



DIVISION OF
CORPORATION FINANCE

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

April 18, 2024

Elizabeth A. Ising
Gibson, Dunn & Crutcher LLP

Re: Walmart Inc. (the "Company")
Incoming letter dated February 5, 2024

Dear Elizabeth A. Ising:

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

The Proposal requests that the Company disclose a product category breakdown of the greenhouse gas emissions from Purchased Goods and Services and Use of Sold Products.

There appears to be some basis for your view that the Company may exclude the Proposal under Rule 14a-8(i)(7). In our view, the Proposal seeks to micromanage the Company. 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)(7).

Copies of all of the correspondence on which this response is based will be made available on our website at <https://www.sec.gov/corpfin/2023-2024-shareholder-proposals-no-action>.

Sincerely,

Rule 14a-8 Review Team

cc: Sanford Lewis

February 5, 2024

VIA ONLINE SUBMISSION

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

Re: *Walmart Inc.*
Shareholder Proposal of Green Century Capital Management
Securities Exchange Act of 1934—Rule 14a-8

Ladies and Gentlemen:

This letter is to inform you that our client, Walmart Inc. (the “Company”), intends to omit from its proxy statement and form of proxy for its 2024 Annual Shareholders’ Meeting (collectively, the “2024 Proxy Materials”) a shareholder proposal (the “Proposal”) and statement in support thereof received from Green Century Capital Management (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 2024 Proxy Materials with the Commission; and
- concurrently sent a copy 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 the Proposal, a copy of such correspondence should be furnished concurrently to the undersigned on behalf of the Company pursuant to Rule 14a-8(k) and SLB 14D.

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THE PROPOSAL

The Proposal states:

Resolved: Shareholders request that Walmart disclose, at reasonable expense and withholding proprietary data, a product category breakdown of the greenhouse gas emissions from Purchased Goods and Services and Use of Sold Products.

The Proposal and correspondence with the Proponent directly relevant to this no-action request are attached to this letter as Exhibit A.

BASIS FOR EXCLUSION

We hereby respectfully request that the Staff concur in our view that the Proposal may be excluded from the 2024 Proxy Materials pursuant to Rule 14a-8(i)(7) because the Proposal seeks to micromanage the Company. Specifically, the Proposal impermissibly seeks to eliminate management's discretion by dictating the methodology and activities encompassed in the Company's greenhouse gas ("GHG") emissions reporting.

BACKGROUND

The Company is a people-led, technology-powered omni-channel retailer dedicated to help people around the world save money and live better – anytime and anywhere – by providing the opportunity to shop in both retail stores and through eCommerce, and to access the Company's other service offerings. Each week, the Company serves approximately 240 million customers who visit more than 10,500 stores and numerous eCommerce websites in 20 countries.

As the first retailer to set approved science-based targets for emissions reduction, the Company has long been a leader on climate ambition, action, and disclosure, including driving substantial progress to decarbonize consumer goods/retail supply chains through the Project Gigaton initiative.¹ The Company supported the Paris Climate Agreement and, in 2016, became the first retailer to set targets approved by the Science Based Targets initiative. The Company estimates its Scopes 1, 2 and partial Scope 3 GHG emissions in accordance

¹ For more information on Project Gigaton, see <https://www.walmartsustainabilityhub.com/project-gigaton>. See also the Company's 2023 ESG Highlights at 20, available at <https://corporate.walmart.com/content/dam/corporate/documents/esgreport/fy2023-walmart-esg-highlights.pdf>.

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with the Greenhouse Gas Protocol (the “GHG Protocol”) and has disclosed this and other climate-related information annually since 2006.²

The GHG Protocol Initiative (the “Initiative”) is a multi-stakeholder partnership of businesses, non-governmental organizations, governments, and others, convened by the World Resources Institute and the World Business Council for Sustainable Development, whose mission is to “develop internationally accepted [GHG] accounting and reporting standards for business and to promote their broad adoption.”³ In furtherance of this objective, the Initiative published the GHG Protocol Corporate Accounting and Reporting Standard (as revised, the “Corporate Standard”) in order to, among other things, guide companies on preparing “a GHG inventory that represents a true and fair account of their emissions, through the use of standardized approaches and principles” and “provide business with information that can be used to build an effective strategy to manage and reduce GHG emissions.”⁴ For those companies that choose to report Scope 3 emissions, the Corporate Value Chain (Scope 3) Accounting and Reporting Standard⁵ (the “Scope 3 Reporting Standard,” and together with the Corporate Standard, the “Reporting Standards”) and the GHG Protocol’s Technical Guidance for Calculating Scope 3 Emissions (the “Scope 3 Reporting Guidance”)⁶ provide a standardized approach to assessing, categorizing, and measuring their value chain emissions, including Category 1 (Purchased Goods and Services) and Category 11 (Use of Sold Products). Purchased Goods and Services is a subcategory of Scope 3 emissions, which encompasses emissions produced in the process of making or growing the products a company purchases—*e.g.*, electricity used by a factory making apparel or fertilizer used to grow potatoes sold to the Company’s customers. Use of Sold Products is a subcategory of Scope 3 emissions, which encompasses emissions from the use of products after they have been sold by a company—*e.g.*, electricity used to power a coffee maker or natural gas used to heat water used to wash apparel sold to the Company’s customers.

² See <https://corporate.walmart.com/purpose/sustainability/planet/climate-change>.

³ Corporate Standard, *Introduction*, at 2, available at <https://ghgprotocol.org/sites/default/files/standards/ghg-protocol-revised.pdf>.

⁴ *Id.* at 3.

⁵ Available at https://ghgprotocol.org/sites/default/files/standards/Corporate-Value-Chain-Accounting-Reporting-Standard_041613_2.pdf.

⁶ Available at https://ghgprotocol.org/sites/default/files/2023-03/Scope3_Calculation_Guidance_0%5B1%5D.pdf (hereinafter *Scope 3 Reporting Guidance*).

ANALYSIS

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

A. Background

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" "refers to matters that are not 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," and identified two central considerations that underlie this policy. Relevant here is the second consideration, which 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 1998 Release further 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 Staff Legal Bulletin No. 14L (Nov. 3, 2021) ("SLB 14L"), the Staff clarified that not all "proposals seeking detail" 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."

Specifically, in assessing whether a proposal micromanages by seeking to impose specific methods for implementing complex policies, 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. *See Deere & Co.* (avail. Jan. 3, 2022) and *The Coca-Cola Co.* (avail. Feb. 16, 2022) (each concurring with the exclusion of proposals with a broadly phrased request that required detailed and intrusive actions to implement). And in evaluating whether a proposal probes matters "too complex" for shareholders, as a group, to make an informed judgment, the Staff

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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.” SLB 14L. The Staff has 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).

The Staff has applied this guidance to concur with the exclusion of proposals requesting the adoption of specific approaches to address climate change matters, with the extent to which the proposal permits the board or management to retain discretion being particularly relevant. In SLB 14L, the Staff indicated that when reviewing such proposals, it “would not concur in the exclusion of . . . proposals that suggest targets or timelines so long as the proposals *afford discretion to management as to how to achieve such goals.*” (Emphasis added). SLB 14L cites *ConocoPhillips Co.* (avail. Mar. 19, 2021) as an example of its application of the micromanagement standard, noting that the proposal at issue did not micromanage the company because it requested that the company address a particular issue but “did not *impose a specific method* for doing so.” (Emphasis added).

As with the shareholder proposals in *Deere*, *Coca-Cola*, and other precedents discussed below, the Proposal is excludable under Rule 14a-8(i)(7) because it seeks to micromanage the Company by forcing the Company to report its Scope 3 emissions in a particular way.

B. The Proposal May Be Excluded Under Rule 14a-8(i)(7) Because It Seeks To Micromanage The Company

The Proposal requests that the Company disclose “a product category breakdown of the greenhouse gas emissions from Purchased Goods and Services and Use of Sold Products,” and the Supporting Statement emphasizes the specificity and granularity of the requested disclosure by stating that “the essential aspect of [the Proposal’s] request is disclosing a **product category breakdown** of emissions from products purchased and sold.” As described above, the Company already provides extensive disclosure related to its efforts to lower its GHG emissions, including maintaining a dedicated ESG Reporting website⁷ and disclosing Scopes 1, 2, and partial Scope 3 GHG emissions in line with the industry-standard GHG Protocol.⁸ Furthermore, as the Supporting Statement acknowledges, the Company also “provides a breakdown of its operational emissions by criteria such as business division and geography.”⁹ Put differently, the Company already provides extensive disclosures regarding its GHG emissions overall and a detailed breakdown of such information at the level of

⁷ See <https://corporate.walmart.com/purpose/esgreport>.

⁸ See <https://corporate.walmart.com/purpose/sustainability/planet/climate-change>.

⁹ *Id.*

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business division and geographic operations. The Company also is continually seeking to refine its approach to GHG emissions reporting, including enhancing the transparency of its Scope 3 emissions inventory.

Despite the Company's extensive disclosures and carefully tailored approach to GHG emissions reporting, the Proposal seeks to substitute management's judgment about the appropriate way to address a complex, multifaceted issue by imposing a prescriptive standard that differs from the approach the Company believes is best suited to the Company when measuring and disclosing GHG emissions, from the approach the Company settled on when establishing related goals, and from common practice in the industry consistent with established frameworks. Namely, it seeks to significantly expand the details in the Company's GHG emissions reporting by seeking granular information about GHG emissions *for specific product categories* encompassing both Purchased Goods and Services and Use of Sold Products. The Company globally sells hundreds of thousands of different products in dozens of product categories. The Proposal would require the Company to provide granular disclosure regarding each of these categories (1) without regard for their significance to the Company's overall operations and emissions profile; (2) at a level of detail that is misaligned with the level of detail at which the Company reports its net sales and trends to the investment community; and (3) in a manner inconsistent with the established framework of the GHG Protocol, which the Company utilizes in its emissions reporting decisions. In this regard, the Proposal does not provide the Company "high-level direction on large strategic corporate matters." *See* SLB 14L. Instead, the Proposal requires detailed and highly intrusive actions that would afford no discretion to management as to how to implement its prescriptive request. As a result, the Proposal falls clearly within the scope of the 1998 Release and SLB 14L by addressing intricate, granular details and prescribing a specific method for implementing complex policies.

The Proposal is similar to the proposal in *Amazon.com, Inc.* (avail. Apr. 7, 2023, *recon. denied* Apr. 20, 2023) ("*Amazon*"), which the Proponent co-filed, and involves substantially similar analysis under Rule 14a-8(i)(7). In *Amazon*, the Staff concurred with the exclusion under Rule 14a-8(i)(7) of a proposal requesting that the company measure and disclose Scope 3 GHG emissions where the proposal defined Scope 3 emissions to include the company's "full value chain inclusive of its physical stores and e-commerce operations and all products . . . sold by third party vendors." The company argued that the proposal addressed a complex, multifaceted issue by dictating a prescriptive standard for defining the company's Scope 3 emissions inventory that differed from both the approach the company believed to be best suited to the nature of its operations and the standards set forth in the established framework of the GHG Protocol. *See also* *Chubb Limited (Green Century Equity Fund)* (avail. Mar. 27, 2023) ("*Chubb Limited*") (concurring with the exclusion under Rule 14a-8(i)(7) of a shareholder proposal requesting that the company adopt a policy for the

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timebound phase out of underwriting of new fossil fuel exploration and development projects because it inappropriately sought to interfere with the discretion of management and the board to implement the approach that in their business judgment would be the most effective manner for the company to holistically align itself with its climate-related goals).

While the Supporting Statement suggests that the Proposal's implementation affords "discretion" to management in "defining product categories," that is beside the point. The Proposal would still require disclosure at a "product category" level and would remove the Company's discretion to report in a different way, including in alignment with standardized reporting methodologies and regulatory requirements. The Proponent's gossamer delegation to the Company of the precise categorization of its products and services for the purpose of such disclosures does not preserve "high-level direction on large strategic corporate matters." Instead, similar to the proposal in *Amazon*, by requesting a product category breakdown of emissions from Purchased Goods and Services as well as Use of Sold Products, the Proposal seeks a level of "granularity" that "inappropriately limits discretion" of management.

Moreover, by requiring the Company to report Use of Sold Products GHG emissions broken down by product category, the Proposal further limits management's discretion because it effectively imposes a specific method on how such GHG emissions are calculated and analyzed, one which goes beyond the well-established international reporting framework in the GHG Protocol and may not be compatible with evolving regulatory and reporting requirements. The Reporting Standards firmly recognize the complexity in determining which activities and categories of Scope 3 emissions are included within a company's Scope 3 inventory and that such determinations should rest with a company's management, since inventories should be established taking into account company-specific circumstances. For example, the Corporate Standard states:

Scope 3 is optional, but it provides an opportunity to be innovative in GHG management. Companies may want to focus on accounting for and reporting those activities that are *relevant to their business and goals, and for which they have reliable information*. Since companies have discretion over which categories they choose to report, scope 3 may not lend itself well to comparisons across companies.¹⁰ (Emphasis added).

Use of Sold Products is one of the downstream Scope 3 emissions categories under the Reporting Standards. Companies electing to report on the Use of Sold Products category must include direct-use emissions in their disclosures but need not report on emissions from the use of products that indirectly consume energy. In any case, the Reporting Standards do

¹⁰ Corporate Standard, Chap. 4, *Setting Operational Boundaries; Scope 3: Other Indirect GHG Emissions*, at 29.

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not indicate a requirement for or benefit to a company's Use of Sold Products emissions disclosures being broken down by product type or category.

Developing an appropriate Scope 3 emissions reporting inventory requires complex principles, tradeoffs, and business goal considerations, and the Use of Sold Products category in particular presents companies with several distinct analytic challenges. The Scope 3 Reporting Guidance includes suggestions for consideration by companies choosing to report on Use of Sold Products, which illustrate the complexity of facts and circumstances covered by such analysis. For example, in making Use of Sold Product reporting decisions, “[i]t is important to consider the region where products are used, especially if the product consumes electricity because electricity grid emission factors can vary significantly.”¹¹ The Scope 3 Reporting Guidance also notes that “[t]he generation of a typical use phase may be difficult because the same product may consume more or less energy depending on the conditions in which it is used. For example, a potato may be roasted, boiled, or microwaved, each cooking method using a different amount of energy and thus producing different levels of emissions.”¹² These and other specific examples demonstrate the advanced level of technical expertise and deep familiarity required to completely and accurately account for and report on a company's GHG emissions from Use of Sold Products, *even before considering any breakdown by product type or category*. When read together, the Scope 3 Reporting Standards and Scope 3 Reporting Guidance demonstrate the complexity of both the numerical analysis and the strategic considerations to be made by a company in making Scope 3 Use of Sold Product disclosures in particular. These considerations are especially true for the Company in light of the hundreds of thousands of different products in dozens of product categories that comprise the Company's vast product offerings, as well as the magnitude and geographic diversity of its operations.

The Proposal requires significant resources and third-party support to achieve the accuracy and completeness needed to satisfy the core accounting and reporting principles of the Reporting Standards. An article by McKinsey & Company (“McKinsey”) cited by the Proposal reinforces this assessment. The Proposal's recitals refer to certain “no-regrets actions” recommended by McKinsey, including the following:

*Create emissions transparency at a product level. Retailers should start tracking emissions profiles at a product or subcategory level to help prioritize efforts to decarbonize and enable customers to make sustainable choices.*¹³

¹¹ Scope 3 Reporting Guidance, *Category 11: Use of Sold Products*, at 116.

¹² *Id.* at 121.

¹³ See <https://www.mckinsey.com/industries/retail/our-insights/climate-sustainability-in-retail-who-will-pay/>.

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Although not included in the excerpt cited by the Proposal, the immediately following sentences of McKinsey's recommendation explain that "[t]his approach would require action at two levels. First, retailers would have to partner with vendors and third-party emissions-tracking providers and form internal teams to create emissions databases. Second, they would need to invest in technology to make the emissions information readily available to customers."¹⁴ Thus, the requested disclosure of Scope 3 Purchased Goods and Services and Use of Sold Products emissions by product category is so granular not only because it would require detailed and intrusive actions to implement. It also impermissibly limits management's discretion in developing a holistic approach to Scope 3 emissions reporting across various aspects of the Company's complex operations.

The myriad strategic and financial decisions involved in even analyzing the Company's Scope 3 footprint across all relevant categories under the Reporting Standards, including Categories 1 (Purchased Goods and Services) and 11 (Use of Sold Products) initiative are ordinary business matters that are properly left to the judgment and discretion the Company's management. Like the proposal in *Amazon*, the Proposal would replace the judgment of the Company's management by mandating a prescriptive and highly detailed approach to the Company's Scope 3 GHG emissions reporting. Furthermore, the product category breakdown of GHG emissions from Purchased Goods and Services and Use of Sold Products implicates competitive strategic information, and the Company has determined there is no way to disclose Scope 3 emissions by product category or type without revealing commercially sensitive information about the Company's operations. As explained above, the level of detail required by the Proposal is misaligned with how the Company reports its net sales and trends to the investment community and thus forces disclosure at a level of granularity that the Company has already determined is not in the Company's best interest for strategic and competitive reasons. Such matters and determinations are fundamental to Company strategy and therefore not appropriate for direct shareholder oversight. By seeking to micromanage these day-to-day operational decisions, the Proposal is exactly the type that the 1998 Release and SLB 14L recognized as appropriate for exclusion under Rule 14a-8(i)(7).

In applying the micromanagement prong of Rule 14a-8(i)(7), the Staff consistently has concurred with the exclusion of shareholder proposals attempting to micromanage a company by delving too deeply into a company's Scope 3 goal setting and reporting processes. *See, e.g., Amazon; Apple Inc. (Christine Jantz)* (avail. Dec. 21, 2017) (concurring with the exclusion of a proposal requesting an evaluation and report on the potential for the company to achieve, by a fixed date, net-zero GHG emissions across operations directly owned by the Company and its major supplier where the company argued that the proposal

¹⁴ *Id.*

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would necessarily require the company to evaluate and prioritize particular courses of actions and changes to its operations and business, and then to replace its own judgments about the best course of action with a course of action directed solely at meeting the specific emissions level selected by the proponent by one of the arbitrary dates selected by the proponent); *Apple Inc.* (avail. Dec. 5, 2016) (concurring with the exclusion of a similar proposal that sought to define the scope of operations that would be included in a Scope 3 net-zero GHG emission plan). Moreover, the Staff has consistently concurred with the exclusion under Rule 14a-8(i)(7) of shareholder proposals similar to the Proposal that micromanage a company by seeking to direct how the company evaluates complex policies and to impose specific prescriptive methods to implement those policies. *See, e.g., Chubb Limited; The Coca-Cola Co.* (avail. Feb. 16, 2022) (concurring with the exclusion of a proposal requesting that the company submit any proposed political statement to shareholders at the next shareholder meeting for approval prior to publicly issuing the subject statement where the company argued that the proposal thereby “dictates the content of and process by which the [c]ompany may make certain public statements by interfering with and impermissibly limiting the fundamental discretion of management to decide upon and exercise the corporate right to speech, and instead imposes a time-consuming and unnecessary process”); *Texas Pacific Land Corp. (Recon.)* (avail. Oct. 5, 2021) (concurring with the exclusion of a proposal that would have required that the company “establish a goal of achieving a 95% profit margin” where the company asserted that “the profit margin strategy of the [c]ompany” was a “matter fundamental to management’s choices relevant to its revenues and expenditures in the context of the broader strategy of the [c]ompany,” and that the proposal, by “mandating a very specific strategic goal,” that was not informed by a “deep understanding of the [c]ompany’s operations, growth opportunities and the industry as a whole” would “circumvent[] management’s expertise and fiduciary duties,” ultimately micromanaging the company).

Here, the Proposal attempts to delve deeply into the Company’s Scope 3 reporting processes by specifically dictating how the Company must expand the details of its GHG emissions reporting. Moreover, not only does the Proposal seek to impermissibly limit management’s discretion, it is also inconsistent with “well-established national or international frameworks” and does not align with the Reporting Standards, or with current and/or proposed rules from the Commission, the State of California and the European Union, as well as from other countries. As the Supporting Statement makes clear, the Proposal’s “essential element” is the disclosure of the requested Scope 3 emissions data broken down by product category. That level of detail, however, is neither required nor recommended under the Reporting Standard. The Proposal does not provide the Company “high-level direction on large strategic corporate matters.” Instead, just as with the proposal in *Amazon* and the other precedent discussed above, the Proposal addresses a complex, multifaceted issue by imposing a prescriptive standard that both differs from the approach the Company believes is

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best suited to the nature of the Company's operations and the well-established framework on which the Company relies. As such, the Proposal is properly excludable under Rule 14a-8(i)(7).

C. Regardless Of Whether The Proposal Touches Upon A Significant Policy Issue, The Proposal Is Excludable Under Rule 14a-8(i)(7) Because It Seeks To Micromanage The Company

As discussed in the "Background" section above, a proposal may be excluded under Rule 14a-8(i)(7) if it seeks to micromanage a company by specifying in detail the manner in which the company should address a policy issue, regardless of whether the proposal touches upon a significant policy issue. Here, although the Proposal's references to "GHG emissions" and "[c]limate change" may address a significant social policy matter, the Proposal does not focus on a broad policy issue relating to GHG emissions and climate change. Instead, the Proposal seeks highly specific disclosure at such a granular level that it imposes a single solution to a complex and intrusive analytical process and inappropriately limits the discretion of Company management.

In this respect, it is well established that a proposal that seeks to micromanage a company's business operations is excludable under Rule 14a-8(i)(7) regardless of whether the proposal raises issues with a broad societal impact. *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 has 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 Amazon* (concurring that a proposal requesting the company report Scope 3 emissions from "its full value chain" was excludable for attempting to micromanage the company); *Verizon Communications, Inc. (National Center for Public Policy Research)* (avail. Mar. 17, 2022) (concurring that a proposal requesting the company publish annually the written and oral content of diversity, inclusion, equity, or related employee-training materials probed too deeply into matters of a complex nature); *The Coca-Cola Co.* (avail. Feb. 16, 2022) (concurring that a proposal addressing the company's political activities was excludable for attempting to micromanage the issue); and *SeaWorld 2021* (concurring that a proposal addressing animal rights was excludable for attempting to micromanage the issue). Thus, the fact that the Proposal addresses climate change reporting does not preclude its exclusion under Rule 14a-8(i)(7).

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CONCLUSION

Based upon the foregoing analysis, the Company intends to exclude the Proposal from its 2024 Proxy Materials, and we respectfully request that the Staff concur that the Proposal may be excluded under Rule 14a-8.

We would be happy to provide you with any additional information and answer any questions that you may have regarding this subject. Correspondence regarding this letter should be sent to shareholderproposals@gibsondunn.com. If we can be of any further assistance in this matter, please do not hesitate to call me at (202) 955-8287 or Vicki S. Vasser, the Company's Lead Counsel, at (479) 360-9887.

Sincerely,



Elizabeth A. Ising

Enclosures

cc: Vicki S. Vasser, Walmart Inc.
Andrew Shalit, Green Century Capital Management, Inc.

EXHIBIT A



12/21/23

Via Federal Express and email: ir@walmart.com

Attn: Gordon Y. Allison
Senior Vice President, Office of the Corporate Secretary, Chief Counsel for Finance and Corporate Governance
Walmart, Inc
702 Southwest 8th Street
Bentonville, Arkansas 72716-0215
[REDACTED]

Re: Shareholder Proposal for 2024 Annual Shareholder Meeting

I am 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 Walmart, Inc. (the “Company”) for its 2024 annual meeting of shareholders. Green Century Capital Management is the lead filer for the Proposal.

Per Rule 14a-8, Green Century Capital Management is the beneficial owner of at least \$2,000 worth of the Company’s common stock. We have held the requisite number of shares for over three years, and we will continue to hold sufficient shares in the Company through the date of the Company’s 2024 annual shareholders’ meeting. Verification of ownership from a DTC participating bank is enclosed.

Green Century Capital Management, Inc. is available to meet with the Company on January 9 at 1:00 PM, on January 10 at noon, and on January 11 at 1:30. All times are given in the Eastern time zone. Please let us know within 10 days if the Company would like to meet at one of these times. After 10 days we may no longer be able to hold these dates and times. We are happy to consider other times if these times are not possible for the Company.

We will send a representative to the stockholders’ meeting to move the shareholder proposal as required by the SEC rules.

Due to the importance of the issue and our need to protect our rights as shareholders, we are filing the enclosed proposal for inclusion in the proxy statement for a vote at the next shareholders’ meeting.

We welcome the opportunity to discuss the subject of the enclosed proposal with Company representatives. Please direct all correspondence to Andrew Shalit, Shareholder Advocate, at Green Century Capital Management, Inc. He may be reached at [REDACTED] or [REDACTED].

We would appreciate confirmation of receipt of this letter via email.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Leslie Samuelrich". The signature is written in a cursive style with a prominent initial "L" and a long, sweeping tail.

Leslie Samuelrich
President
The Green Century Funds
Green Century Capital Management, Inc.

Attribution of Emissions from Purchased and Sold Products

Whereas: Climate change is creating systemic risks to the economy, and the window for avoiding its most catastrophic impacts is quickly narrowing. Immediate, sharp emissions reduction is required of all market sectors and industries.¹

Walmart acknowledges risks associated with climate change in its 10-K, stating, “the long-term impacts of climate change, whether involving physical risks... or transition risks (such as regulatory or technology changes) are expected to be widespread and unpredictable.”²

The Company has taken steps to address these risks by disclosing greenhouse gas (GHG) emissions and implementing programs to reduce emissions.³ However, the disclosures do not provide sufficient detail for investors to fully evaluate the Company’s risks and opportunities or its planned responses.

McKinsey & Company lays out a series of “no-regrets actions” retailers can take to set the foundation for a decarbonization strategy⁴, including:

- *Create emissions transparency at a product level.* Retailers should start tracking emissions profiles at a product or subcategory level to help prioritize efforts to decarbonize and enable customers to make sustainable choices.
- *Include decarbonization in all procurement discussions.* Retailers can build emissions criteria into sourcing and procurement processes.

Walmart provides a breakdown of its operational emissions by criteria such as business division and geography. However, these operational emissions constitute less than 6% of the Company’s full value chain emissions. By contrast, the Company does not provide any breakdown of emissions from purchased goods and services or from the use of products sold by the Company, even though together these constitute over 85% of Company full value chain emissions.⁵

Emissions from the production and use of products sold by retailers such as Walmart are subject to increasing scrutiny and regulation. For example, California will prohibit the sale of most gasoline-powered lawncare equipment beginning January 1, 2024.⁶ Colorado recently adopted legislation that provides a 30% discount on electric lawncare equipment.⁷ Methane from the production of dairy products was the subject of a major announcement at COP28 in December 2023.⁸

In an environment that increasingly recognizes the impact of GHG emissions of products purchased and

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² <https://www.sec.gov/Archives/edgar/data/104169/000010416923000020/wmt-20230131.htm>

³ <https://corporate.walmart.com/purpose/sustainability/planet/climate-change>

⁴ <https://www.mckinsey.com/industries/retail/our-insights/climate-sustainability-in-retail-who-will-pay#/>

⁵ Due to changes and omissions in year-to-year reporting, this information is taken from the Company’s 2022 CDP report.

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used by consumers, companies should disclose emissions by product category to help investors better understand how they are managing the risks and opportunities of their product category mix.

Resolved: Shareholders request that Walmart disclose, at reasonable expense and withholding proprietary data, a product category breakdown of the greenhouse gas emissions from Purchased Goods and Services and Use of Sold Products.

Supporting Statement:

The essential aspect of this request is disclosing a *product category breakdown* of emissions from products purchased and sold. The Company collects related data for its existing disclosures. The Company may use its discretion in defining product categories so as not to disclose proprietary information. The proposal does not request information about any particular product.

Sanford Lewis & Associates

PO Box 231
Amherst, MA 01004-0231
413 549-7333
sanfordlewis@strategiccounsel.net

February 14, 2024

Via online submission platform

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

Re: Shareholder Proposal to Walmart Regarding greenhouse gases from Use of Sold Products on Behalf of Green Century Capital Management

Ladies and Gentlemen:

Green Century Capital Management, Inc. (the “Proponent”), a beneficial owner of common stock of Walmart (the “Company”), has submitted a shareholder proposal (the “Proposal”) to the Company.

I have been asked by the Proponent to respond to the letter dated February 5, 2024 (“Company Letter”) sent to the Securities and Exchange Commission by Elizabeth A. Ising, Gibson Dunn. In that letter, the Company contends that the Proposal may be excluded from the Company’s 2024 proxy statement.

We have redacted personal information consistent with the Staff’s guidance. A copy of this letter is being emailed concurrently to Elizabeth A. Ising.

Summary

Proposal requests that the company disclose a product category breakdown of greenhouse gas emissions from Purchased Goods and Services and from Use of Sold Products. The company has historically disclosed total emissions from Purchased Goods and Services and from Use of Sold Products. It has stated that it plans to do so in the future. However, it has not disclosed nor stated that it plans to disclose a breakdown by product category of each, even though it necessarily developed such information in order to attain its total emissions calculation.

The Company Letter asserts that the proposal is excludable as related to ordinary business. The Company Letter asserts that the Proposal infringes on decision-making details that should be left to the Company, and limits management and the board’s ability to set Company direction. In reality, the Proposal makes a simple and specific, limited request for disclosure of information the Company already has (or will have) and does not place any limits on the discretion of the board and management in running the Company.

BACKGROUND

Decision-making by investors is assisted in understanding the manner in which large societal developments are likely to pose disruptive risk. This is especially the case with understanding the extent and nature of a company's climate transition risk and the steps they are taking to manage it. Retailers' climate transition risks include changing consumer demand and regulatory risk. For example, consumer preferences for more climate friendly products may reduce consumer demand for products that emit more greenhouse gases.

Regulatory risk arises when federal, state or local governments promote or prohibit the sale of certain products or categories of products that contribute substantially to greenhouse gas emissions when produced or used. We have seen this recently in California's move to ban the sale of most gasoline-powered lawncare equipment, such as lawn mowers and leaf blowers, requiring instead that retailers sell only battery-powered or plug-in equipment.

A company's exposure to these risks is of material interest to investors. Investors want to know whether the company has a responsive strategy to ensure that material important product categories will not be disrupted by the climate transition.

Sustainability-savvy investors recognize the progress of the company in reducing absolute emissions from its operational footprint, as well as its development of targets for Scopes 1, 2 and 3 emissions.

However, existing company disclosures are opaque as to the relative transition risks posed to its various product categories within its Scope 3 emissions and therefore the extent to which the company is addressing these disruption risks effectively. The requested disclosure in the proposal, disclosing product category subtotals for Purchased Goods and Services and for Use of Sold Products, will allow investors to understand Walmart's exposure to transition risk and the steps it is taking to address that risk.

The Proposal Does Not Request Any Changes to Company Data Collection or Methodology

The No Action letter asserts that the Proposal attempts to micromanage the business, by imposing specific methods for collecting and calculating Scope 3 emissions, thereby limiting management discretion. This is not the case.

The Proposal does not dictate methods of data collection or calculation. Walmart's CDP reports describe the methodology used to collect and calculate GHG emissions from Purchased

Goods and Services and from Use of Sold Products. These descriptions make clear that the Company calculates these emissions on a product-category basis. The Proposal does not attempt to dictate or alter the existing methodology or calculations. It does not even refer to them. It simply requests disclosure of a small number of intermediate values that the company is already calculating.

Walmart's 2023 CDP Climate Change report includes the following statement about the methodology used to calculate GHG emissions from Purchased Goods and Services. **Note that it indicates the Company calculates this information by product category.**

Walmart calculated emissions from purchased goods and services using the spend-based method as outlined by the GHG Protocol's Technical Guidance for Calculating Scope 3 Emissions. Walmart performed this analysis using Calendar Year 2022 spend data for major markets including the United States, Mexico, Canada, and China. Calculations also included data on goods not for resale globally. To calculate emissions from purchased goods and services, **Walmart gathered data on the amount each market spends across different categories of goods and services** and multiplied this spend amount by the relevant emissions factor (in emissions / USD) from the US Environmental Protection Agency's Environmentally Extended Input-Output (EEIO) model and the global warming potential as per the IPCC Global Warming Potential Factors. **The emissions factors in the EEIO model accounts for the cradle-to-gate emissions required to produce one dollar of goods or services from that category.** (Emphasis added.)

Regarding GHG emissions from Use of Sold Products, Walmart's 2021 CDP Climate Change report includes the following explanation. The calculation method depends on selection of representative products within product categories.

CO₂e emissions associated with the Use of Sold Products were calculated according to the Greenhouse Gas Protocol's "Technical Guidance for Calculating Scope 3 Emissions." Emissions calculated include the total expected lifetime emissions from relevant products sold in the CY 2018 reporting year across Walmart US's portfolio of sold products. In addition to focusing on Walmart US, the calculation scope includes products that directly use energy and thus have direct use-phase emissions. Total emissions from Use of Sold Products was calculated as the following = primary quantity sold data * total lifespan (in years) use phase of representative products (identified via secondary research) * estimated annual energy consumption per representative (identified via secondary research) OR primary refrigerant or fuel use data * appropriate emission factors or GWPs (via publicly available factors from U.S. EPA, WRI Emission Factors Compilation from Cross-Sector Tools, Ecoinvent v2.2, and IPCC AR5). Any maintenance required during a sold product's lifetime was not included for this analysis, as were any potential aerosol releasing products.

Again, nothing in the proposal is asking for any alteration of the Company's chosen methods

for calculating these values. The Proposal does one thing, and one thing only: it asks the Company to disclose data that it will already be collecting (or calculating) and disclose a relatively simple summarization of that data.

The rationale for this request is made clear in the proposal. *Based on existing Company disclosures, these two subcategories of Scope 3 emissions (Purchased Goods and Services and Use of Sold Products) constitute a full 85% of Company's full value chain emissions.* While current Company disclosures provide many details within smaller constituents of its emissions footprint, these two areas, constituting over 3/4 of Company emissions, remain a black box of climate disruption risk management.

The Proposal seeks to give investors insight into the risks and opportunities created by a retailer's product mix. This insight can be provided by opening up the black box and disclosing how product categories comprise that 85%.

There can be little question that this information is of material interest to investors. As described in the resolution, regulators are actively imposing restrictions on product categories sold by the Company.

The information needed to satisfy the Proposal is already being collected and calculated by the Company to fulfill its commitment to disclose Scope 3 emissions. The Proposal merely asks the Company to summarize and disclose that existing data by product category.

The Proposal Does Not Require the Disclosure of Proprietary Information or Highly Granular Information

The Company Letter states that the proposal would require the disclosure of proprietary or highly granular data.

The Company globally sells hundreds of thousands of different products in dozens of product categories. The Proposal would require the Company to provide granular disclosure regarding each of these categories. Company Letter Page 6.

In fact, the Proposal specifically leaves the definition of product categories to the discretion of the Company. There is no requirement for a certain number of categories, and no requirement that the categorization match any particular system. The Proposal also directs the Company to withhold any proprietary information, thereby only disclosing category details at a level that does not disclose such information.

ANALYSIS

I. The Proposal is not excludable under Rule 14a-8(i)(7).

In 1998, the Commission issued a rulemaking release ("1998 Release") updating and interpreting the ordinary business rule, by both reiterating and clarifying past precedents. That

release was the last time that the Commission discussed and explained at length the meaning of the ordinary business exclusion. The Commission summarized two central considerations in making ordinary business determinations - whether the proposal addresses a significant social policy issue, and whether it micromanages.

First, the Commission noted that certain tasks were generally considered so fundamental to management's ability to run a company on a day-to-day basis that they could not be subject to direct shareholder oversight (e.g., the hiring, promotion, and termination of employees, as well as decisions on retention of suppliers, and production quality and quantity). However, proposals related to such matters but focused on sufficiently significant social policy issues (i.e., significant discrimination matters) generally would not be excludable.

Second, proposals could be excluded to the extent they seek to “micromanage” a company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would be unable to make an informed judgment. This concern did not, however, result in the exclusion of all proposals seeking detailed timeframes or methods. Proposals that passed the first prong but for which the wording involved some degree of micromanagement could be subject to a case-by-case analysis of whether the proposal probes too deeply for shareholder deliberation.

In this instance, the proposal addresses a significant policy issue, climate change, and it does not micromanage the issue to any extent that would merit exclusion. Instead, it addresses and seeks disclosure on an issue of material interest to investors.

Cited precedents are inapposite

The Company Letter cites Amazon, Coca-Cola and Deere & Co. precedents as supporting exclusion based on the ordinary business exclusion. These precedents are inapposite.

The proposal in *Amazon.com, Inc.* (Apr. 7, 2023) asked Amazon to measure and disclose Scope 3 emissions and as such prescribed methods for collecting and calculating the Scope 3 emission data. The current proposal neither requires measurement nor prescribes methods of reporting. In this instance the Company has already committed to collect Scope 3 data using methodologies of its own choosing; the proposal does not prescribe how to categorize or prioritize product usage categories. It merely seeks greater transparency of existing data for investors. Unlike the Amazon proposal, the current proposal does not impose "a specific method for implementing a complex policy disclosure without affording discretion to management."

Other precedents referenced by the Company, *The Coca-Cola Co.* (February 16, 2022) and *Deere & Co.* (January 3, 2022) involved proposals that were significantly more prescriptive than the Proposal at hand. In *Coca-Cola*, the proposal requested that the company get shareholder approval for “any proposed political statement.” The proposal in *Deere & Co.* requested that the company publicize its employee training materials. Unlike those proposals, this Proposal at hand maintains board and management discretion.

The request is consistent with the Greenhouse Gas Protocol

As stated in Staff Legal Bulletin 14 L, Staff will 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.” Indeed, this is why the current Proposal is framed within the Scopes 1, 2, and 3 structure described by the GHG Protocol, CDP, etc. Our request is made firmly and clearly within that framework.

It is important to note that the GHG Protocol, CDP, etc. provide disclosure *frameworks* and specify a floor of data to be provided. They do not impose a ceiling on the disclosure and note that company disclosures should be structured consistent with consumer and Investor demand. Companies are encouraged to present data in a manner that will be most useful to stakeholders in understanding the impacts, risks, opportunities the company faces in the disclosed area.

The corporate reporting standard of the GHG protocol notes at page 30 that companies have discretion as to which scope three categories are most relevant:

2. Determine which Scope 3 categories are relevant. Only some types of upstream or downstream emissions categories might be relevant to the company. They may be relevant for several reasons:

- They are large (or believed to be large) relative to the company's scope 1 and scope 2 emissions
- They contribute to the company's GHG risk exposure
- **They are deemed critical by key stakeholders (e.g., feedback from customers, suppliers, investors, or civil society)**
- There are potential emissions reductions that could be undertaken or influenced by the company.¹

The current proposal is thus a litmus test of whether this issue of potentially material climate disruption risk for particular product categories matters to investors. The proponent believes that it does.

The Company Letter goes to great lengths to describe the degree to which the proposal seeks to micromanage the company and its vendors associated with implementation of the proposal. This is patently incorrect. Nothing in the Proposal requests any changes in the existing approach

¹ The same concept is repeated on page 35 of the same document:
Page 35

Companies may need to track emissions over time in response to a variety of business goals, including:

- Public reporting
- Establishing GHG targets
- Managing risks and opportunities
- **Addressing the needs of investors and other stakeholders.**

or precludes the use of a different approach to identifying and calculating the emissions. The existing data gathering plan seems perfectly ample for fulfilling the proposal and any foreseeable plan would be equally sufficient. It just needs to be accompanied by reasonable disclosure, even if that includes language describing the limits of estimation method etc.

CONCLUSION

Based on the foregoing, we believe the Company has provided no basis for the conclusion that the Proposal is excludable from the 2024 proxy statement pursuant to Rule 14a-8. As such, we respectfully request that the Staff inform the Company that it is denying the no action letter request. If you have any questions, please contact Sanford Lewis at 413 549-7333 or sanfordlewis@strategiccounsel.net.

A handwritten signature in black ink, appearing to read "Sanford Lewis". The signature is written in a cursive style with a large initial "S".

Cc:
Andrew Shalit
Elizabeth A. Ising

The Proposal

Attribution of Emissions from Purchased and Sold Products

Whereas: Climate change is creating systemic risks to the economy, and the window for avoiding its most catastrophic impacts is quickly narrowing. Immediate, sharp emissions reduction is required of all market sectors and industries.²

Walmart acknowledges risks associated with climate change in its 10-K, stating, “the long-term impacts of climate change, whether involving physical risks... or transition risks (such as regulatory or technology changes) are expected to be widespread and unpredictable.”³

The Company has taken steps to address these risks by disclosing greenhouse gas (GHG) emissions and implementing programs to reduce emissions.⁴ However, the disclosures do not provide sufficient detail for investors to fully evaluate the Company’s risks and opportunities or its planned responses.

McKinsey & Company lays out a series of “no-regrets actions” retailers can take to set the foundation for a decarbonization strategy⁵, including:

- *Create emissions transparency at a product level.* Retailers should start tracking emissions profiles at a product or subcategory level to help prioritize efforts to decarbonize and enable customers to make sustainable choices.
- *Include decarbonization in all procurement discussions.* Retailers can build emissions criteria into sourcing and procurement processes.

Walmart provides a breakdown of its operational emissions by criteria such as business division and geography. However, these operational emissions constitute less than 6% of the Company’s full value chain emissions. By contrast, the Company does not provide any breakdown of emissions from purchased goods and services or from the use of products sold by the Company, even though together these constitute over 85% of Company full value chain emissions.⁶

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In an environment that increasingly recognizes the impact of GHG emissions of products purchased and used by consumers, companies should disclose emissions by product category to help investors better understand how they are managing the risks and opportunities of their product category mix.

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