strategic corporate matters” but rather inappropriately limits management’s discretion as to how to achieve such goals and impermissibly micromanages the Company. *See* SLB 14L.

As mentioned above, the Company’s products may be resold many times all over the world before ending up in a final application. The Proposal prevents the Board and management from applying their discretion in light of the complexity of semiconductor distribution networks and the nature and context of the Company’s operations. Even the UNGP acknowledges that where a company has a large number of entities in its value chains “it may be unreasonably difficult to conduct due diligence for adverse human rights impacts across them all” and in such cases a company should “identify general areas where the risk of adverse human rights impacts is most significant, whether due to certain suppliers’ or clients’ operating context, the particular operations, products or services involved, or other relevant considerations, and prioritize these for human rights due diligence.”<sup>2</sup> The granular specificity of the Proposal removes this discretion from Company, substituting the Proponent’s judgment for that of the Board and management and

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<sup>1</sup> [https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf)

<sup>2</sup> *Id.*

preventing the Company from determining how to appropriately determine the scope of the analysis requested.

*The Proposal micromanages the Company by seeking intricate detail on the Company's compliance processes.*

The Proposal also seeks an intricate level of detail, further micromanaging the Company's compliance processes. Rather than making recommendations or suggestions for consideration by the Board and management, the Proposal requires the Company to disclose detailed information about its due diligence process to prevent product misuse in certain areas, the Board's role in overseeing risk management in such areas, material risks to shareholder value posed by product misuse, and additional practices and governance needed to mitigate identified risks.

*Exclusion under Rule 14a-8(i)(7) due to micromanagement is consistent with recent Staff no-action letter decisions.*

The Staff has determined that proposals that seek to impermissibly micromanage 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" are excludable under Rule 14a-8(i)(7). *1998 Release. See, e.g., Amazon.com, Inc.* ("Green Century Capital Management") ("*Amazon – Green Century*") (April 7, 2023) (proposal requesting measure and disclose scope 3 greenhouse gas emissions from the company's full value chain is excludable under Rule 14a-8(i)(7) because it seeks to micromanage the company by imposing a specific method for implementing a complex policy disclosure without affording discretion to management); *Chubb Limited* (March 27, 2023) (proposal requesting the board adopt and disclose a policy related to risks associated with new fossil fuel exploration and development project because micromanages the company); *Johnson & Johnson* ("JLens") (Feb. 12, 2020) (proposal concerning awards granted under an annual cash incentive program was found to have micromanaged the company by imposing specific methods for implementing complex policies); *Johnson & Johnson* ("Vermont Pension Investment Committee") (Feb. 12, 2020) (proposal requesting justifications when financial performance measures are adjusted to exclude legal or compliance cost was found to have micromanaged the company by seeking intricate detail); and *Exxon Mobil Corporation* (Mar. 6, 2020) (proposal requesting the formation of a new board committee on climate risk was found to have micromanaged the company by limiting the board's flexibility and discretion). *See also Verizon Communications Inc.* (Mar. 17, 2022) (the proposal "requesting publication of employee-training materials to allow investors to evaluate management's handling of risk associated with employment discrimination" micromanaged the company by "probing too deeply into matters of a complex nature by seeking disclosure of intricate details regarding the [c]ompany's employment and training practices"); *American Express Co.* (Mar. 11, 2022) (same); *Deere & Co.* (Jan. 3, 2022) (same). The Company's export control and sanctions compliance processes, including with regard to product misuse, involve numerous complex considerations that are managed and implemented by an experienced management team and industry experts. Matters regarding export control and sanctions compliance are not an appropriate subject for stockholder oversight.

The *Amazon – Green Century* proposal requested a report related to the company’s value chain and products, which is similar to the report requested in the Proposal. The company argued that the proposal “eliminates the management-level discretion the Commission sought to preserve with the ordinary business exclusion by ‘impos[ing] a specific method’ and ‘granularity’ for defining the activities included in the [c]ompany’s scope 3 GHG emissions reporting.” Similarly, the Proposal requests a report related to the alleged misuse of Company products. Compared with the *Amazon – Green Century* proposal, the Proposal similarly micromanages the Company by imposing a specific method for implementing a complex policy without affording discretion to management, and is therefore excludable under Rule 14a-8(i)(7).

The Staff has further determined that proposals relating to company products can micromanage a company and are excludable under Rule 14a-8(i)(7). In *RH* (May 11, 2018), the Staff determined that a proposal encouraging the company “to enact a policy that will ensure that no down products are sold” micromanaged the company by seeking to impose specific methods for implementing complex policies and was excludable under Rule 14a-8(i)(7). The Staff similarly determined in *Amazon.com, Inc.* (“Oxfam America”) (“*Amazon – Oxfam*”) (Apr. 3, 2019) that a proposal that urged the company to “commit to conducting and making available to shareholders human rights impact assessments for at least three food products the [c]ompany sells that present a high risk of adverse human rights impacts” micromanaged the company by seeking to impose specific methods for implementing complex policies in place of the ongoing judgments of management. The company noted that it had already “undertaken numerous initiatives to address this issue in ways that the [c]ompany believes are best for its customers, its business, people involved in the supply chain, and the planet.” The *Amazon – Oxfam* proposal’s call for a detailed analysis when the company had already developed initiatives to address the subject matter of the proposal mirrors the Proposal’s call for a detailed analysis of product misuse when the Company has already developed detailed diligence and compliance programs to mitigate risk and comply with current applicable laws. The *RH* and *Amazon – Oxfam* proposals impose specific methods for implementing complex policies in place of the ongoing judgments of management. As with these proposals, the Proposal micromanages the Company and is therefore, excludable under Rule 14a-8(i)(7).

In addition, the Staff has permitted exclusion of proposals under Rule 14a-8(i)(7) if a proposal seeks to micromanage a company by seeking intricate detail. *See, e.g., Kroger Co.* (April 25, 2023) (a proposal requesting the board take necessary steps to mitigate severe risks of forced labor and other human rights violations in the company’s produce supply chain was excludable under Rule 14a-8(i)(7) because it micromanaged the Company); *Verizon Communications, Inc.* (National Center for Public Policy Research) (March 17, 2022) (a proposal requesting company to publish annually the written and oral content of diversity, inclusion, equity, or related employee-training materials is excludable under Rule 14a-8(i)(7) because it probed too deeply into matters of a complex nature by seeking disclosure of intricate details regarding the Company’s employment and training practices); *The Coca-Cola Co.* (Feb. 16, 2022) (concurring that a proposal addressing the company’s political activities was excludable on account of attempting to micromanage the issue); *SeaWorld Entertainment, Inc.* (Mar. 30, 2017) (concurring that a proposal addressing animal rights was excludable on account of attempting to micromanage the issue).

As demonstrated above, the Company puts significant effort and resources into its global compliance program, including trade and sanctions compliance, in order to help prevent the improper or illegal use of its products. Determining the nature and extent of a compliance program, and then operating that program, involve business and policy decisions firmly within the purview of the Company's management. With detailed knowledge of the industry, applicable law and a full understanding of the Company's day-to-day practices, the Company's management is in the best position to address these complex issues, and the Proposal supplants and limits the judgement of management to such a degree as to micromanage the Company.

### CONCLUSION

Based on the foregoing analysis, we respectfully request that the Staff concur that the Company may exclude the Proposal from its 2024 proxy materials under Rule 14a-8(i)(7).

The Company anticipates filing its 2024 proxy materials on or about March 12, 2024, and that such materials will need to be finalized for printing and distribution no later than March 4. Accordingly, the Company would appreciate receiving the Staff's response to this no-action request by February 26, 2024.

If the Staff disagrees with Company's view that it can omit the Proposal, we request the opportunity to confer with the Staff prior to the final determination of the Staff's position. If the Staff has any questions regarding this request or requires additional information, please contact me at [lmba@ti.com](mailto:lmba@ti.com).

Very truly yours,

*Leslie O. Mba*

Leslie O. Mba  
Assistant General Counsel

cc: Friends Fiduciary Corporation

## Exhibit A



ADDING VALUES TO STRONG PERFORMANCE.

November 14, 2023

VIA Express Delivery

Cynthia Hoff Trochu  
Senior VP, Secretary and General Counsel  
Texas Instruments Incorporated  
12500 TI Boulevard, MS 8658  
Dallas, TX 75243

Dear Ms. Trochu:

Friends Fiduciary Corporation (“Friends Fiduciary”) is submitting the attached proposal (the “Proposal”) pursuant to the Securities and Exchange Commission’s Rule 14a-8 to be included in the proxy statement of Texas Instruments Incorporated (the “Company”) for its 2024 annual meeting of shareholders. Friends Fiduciary is the lead filer for the Proposal and may be joined by other shareholders as co-filers.

Friends Fiduciary serves more than 430 Quaker meetings, churches, and organizations through our socially responsible investment services. Our investment philosophy is grounded in the beliefs of the Religious Society of Friends (Quakers), including peace, simplicity, integrity, and justice. We are long term investors in the Company and engage portfolio companies to witness to Quaker values and to protect and enhance the long-term value of our investments. As investors we remain concerned with the acute risks related to company activities within conflict-affected and high-risk areas, particularly in regard to the proximity of Texas Instrument’s products to human rights violations.

Friends Fiduciary is available to meet with the Company via teleconference on: December 5, 2023, between 10:30am and 4:00pm Eastern or December 6, 2023, between 10:30am and 4:00pm Eastern. Any co-filers will authorize Friends Fiduciary to conduct the initial engagement meeting but may participate subject to their availability. A representative of the filers will attend the shareholder meeting to move the resolution. We look forward to meaningful dialogue with your company on the issues raised in this proposal. Please note that the contact person for this proposal is Amy Carr at Friends Fiduciary ([REDACTED]).

Friends Fiduciary has continuously beneficially owned, for at least one year as of the date hereof, greater than \$25,000 worth of the Company’s common stock. Verification of this ownership is attached. Friends Fiduciary intends to continue to hold such shares through the date of the Company’s 2024 annual meeting of shareholders.

Sincerely,

*Jeffery W Perkins A.C.*

Jeffery W. Perkins  
Executive Director

Enclosures

**RESOLVED:** Shareholders request that the Board of Directors commission an independent third-party report, at reasonable expense and excluding proprietary information, on Texas Instruments' (TI) due diligence process to determine whether customers' misuse of its products expose the company to human rights and other material risks.

**WHEREAS:** The Royal United Services Institute (RUSI) reported that TI was one of two original manufacturers of approximately 25% of the dual-use items found in 27 Russian weapons systems used in the invasion of Ukraine, including missiles, precision munitions, and electronic warfare. RUSI noted that "US exporters of these products [had] a due-diligence obligation to make sure they were not destined for a prohibited end user, or to be used in prohibited end use."<sup>1</sup>

Trade data indicates TI's monthly average of products imported into Russia has increased by 142% since the invasion began,<sup>2</sup> often through intermediaries in China.<sup>3</sup>

The United States has imposed numerous sanctions and trade controls against Russia and state-owned businesses<sup>4</sup> focused on "choking off Russian imports of key technologies," including by establishing a Disruptive Technologies Task Force<sup>5</sup> and sanctioning 130 entities in China, Turkey, and United Arab Emirates known to provide dual-use technologies to the Russian military.<sup>6</sup>

Multilateral organizations, states, and accounting bodies are passing legislation on mandatory human rights due diligence (HRDD)<sup>7</sup> and sustainable investment reporting in the EU<sup>8</sup> and calling on companies to report on human rights and conflict as material risks.<sup>9</sup> These advancing legal frameworks and normative standards could expose companies to legal liability for failing to address and report on Russia/Ukraine risks. Similarly, the UN Guiding Principles on Business and Human Rights (UNGPs) call on companies to conduct heightened HRDD in conflict-affected areas due to the acute nature of risks in these contexts.

The misuse of TI's products during Russia's ongoing war against Ukraine may result in heightened human rights and financially material risks through potential exposure to sanctioned parties in the company's value chain, potential violations of emerging EU regulations and the UNGPs, and reputational damage associated with proximity to the commission of Russian war crimes.<sup>10</sup>

TI lags behind industry peers' measures to mitigate these risks, including Qualcomm's Human Rights Working Group, human rights impact assessments, and identification of "product misuse" as a salient risk<sup>11</sup> and Intel's human rights steering committee and customer screening based on human rights risks.<sup>12</sup>

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<sup>1</sup> [https://static.rusi.org/RUSI-Silicon-Lifeline-final-updated-web\\_1.pdf](https://static.rusi.org/RUSI-Silicon-Lifeline-final-updated-web_1.pdf)

<sup>2</sup> <https://www.exportgenius.in>

<sup>3</sup> <https://carnegieendowment.org/2023/05/17/hong-kong-s-technology-lifeline-to-russia-pub-89775>

<sup>4</sup> <https://www.state.gov/holding-russia-and-belarus-to-account/>

<sup>5</sup> <https://subscriber.politicopro.com/article/2023/05/new-biden-task-force-unveils-crackdown-on-theft-of-restricted-tech-00097168>

<sup>6</sup> <https://home.treasury.gov/news/press-releases/jy1871>

<sup>7</sup> [https://commission.europa.eu/business-economy-euro/doing-business-eu/corporate-sustainability-due-diligence\\_en](https://commission.europa.eu/business-economy-euro/doing-business-eu/corporate-sustainability-due-diligence_en)

<sup>8</sup> [https://finance.ec.europa.eu/sustainable-finance/disclosures/sustainability-related-disclosure-financial-services-sector\\_en](https://finance.ec.europa.eu/sustainable-finance/disclosures/sustainability-related-disclosure-financial-services-sector_en)

<sup>9</sup> [http://www.entegreraportlamatr.org/tr//mailing/25122020/images/Reporting-on-enterprise-value\\_climate-prototype\\_Dec20.pdf](http://www.entegreraportlamatr.org/tr//mailing/25122020/images/Reporting-on-enterprise-value_climate-prototype_Dec20.pdf)

<sup>10</sup> <https://www.pbs.org/newshour/show/parts-made-by-u-s-companies-used-to-build-russian-cruise-missiles>

<sup>11</sup> <https://www.qualcomm.com/company/corporate-responsibility/acting-responsibly/human-rights#:~:text=We%20also%20conduct%20regular%20materiality,and%20pay%2C%20and%20product%20misuse>

<sup>12</sup> <https://www.intel.com/content/www/us/en/policy/policy-human-rights.html>

## **SUPPORTING STATEMENT**

Shareholders seek information, at board and management discretion, through a report that describes TI's:

- Due diligence process to prevent access by prohibited users or for prohibited uses in conflict-affected and high-risk areas (CAHRA), including Russia;
- Board's role in overseeing the management of risks in CAHRA;
- Assessment of material risks to shareholder value posed by product misuse; and
- Assessment of additional policies, practices, and governance measures needed to mitigate identified risks.