



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 Legal and General Investment Management America, Inc. and co-filer for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders.

The Proposal requests that the board and management exercise their discretion to establish Company wage policies that are consistent with fiduciary duties and reasonably designed to provide workers with the minimum earnings necessary to meet a family's basic needs.

We are unable to concur in your view that the Company may exclude the Proposal under Rule 14a-8(i)(7). In our view, the Proposal transcends ordinary business matters.

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: Sara E. Murphy
The Shareholder Commons

February 5, 2024

VIA ONLINE SUBMISSION

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

Re: *Walmart Inc.*
Shareholder Proposal of Legal and General Investment Management
America, Inc. et al.
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 (the “Supporting Statement”), received from The Shareholder Commons, on behalf of Legal and General Investment Management America, Inc., and The Nathan Cummings Foundation (the “Proponents”).

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 copies of this correspondence to the Proponents.

Rule 14a-8(k) and Staff Legal Bulletin No. 14D (Nov. 7, 2008) (“SLB 14D”) provide that shareholder proponents are required to send companies a copy of any correspondence that the proponent elects 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 Proponents that if the Proponents elect to submit additional correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should be furnished concurrently to the undersigned on behalf of the Company pursuant to Rule 14a-8(k) and SLB 14D.

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THE PROPOSAL

The Proposal, which is captioned “Set compensation policy that optimizes portfolio value for Company shareholders,” states:

BE IT RESOLVED, shareholders ask that the board and management exercise their discretion to establish Company wage policies that are consistent with fiduciary duties and reasonably designed to provide workers with the minimum earnings necessary to meet a family’s basic needs, because Company compensation practices that fail to provide a living wage are harmful to the economy and therefore to the returns of diversified shareholders.

A copy of the Proposal and the Supporting Statement, as well as correspondence with the Proponents directly relevant to this no-action request, is attached to this letter as Exhibit A.

BASIS FOR EXCLUSION

We hereby respectfully request that the Staff concur in our view that the Proposal may be excluded from the 2024 Proxy Materials pursuant to Rule 14a-8(i)(7) because the Proposal deals with matters related to the Company’s ordinary business operations.

BACKGROUND

As described on the Company’s website:

Offering competitive wages by role and market enables us to recruit the talent we need to run our business. Our wage structure and pay practices reflect consideration of numerous relevant factors, including the skills necessary to do the job, business format (e.g., store, club, distribution/fulfillment center), local market labor conditions (competitive compensation for similar work and cost of living), and equity (fairness relative to other roles in the company and parity across race, ethnicity, and gender).¹

The Company also notes that it “continually review[s] and invest[s] in wages at all levels of [its] hourly workforce, raising minimum starting wages by over 90% and average hourly wages by 54% since 2015.” As of the end of first quarter of fiscal year 2024, the average

¹ Available at <https://corporate.walmart.com/purpose/esgreport/social/human-capital-good-jobs-advancement-for-associates>.

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hourly wage for Company associates in the U.S. was over \$17.50 per hour, more than double the federal minimum wage. In addition to a competitive wage, age-eligible associates can participate in an associate stock purchase plan where the Company matches 15% of the first \$1,800 U.S. associates contribute to their stock purchase program each year, up to \$270 per plan year.²

Moreover, beyond wages, the Company “provide[s] a number of additional benefits aimed at promoting associates’ financial well-being.” In the U.S., these benefits include affordable and accessible medical coverage, paid time off,³ parental leave,⁴ a 401(k) plan with a Company match, resources for personal financial education, financial planning tools, and no-cost behavioral health services for associates and their family members.

While the Company has prioritized upward mobility through on-the-job, digital, and in-person training programs, the Company’s Live Better U (LBU) offers more than 1.5 million U.S. part- and full-time hourly Walmart and Sam’s Club associates access to Company-paid formal education opportunities, from foundational offerings like high school completion, to short-form programs including Business Analytics and Project Management, to college degrees.

Additionally, the Company and the Walmart Foundation collaborate with stakeholders and thought leaders to promote recognition of skills (rather than educational pedigree) as key to career advancement for frontline workers and invest in organizations that promote equitable advancement. Over the last five years, the Company and the Walmart Foundation have invested over \$144 million to accelerate career mobility for frontline workers.

Decisions related to these compensation and benefits programs for the Company’s worldwide workforce are complex and involve the evaluation of many factors.

² On January 30, 2024, the Company announced that it will conduct a split of its outstanding shares of common stock at a ratio of 3:1, which is part of the Company’s ongoing review of optimal trading and spread levels and its desire for its associates to feel that purchasing shares is easily within reach, *available at* <https://corporate.walmart.com/news/2024/01/30/walmart-announces-3-for-1-stock-split>

³ The Company’s paid-time off (PTO) policy combines paid sick leave, vacation time, personal time, and holiday time into one category, giving associates flexibility in when and how to take time for themselves.

⁴ The Company provides U.S. salaried and full-time hourly associates with maternity and parental leave benefits. Parental leave applies to associates who become parents through birth, adoption, or foster care placement. Full-time hourly associates who become parents are provided six weeks of paid time off and the birth mom is provided ten weeks of paid maternity leave (which can be added to parental leave for a total of 16 weeks).

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ANALYSIS

The Proposal May Be Excluded Under Rule 14a-8(i)(7) Because The Proposal Deals With Matters Related to The Company’s Ordinary Business Operations

The Proposal requests that the Company establish wage policies regarding the minimum earnings necessary to meet a family’s basic needs. As discussed below, the Proposal may be excluded under Rule 14a-8(i)(7) because it relates to the Company’s general employee compensation and management of its workforce and does not focus on a significant social policy issue that transcends 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 its “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 explained 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. As relevant here, one consideration is that “[c]ertain tasks are so fundamental to management’s ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight.” The Commission stated that examples of tasks that implicate the ordinary business standard include “the management of the workforce, such as the hiring, promotion, and termination of employees, decisions on production quality and quantity, and the retention of suppliers.”

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

The Proposal requests that the Company establish a policy of paying workers a living wage. Other than a few references to socio-economic implications of income inequality, the Proposal and the Supporting Statement concern the level of the Company’s pay for its employees (associates). The Support Statement seeks to connect the discussion of the Company’s associate pay levels to concerns about income inequality and the economy by

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suggesting that income “inequality and disparity harm the entire economy” and that the Company paying a living wage could “prevent contributing to inequality and racial/gender disparity.”

The Proposal is excludable pursuant to Rule 14a-8(i)(7) because it directly relates to the Company’s general employee pay practices, a core component of the Company’s ordinary business. In analyzing shareholder proposals relating to compensation, the Staff has distinguished between proposals that relate to general employee compensation and proposals that address only executive officer and director compensation, indicating that the former implicate a company’s ordinary business operations and thus are excludable under Rule 14a-8(i)(7). *See* Staff Legal Bulletin No. 14A (July 12, 2002) (“SLB 14A”) (indicating that “[s]ince 1992, [the Staff has] applied a bright-line analysis to proposals concerning equity or cash compensation” under which companies “may exclude proposals that relate to general employee compensation matters in reliance on [R]ule 14a-8(i)(7)” but “may [not] exclude proposals that concern only senior executive and director compensation”); *Xerox Corp.* (avail. Mar. 25, 1993).

Consistent with the approach articulated in SLB 14A, the Staff has consistently concurred with the exclusion of shareholder proposals under Rule 14a-8(i)(7) when the proposals relate to employee compensation matters. For example, in *Dollar Tree, Inc.* (avail. May 2, 2022), the Staff concurred with the exclusion of a proposal as relating to ordinary business matters where it requested a report explaining how the company’s business strategy and incentives “will enable competitive employment standards, including wages [and] benefits” and to “include particular attention to [the company’s] lowest paid employees.” As with the Supporting Statement, the supporting statement in *Dollar Tree* raised general socio-economic concerns, noting that “employment conditions, including low wages and benefits, are key factors driving the low [workforce] participation rates” that prevailed following the COVID-19 pandemic, and that “[l]abor shortages are influencing a dynamic policy situation as the federal government, states and localities all reassess their minimum wage regulations.” Similarly, in *Amazon.com, Inc. (McRitchie)* (avail. Apr. 8, 2022) (“*Amazon 2022*”), the proposal requested an annual report assessing the distribution of stock-based incentives throughout the company’s worldwide workforce, including a table showing stock ownership “granted and utilized” by company employees in the United States, as related to the company’s ordinary business operations under Rule 14a-8(i)(7). The first line of the supporting statement in that proposal also refers to inequality, noting that “[w]ealth inequality in the United States has increased dramatically, is widely recognized as a significant social policy issue, and brings many problems, such as political polarization.” The company argued that the proposal related to one aspect of non-executive employee compensation and did not focus on a significant social policy issue. The Staff agreed that the proposal related to the company’s ordinary business operations

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and concurred with the exclusion of the proposal. *See also Repligen Corp.* (avail. Apr. 1, 2022) (same). Similarly, in *JPMorgan Chase & Co. (Ott)* (avail. Mar. 25, 2022), *recon. denied on procedural grounds* (avail. Apr. 19, 2022), the Staff concurred with the exclusion under Rule 14a-8(i)(7) of a proposal requesting an annual report of pay and total estimated compensation for each employee role, broken down by location, for the prior year giving the mean, median, and pay band (high/low) for the role, both weighted and unweighted for cost of living adjustments. The company argued that the proposal related to general compensation considerations, even though the proposal's supporting statement argued that transparency around such compensation information would enhance shareholder profits, empower employees, control reputational narrative, and reduce gender and ethnic wage gaps.

These recent precedents are consistent with the Staff's historic position involving shareholder proposals addressing minimum wage and other non-executive employee compensation and general workforce-related matters. In *Amazon.com, Inc.* (avail. Mar. 1, 2017) ("*Amazon 2017*"), *CVS Health Corp.* (avail. Mar. 1, 2017), and *The TJX Companies, Inc.* (avail. Mar. 1, 2017), the Staff in each instance concurred with the exclusion under Rule 14a-8(i)(7) of a proposal requesting that the companies adopt and publish principles for minimum wage reform, on the basis that each "proposal relates to general compensation matters, and does not otherwise transcend day-to-day business matters," notwithstanding that the supporting statement of each proposal, like the Proposal, raised general socio-economic concerns, noting that "[p]overty-level wages and income inequality may undermine consumer spending and economic growth." *See also McDonald's Corp.* (avail. Mar. 18, 2015) (concurring with the exclusion of a proposal requesting an increased minimum wage of \$11.00 per hour, on the basis that the proposal "relates to general compensation matters"); *Yum! Brands, Inc.* (avail. Feb. 24, 2015) (concurring with the exclusion of a proposal requesting a specific format for reporting on "store employees' median wage," noting that the proposal related to "[the company's] ordinary business operations" because "the proposal relates to compensation that may be paid to employees generally and is not limited to compensation that may be paid to senior executive officers and directors"); *International Business Machines Corp. (Boulain)* (avail. Jan. 22, 2009) (concurring with the exclusion of a proposal requesting that no employee above a certain management level receive a salary raise in any year in which at least two-thirds of all company employees did not receive a three percent salary raise); *Amazon.com, Inc.* (avail. Mar. 7, 2005) (concurring with the exclusion of a proposal requesting that the board adopt a new policy on equity compensation and cancel an existing equity compensation plan that potentially affected the general company workforce). In each of these cases, whether the proposal requested a report or an affirmative change in employee compensation practices, the Staff concurred with exclusion under Rule 14a-8(i)(7).

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As with the proposals in the precedents discussed above, the Proposal relates to the general compensation practices for the Company's workforce. In requesting that the Company establish the specified wage policies, namely policies "reasonably designed to provide workers with the minimum earnings necessary to meet a family's basic needs" (*i.e.*, a "living wage"), the Proposal, as with the proposal in *Amazon 2022*, addresses one aspect of the company's non-executive employee compensation policies without taking into account the various other factors necessary to analyze and determine such policies and their applicability across the range of workers the company employs. Just as the *Amazon 2022* proposal implicated the company's ordinary business operations by addressing only one aspect of the company's compensation practices, the Proposal likewise seeks to delve into complex issues regarding compensation and benefits for the Company's general workforce. Particularly in the context of the Company's approximately 2.1 million associates around the globe, the Proposal seeks to address workforce management issues that are not appropriate for shareholder oversight. The Proposal's concern about broad, general employee compensation is embodied in the conclusion of the Proposal's supporting statement, which says, "Please vote for: Set compensation policy that optimizes portfolio value for Company shareholders." Accordingly, as in the above-cited precedents, the Proposal relates to ordinary business matters and is properly excludable under Rule 14a-8(i)(7).

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

In the 1998 Release, the Commission reaffirmed the standards for when proposals are excludable under the "ordinary business" provision that the Commission initially articulated in Exchange Act Release No. 12999 (Nov. 22, 1976) (the "1976 Release"). In the 1998 Release, the Commission also distinguished proposals pertaining to ordinary business matters that are excludable under Rule 14a-8(i)(7) from those that "focus on" significant social policy issues. The Commission stated, "proposals relating to [ordinary business] matters but focusing on sufficiently significant social policy issues (e.g., significant discrimination matters) generally would not be considered to be excludable, because the proposals would transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote." 1998 Release. When assessing proposals under Rule 14a-8(i)(7), the Staff considers the terms of the resolution and its supporting statement as a whole. *See* Staff Legal Bulletin No. 14C, part D.2 (June 28, 2005) ("In determining whether the focus of these proposals is a significant social policy issue, we consider both the proposal and the supporting statement as a whole.").

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The Staff most recently discussed its interpretation of how it will evaluate whether a proposal “transcends the day-to-day business matters” of a company in Staff Legal Bulletin No. 14L (Nov. 3, 2021) (“SLB 14L”), noting that it is “realign[ing]” its approach to determining whether a proposal relates to ordinary business with the standards the Commission initially articulated in 1976 and reaffirmed in the 1998 Release. In addition, the Staff stated that it will “no longer tak[e] a company-specific approach to evaluating the significance of a policy issue under Rule 14a-8(i)(7)” but rather will consider only “whether the proposal raises issues with a broad societal impact, such that they transcend the ordinary business of the company.” The Staff also stated that under its new approach proposals “previously viewed as excludable because they did not appear to raise a policy issue of significance for the company may no longer be viewed as excludable under Rule 14a-8(i)(7)” and that “proposals squarely raising human capital management issues with a broad societal impact would not be subject to exclusion solely because the proponent did not demonstrate that the human capital management issue was significant to the company” (citing to the 1998 Release and *Dollar General Corp.* (avail. Mar. 6, 2020) and providing “significant discrimination matters” as an example of an issue that transcends ordinary business matters).

Proposals with passing references touching upon topics that might raise significant social policy issues—but that do not focus on or have only tangential implications for such issues—are not transformed from an otherwise ordinary business proposal into one that transcends ordinary business, and as such, remain excludable under Rule 14a-8(i)(7). Notably, in *PetSmart, Inc.* (avail. Mar. 24, 2011), the proposal requested that the board require the company’s suppliers to certify that they had not violated “the Animal Welfare Act, the Lacey Act, or any state law equivalents.” The Staff concurred with exclusion, noting that “[a]lthough the humane treatment of animals is a significant policy issue, we note your view that the scope of the laws covered by the proposal is ‘fairly broad in nature from serious violations such as animal abuse to violations of administrative matters such as record keeping.’” See also *Amazon.com, Inc. (Domini Impact Equity Fund)* (avail. Mar. 28, 2019) (concurring with the exclusion of a proposal requesting that the board annually report to shareholders “its analysis of the community impacts of [the company’s] operations, considering near- and long-term local economic and social outcomes, including risks, and the mitigation of those risks, and opportunities arising from its presence in communities,” noting that “the [p]roposal relates generally to ‘the community impacts’ of the [c]ompany’s operations and does not appear to focus on an issue that transcends ordinary business matters”).

For example, in *Amazon 2022*, the proposal requested an annual report assessing the distribution of stock-based incentives throughout the company’s worldwide workforce, including a table showing stock ownership “granted and utilized” by company employees

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in the United States. Notably, the supporting statement included several paragraphs regarding wealth inequality, suggesting that the proposal would reduce “racial and gender wealth gaps” and cause the company to “benefit shareholders, employees, and the economy.” The Staff concurred with exclusion of the proposal as relating to the company’s ordinary business operations, noting that “the Proposal relates to, and does not transcend, ordinary business matters.” See also *Dominion Resources, Inc.* (avail. Feb. 3, 2011) (concurring with the exclusion of a proposal requesting the company to promote “stewardship of the environment” that touched upon environmental matters—such as renewable energy—with the Staff noting that the proposal related to “the products and services offered for sale by the company”).

The Staff’s guidance in SLB 14L does not affect the excludability of the Proposal because, unlike the proposal in *Dollar General*, the Proposal does not raise significant discrimination matters or board-oversight of human capital issues, and it does not focus on any other issue “with a broad societal impact” such that it transcends ordinary business matters. Instead, the Proposal relates to general compensation matters; specifically, the establishment of a Company compensation policy of paying workers a living wage.

The assertions in the Supporting Statement that income “inequality and disparity harm the entire economy” and “[t]he costs and risks created by low wages and inequality will directly reduce long-term diversified portfolio returns because a drag on GDP directly reduces returns on diversified portfolios” do not mean the Proposal implicates a significant social policy issue for the purposes of Rule 14a-8(i)(7). Instead, the Proposal relates to the Company’s compensation and benefits practices with respect to its general workforce, as shown by references to the Company’s wage practices. The Proposal’s overwhelming concern with the Company’s general employee compensation practices demonstrates that the Proposal relates to an ordinary business matter, and does not transcend the Company’s ordinary business, even if these references to income inequality are deemed to touch on a significant policy issue.

In this respect, the Proposal is comparable to the proposal considered in *Amazon 2022*, discussed above, where the supporting statement referenced wealth inequality and racial/gender wealth gaps but the subject matter actually related to the company’s ordinary business matters and therefore was excludable. Similarly, in *Marriott International, Inc.* (avail. Mar. 26, 2021), the Staff concurred with the exclusion under Rule 14a-8(i)(7) of a proposal that requested a report on “external social costs created by the compensation policy” of the company and the effect on “overall market returns.” Although the supporting statement referenced issues such as inequality, the economy, corporate purpose, fiduciary duties, social costs of the company’s business model, and other issues that the proposal characterized as “social issue[s] of great importance,” the company argued, and

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the Staff agreed, that the proposal related to general employee compensation, not on any tangential implications of employee compensation on general society, and accordingly did not focus on a significant social policy issue.

Moreover, the Staff has consistently concurred with the exclusion of shareholder proposals under Rule 14a-8(i)(7) relating to wage reform and wage inequality for hourly and non-executive employees, finding that such proposals did not implicate a significant social policy matter. Of particular relevance for the Proposal, in *Wal-Mart Stores, Inc.* (avail. Mar. 15, 1999), the Staff concurred with exclusion of a proposal requesting a report that was to include, among other things, a description of “[p]olicies to implement wage adjustments to ensure adequate purchasing power and a sustainable living wage,” with the Staff noting the proposal was excludable under Rule 14a-8(i)(7) because the quoted language “relate[d] to ordinary business operations.” Similarly, in *Apple, Inc. (Zhao)* (avail. Nov. 16, 2015), the proposal requested that the company’s compensation committee “adopt new compensation principles responsive to America’s general economy, such as unemployment, working hour[s] and wage inequality.” Notably, the supporting statement discussed concerns related to wage inequality by reference to certain executive officers’ compensation. The Staff concurred with exclusion of the proposal as relating to the company’s ordinary business operations, noting that “the proposal relates to compensation that may be paid to employees generally and is not limited to compensation that may be paid to senior executive officers and directors.” See also *Amazon 2017*, *CVS Health Corp.* and *The TJX Companies, Inc.* (concurring with the exclusion of proposals requesting adoption and publication of principles for minimum wage reform, noting that each “proposal relates to general compensation matters, and does not otherwise transcend day-to-day business matters,” despite the proponent’s assertion that minimum wage was a significant social policy issue and the supporting statement arguing in support that “[p]overty-level wages and income inequality may undermine consumer spending and economic growth”); *Kmart Corp.* (avail. Mar. 12, 1999) (concurring with the exclusion of a proposal requesting a report that was to include, among other things, a description of “[p]olicies to implement wage adjustments to ensure adequate purchasing power and a sustainable living wage” and noting the proposal was excludable under Rule 14a-8(i)(7) because it “relate[d] to ordinary business operations”).

Here, similar to the proposals in *Amazon 2022*, *Marriott International*, *Wal-Mart Stores* and the other precedents cited above, the Proposal relates to the ordinary business issue of general employee compensation, and, as with those precedents, the passing references to income inequality, racial/gender disparity, the economy and fiduciary duties do not implicate, much less focus on, a significant social policy issue 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.
Sarah E. Murphy, The Shareholder Commons
John Hoepfner, Legal and General Investment Management America, Inc.
Laura Campos, The Nathan Cummings Foundation

EXHIBIT A



Via electronic mail

December 19, 2023

Walmart Inc.

702 Southwest 8th Street
Bentonville, Arkansas 72716-0215

Via: [REDACTED]

Attn: Gordon Y. Allison, Senior Vice President, Office of the Corporate Secretary, Chief Counsel for Finance and Corporate Governance

RE: Rule 14a-8 shareholder proposal for 2024 Annual Shareholder Meeting

Dear Mr. Allison,

The Shareholder Commons (“TSC”) is filing a shareholder proposal on behalf of Legal and General Investment Management America, Inc. (the “Proponent”), shareholder of Walmart Inc. (the “Company”), for action at the next Company annual meeting. The Proponent submits the enclosed shareholder proposal for inclusion in the Company’s 2024 proxy statement, for consideration by shareholders, in accordance with Rule 14a-8 of the General Rules and Regulations of the Securities Exchange Act of 1934. The Proponent may be joined by other shareholders as co-filers.

A letter from the Proponent authorizing TSC to act on its behalf is enclosed. TSC will attend the stockholders’ meeting to move the resolution on behalf of the Proponent as required.

The Proponent and I are available to meet with the Company via teleconference on January 4, 2024, at 10:00 a.m. or 10:30 a.m. CST. In [SLB 14L Section E](#), SEC Staff “encourages both companies and shareholder proponents to acknowledge receipt of emails when requested.” Please acknowledge receipt of this proposal, and kindly indicate whether you wish to accept either of our proposed meeting times.

The Proponent can be reached at [REDACTED]. I can be contacted at [REDACTED] or [REDACTED]. **Please address any future correspondence regarding the proposal to me.** I am available to discuss this issue and would welcome the opportunity to engage.

Sincerely,

Sara E. Murphy

cc: Rachel Brand [REDACTED]

[REDACTED]

December 20, 2023

Gordon Y. Allison
SVP, Office of the Corporate Secretary,
Chief Counsel for Finance and Corporate Governance
Walmart Inc.
702 Southwest 8th Street
Bentonville, Arkansas 72716-0215

Re: Shareholder proposal for 2024 Annual Shareholder Meeting

Dear Mr. Allison,

The Nathan Cummings Foundation 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 Walmart Inc. (the "Company") for its 2024 annual meeting of shareholders. The Foundation is co-filing the Proposal with lead filer Legal and General Investment Management America, Inc. ("LGIMA"). LGIMA and the Shareholder Commons, which filed the proposal on behalf of LGIMA, indicate their ability to meet in a letter accompanying LGIMA's filing. We designate LGIMA and the Shareholder Commons to meet initially with the Company and defer to them as the main contacts but may join discussions subject to availability.

The Nathan Cummings Foundation has continuously beneficially owned, for at least one year as of the date hereof, at least \$25,000 worth of the Company's common stock. Verification of this ownership is included herewith. The Foundation intends to continue to hold such shares through the date of the Company's 2024 annual meeting of shareholders.

If you have any questions or need additional information regarding our submission of this proposal, I can be contacted by email at [REDACTED] or at [REDACTED].

Sincerely,



Laura Campos
Director, Corporate & Political Accountability

[Walmart Inc.: Rule 14a-8 Proposal, December 12, 2023]

[This line and any line above it – Not for publication.]

ITEM 4*: Set compensation policy that optimizes portfolio value for Company shareholders

BE IT RESOLVED, shareholders ask that the board and management exercise their discretion to establish Company wage policies that are consistent with fiduciary duties and reasonably designed to provide workers with the minimum earnings necessary to meet a family's basic needs, because Company compensation practices that fail to provide a living wage are harmful to the economy and therefore to the returns of diversified shareholders.¹

Supporting Statement:

The Company increased the minimum hourly wage for store associates to \$14/hour in 2023. While that is good progress, the living wage in 2022 was \$25.02 per hour per worker annually for a family of four (two working adults).² The Company's CEO, meanwhile, makes 933 times more than the Company's median employee. While people of color compose more than half the Company's U.S. workforce, they account for only 29 percent of officer roles,³ indicating they make up a disproportionate number of employees not earning a living wage.

Such inequality and disparity harm the entire economy. For example, closing the living wage gap worldwide could generate an additional \$4.56 trillion every year through increased productivity and spending,⁴ translating to a more than 4 percent increase in annual GDP. A 2020 report found that had four key racial gaps for Black Americans—wages, education, housing, and investment—been closed in 2000, \$16 trillion could have been added to the U.S. economy. Closing those gaps in 2020 could have added \$5 trillion to the U.S. economy over the ensuing five years.⁵

By paying so many of its employees below a living wage, the Company may believe it will increase margins and thus financial performance. But gain in Company profit that comes at the expense of society and the economy is a bad trade for Company shareholders who are diversified and rely on broad economic growth to achieve their financial objectives. The costs and risks created by low wages and inequality will directly reduce long-term diversified portfolio returns because a drag on GDP directly reduces returns on diversified portfolios.⁶

This proposal asks the Board to set a Company compensation policy of paying a living wage to prevent contributing to inequality and racial/gender disparity. The Company could achieve this Proposal's objective by securing Living Wage for US Employer certification.⁷ Additionally, MIT has an online living

¹ <https://theshareholdercommons.com/case-studies/labor-and-inequality-case-study/>

² <https://livingwage.mit.edu/articles/103-new-data-posted-2023-living-wage-calculator>

³ <https://corporate.walmart.com/purpose/belonging-diversity-equity-inclusion/belonging-diversity-equity-and-inclusion-report>

⁴ <https://tacklinginequality.org/files/introduction.pdf>

⁵

<https://ir.citi.com/%2FPRxPvgNWu319AU1ajGf%2BsKbjJjBJSaTOSdw2DF4xynPwFB8a2jV1FaA3ldy7vY59bOtN2lxVQM=>

⁶ <https://www.epi.org/publication/secular-stagnation/>

⁷ <https://livingwageforum.org/becoming-certified/>

wage calculator, or the Company can work within frameworks promulgated by organizations such as IDH Sustainable Trade Initiative or The Living Wage Network. The Company should use such frameworks in a manner that allows shareholders to gauge compliance and progress, while providing the Company with discretion as to how to achieve the living-wage goal.

Please vote for: Set compensation policy that optimizes portfolio value for Company shareholders –
Proposal 4*

[This line and any below are not for publication]
Number 4* to be assigned by the Company



FROM:

Sara E. Murphy

sara@theshareholdercommons.com

+1.202.578.0261

Submission via Online Form

March 4, 2024

TO:

Office of Chief Counsel

Division of Corporation Finance

U.S. Securities and Exchange Commission

100 F Street NE

Washington, DC 20549

RE: Shareholder Proposal to Walmart Inc. Regarding Company wage policies that optimize portfolio value for Company shareholders, on Behalf of Legal and General Investment Management America, Inc. and The Nathan Cummings Foundation

Greetings:

Legal and General Investment Management America, Inc. and The Nathan Cummings Foundation (the "Proponents") are beneficial owners of common stock of Walmart Inc. (the "Company"). The Shareholder Commons ("TSC") has submitted a shareholder proposal (the "Proposal") on behalf of the proponents to the Company.

I am responding on behalf of the Proponents to the letter dated February 5, 2024 ("Company Letter") sent to the Securities and Exchange Commission by Elizabeth A. Ising of Gibson Dunn. In that letter, the Company contends 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 Ising.

SUMMARY

The Proposal requests that the board and management exercise their discretion to establish Company wage policies that are consistent with fiduciary duties and reasonably designed to provide workers with the minimum earnings necessary to meet a family's basic needs, because Company compensation practices that fail to provide a living wage are harmful to the economy and therefore to the returns of diversified shareholders.

The Company letter asserts the Proposal is excludable under Rule 14a-8(i)(7) because it relates to the Company's ordinary business because it relates to the Company's general employee compensation and does not focus on a significant social policy issue that transcends the Company's ordinary business operations.

However, the Proposal focuses on the significant social policy issue of living wage and the effect on diversified investors and is consistent with recent Staff precedent allowing proposals focused on similar issues. The Staff has already articulated its perspective, finding in *Tractor Supply Company* (January 6, 2022) a transcendent significant social policy issue where the proposal focuses on compensation issues and the returns of diversified investors. Therefore, the Proposal should not be excluded from the Company's proxy statement.

BACKGROUND

Diversification and Cost Externalization

Sound investment practice mandates that fiduciaries adequately diversify their portfolios. This allows investors to reap the increased returns available from risky securities while greatly reducing their overall risk. This insight defines Modern Portfolio Theory.¹ This core principle is reflected in legal regimes that govern investment fiduciaries, such as ERISA, the federal law that governs private pension plans. ERISA requires plan fiduciaries to act prudently "by diversifying the investments of the plan."² The late John Bogle, founder of one of the world's largest mutual fund companies, summarized the wisdom of a diversified investment strategy: "Don't look for the needle in the haystack; instead, buy the haystack."³

Thus, accepted investment theory and fiduciary standards require adequate diversification. Once a portfolio is diversified, the most important factor determining return will not be how the companies in that portfolio perform relative to other companies ("alpha"), but rather how the market performs as a whole ("beta"). "[A]ccording to widely accepted research, alpha is about one-tenth as important as beta [and] drives some 91 percent of the average portfolio's return."⁴

This distinction between individual company returns and overall market return is critical because shareholder return at an individual company does not reflect its "externalized" costs, i.e., those costs it generates but does not pay. Externalized costs may include harmful emissions, resource depletion, and the instability and lost opportunities caused by income inequality. Diversified shareholders absorb the collective costs of such externalities because they degrade and endanger the stable, healthy systems upon which corporate financial returns depend. Thus, while individual companies can externalize costs from their own narrow perspective to "maximize shareholder value," diversified shareholders experience

1 Harry Markowitz, "Portfolio Selection," *The Journal of Finance*, Volume 7, No. 1, 1952, Pages 77-91.

2 29 USC Section 404(a)(1)(C); see also Uniform Prudent Investor Act, § 3 ("trustee shall diversify the investments of the trust" absent special circumstances.).

3 John C. Bogle, *The Little Book of Common Sense Investing: The Only Way to Guarantee your Fair Share of the Stock Market*, 86 (2007).

4 Stephen Davis, Jon Lukomnik and David Pitt-Watson, *What They Do with Your Money* (2016).

and in a sense “internalize” these costs through lowered return on their portfolios.⁵ Stewardship of the externalizing companies can reduce externalities (even profitable ones) with an eye toward increasing portfolio-level return.

Living Wage

The living wage model reflects “the minimum employment earnings necessary to meet a family’s basic needs while also maintaining self-sufficiency.”⁶ The living wage is abstemious, making no allowances for savings, consumption of even modest prepared foods, or home purchases, among other things. As the MIT Living Wage Calculator explains: “The living wage is the minimum income standard that, if met, draws a very fine line between the financial independence of the working poor and the need to seek out public assistance or suffer consistent and severe housing and food insecurity. In light of this fact, **the living wage is perhaps better defined as a minimum subsistence wage for persons living in the United States.**”⁷ The concept of a living wage has been recognized as a human right in multiple international treaties and frameworks such as the Universal Declaration of Human Rights.⁸

Walmart’s cost externalization resulting from its failure to pay a living wage

Walmart asserts that its “average hourly wage for Company associates in the U.S. was over \$17.50 per hour, more than double the federal minimum wage.” The federal minimum wage is irrelevant to the proposal at hand, as it is not a measure of living wage. The minimum wage is the lowest legal pay rate companies can offer their employees. Many people believe this is the same as living wage, but that is not the case. Indeed, in some regions, the chasm between the two is substantial. For instance, the U.S. federal minimum wage stood at \$7.25 per hour in 2023, whereas the U.S. average living wage in 2022 was \$25.02 per hour for a family of four (two working adults, two children).⁹

The Company’s minimum hourly wage is only \$14 an hour. This means Walmart pays many of its workers significantly less than a living wage.

Walmart’s policy of paying many of its employees less than a living wage affects the entire economy. Because wages are themselves a component of GDP, an increase in wages will raise GDP. This will then

⁵ Externalities and Corporate Objectives in a World with Diversified Shareholder/Consumers, Robert G. Hansen and John R. Lott, JOURNAL OF FINANCIAL AND QUANTITATIVE ANALYSIS, 1996, vol. 31, issue 1, 43-68 (abstract) (“If shareholders own diversified portfolios, and if companies impose externalities on one another, shareholders do not want value maximization to be corporate policy. Instead, shareholders want companies to maximize portfolio values. This occurs when firms internalize between-firm externalities.”)

⁶ “Living Wage Calculator,” accessed August 4, 2023, <https://livingwage.mit.edu/pages/about>. (Living wage is a “market-based approach that draws upon geographically specific expenditure data related to a family’s likely minimum food, childcare, health insurance, housing, transportation, and other basic necessities (e.g. clothing, personal care items, etc.) costs. The living wage draws on these cost elements and the rough effects of income and payroll taxes to determine the minimum employment earnings necessary to meet a family’s basic needs while also maintaining self-sufficiency.”)

⁷ (Emphasis added) <https://livingwage.mit.edu/pages/about> (Living wage is a “market-based approach that draws upon geographically specific expenditure data related to a family’s likely minimum food, childcare, health insurance, housing, transportation, and other basic necessities (e.g. clothing, personal care items, etc.) costs. The living wage draws on these cost elements and the rough effects of income and payroll taxes to determine the minimum employment earnings necessary to meet a family’s basic needs while also maintaining self-sufficiency.”)

⁸ <https://www.ohchr.org/en/human-rights/universal-declaration/translations/english>

⁹ Amy Glasmeier, “NEW DATA POSTED: 2023 Living Wage Calculator,” Living Wage Calculator (blog), February 1, 2023, <https://livingwage.mit.edu/articles/103-new-data-posted-2023-living-wage-calculator>.

be amplified by the consumption financed by higher wages (the Keynesian “multiplier effect”).¹⁰ A 2009 Goldman Sachs report found that increasing the income of people with lower wages has a proportionately larger stimulating effect on the economy than increasing the income of those on high incomes.¹¹

Corresponding to Walmart’s current failure to pay many of its employees a living wage, there is also significant wage inequality within the Company. According to the Company’s 2023 Proxy Statement,¹² the Company’s CEO made \$25.3 million in the previous fiscal year, or 933 times more than the Company’s median employee. Walmart’s employees of color make up a disproportionate number of employees not earning a living wage because people of color compose more than half of the Company’s U.S. workforce, yet account for only 29 percent of officer roles.¹³

It has been estimated that a one percent increase in inequality leads to a decrease in GDP of 0.6-1.0 percent.¹⁴ A one percent difference in inequality could thus lead to 17-26 percent lower GDP over 30 years and correspondingly lower returns for a diversified portfolio. According to the Economic Policy Institute, income inequality is slowing U.S. economic growth by reducing demand by 2-4 percent.¹⁵ A reduction in GDP implies a trend toward a similar reduction in portfolio value over time. As shown in the groundbreaking study, “Universal Ownership: Why Environmental Externalities Matter to Institutional Investors,” the value of a diversified equities portfolio is directly proportional to GDP.¹⁶

Any material gap in the global economy’s value will have significant implications for investors. Over long time periods, the overall value of a diversified portfolio of investment securities moves in proportion to the economy’s intrinsic value, because owning a diversified portfolio of securities is essentially owning a piece of the economy. As a result, the negative economic impact of poverty wages that occurs over the next 30 years will be absorbed by investors who hold diversified portfolios over that time. Conversely, higher wages lead to increased productivity and consumption in a virtuous macroeconomic cycle that benefits investment portfolios.

Investor support for shareholder proposals such as this one can play a major role in mitigating the negative effects of low wages by driving best practices at large companies such as Walmart.

Walmart: Largest U.S. Employer

10 John Maynard Keynes, *The General Theory of Employment, Interest, and Money*, 1st Harvest/HBJ ed. 1936 (Reprint, San Diego, CA, USA: Harcourt, Brace, Jovanovich, 1964).

11 Eric Atkins, “The Wealthy Spend Less than You Think,” *The Globe and Mail*, October 16, 2009, <https://www.theglobeandmail.com/report-on-business/the-wealthy-spend-less-than-you-think/article4289018/>.

12 https://s201.q4cdn.com/262069030/files/doc_financials/2023/ar/2023-proxy-statement.pdf

13 <https://corporate.walmart.com/purpose/belonging-diversity-equity-inclusion/belonging-diversity-equity-and-inclusion-report>

14 Orsetta Causa, Alain de Serres, and Nicolas Ruiz, “Growth and Inequality: A Close Relationship?,” OECD, 2014, <https://www.oecd.org/economy/growth-and-inequality-close-relationship.htm>.

15 Josh Bivens, “Inequality Is Slowing US Economic Growth Faster Wage Growth for Low- and Middle-Wage Workers Is the Solution,” *Economic Policy Institute*, December 12, 2017, 28.

16 .79 Richard Mattison, Mark Trevitt, and Liesl van Ast, “Universal Ownership: Why Environmental Externalities Matter to Institutional Investors” (UNEP Finance Initiative and PRI, October 6, 2010), https://www.unepfi.org/fileadmin/documents/universal_ownership_full.pdf.

The economic impact of Walmart's wages cannot be overstated due to its massive workforce. Walmart is the largest employer in the United States.¹⁷ With 1.6 million associates in the United States alone,¹⁸ more people work at Walmart than the collective populations of 11 U.S. states and the District of Columbia.¹⁹ In 2019, Walmart's revenues were \$514 billion, or about 2.4 percent of the entire United States' GDP.²⁰ A 2020 research article found that if Walmart were a country, it would rank in the top 25 countries in terms of GDP.²¹

For years, Walmart's prominent impact on the larger economy has been widely recognized. The term "Walmart Effect" can be traced back to the 1990s.²² In 2006, business journalist Charles Fishman wrote a book titled "The Walmart Effect"²³ describing the positive and negative effects that Walmart has on consumers and the economy. In 2013, Democratic staff of the U.S. House Committee on Education and the Workforce issued a report titled: "The Low-Wage Drag on Our Economy: Wal-Mart's low wages and their effect on taxpayers and economic growth."²⁴ The report raises the issue of cost externalization of Walmart's low wages: "While employers like Wal-Mart seek to reap significant profits through the depression of labor costs, the social costs of this low-wage strategy are externalized."

The negative effects on the economy caused by low wages translates to reduced returns for longer-term diversified portfolios. Therefore, the Proposal asserts that Walmart should pay a living wage to protect the investment portfolios of its diversified shareholders.

ANALYSIS

I. The Proposal is not excludable under Rule 14a-8(i)(7) because the Proposal deals with a significant social policy issue that transcends the Company's ordinary business operations.

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 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

¹⁷ https://www.annualreviews.org/doi/10.1146/annurev-resource-111820-032827#_i14

¹⁸ <https://corporate.walmart.com/askwalmart/how-many-people-work-at-walmart>

¹⁹ Alaska, Delaware, District of Columbia, Hawaii, Maine, Montana, New Hampshire, North Dakota, Rhode Island, South Dakota, Vermont, Wyoming
<https://www.census.gov/data/tables/time-series/demo/popest/2020s-state-total.html#v2023>

²⁰ <https://www.retaildive.com/news/retailer-walmart-dive-awards/566187/#:~:text=It%20has%20more%20than%2011%2C300,of%20the%20entire%20U.S.%20GDP.>

²¹ McGee, Robert W., How Highly Would Walmart Rank if It Were a Country? A Comparison of Walmart Revenue to Nations' GDP (January 22, 2020). Available at SSRN: <https://ssrn.com/abstract=3524078>

²² Julie Morris, "Store shuts doors on Texas town," USA Today, October 11, 1990

²³ <https://www.goodreads.com/en/book/show/74915>

²⁴ <https://democrats-edworkforce.house.gov/imo/media/doc/WalMartReport-May2013.pdf>

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.

The Company does not argue that this Proposal micromanages the Company, so the relevant analysis here relates only to the existence of a significant social policy issue.

Cost externalization as a significant social policy issue

The Proposal is unambiguous about the underlying policy issue: the Company may be engaging in workforce practices that raise the Company’s profits but harm society (and ultimately the diversified portfolios of most of its shareholders). This “trade” of company wealth for social harm has broad societal impact.

The focus of the Proposal is consistent with numerous Staff determinations regarding proposals related to cost externalization and shareholder primacy, which were found to both address a transcendent policy issue and not to micromanage.

In *BlackRock, Inc.* (April 4, 2022) the Staff did not allow exclusion for ordinary business, finding instead that the Proposal “transcends ordinary business matters and does not seek to micromanage the Company.” The proposal requested that the Company “adopt stewardship practices designed to curtail corporate activities that externalize social and environmental costs that are likely to decrease the returns of portfolios that are diversified in accordance with portfolio theory, even if such curtailment could decrease returns at the externalizing company.” The Staff found the proposal did not micromanage and agreed it focused on a significant social policy issue: “the question of how corporations account for the systemic and other costs they impose on other companies when they prioritize shareholder returns and ignore the costs they externalize.”

The SEC has also determined that cost externalization, connected to other social impacts, is a significant social policy issue sufficient to transcend ordinary business. See *Johnson & Johnson* (February 8, 2022), (unable to concur with exclusion for a proposal requesting that the board report on the public health costs created by limited sharing of the Company’s COVID-19 vaccine technologies and the manner in which such costs may affect the market returns available to its diversified shareholders, where the proponent argues that the proposal addresses a significant policy issue of “whether companies should create financial return with practices that harm social and environmental systems” and that part of that issue is “the treatment of COVID-19 intellectual property”); and see *CVS Health Corporation* (March 15, 2022) (unable to concur with exclusion of a proposal which requests that the board report on the link

between the public-health costs created by the Company's sale of unhealthy foods and its prioritization of financial returns over its healthcare purpose and whether such prioritization threatens the returns of diversified shareholders, where the proponent argued that the proposal "addresses the policy issue of shareholder primacy and corporate cost externalization in pursuit of financial return" and also argues that "the sale of unhealthy food" is a significant social policy issue).

The type of cost externalization named in the Proposal (living wage policies) constitutes a significant policy issue on its own

The Proposal requests that the Company establish wage policies "reasonably designed to provide workers with the minimum earnings necessary to meet a family's basic needs, because Company compensation practices that fail to provide a living wage are harmful to the economy and therefore to the returns of diversified shareholders." While insufficient wage policies are clearly part of the larger "effect on diversified investors" policy issue discussed above, it also has broad societal impact standing on its own. The supporting statement demonstrates this:

- "[C]losing the living wage gap worldwide could generate an additional \$4.56 trillion every year through increased productivity and spending, translating to a more than 4 percent increase in annual GDP."
- "A 2020 report found that had four key racial gaps for Black Americans—wages, education, housing, and investment—been closed in 2000, \$16 trillion could have been added to the U.S. economy. Closing those gaps in 2020 could have added \$5 trillion to the U.S. economy over the ensuing five years."

Living wage is an issue with broad societal impact that has been a subject of widespread public debate. As a recent essay in *The New York Times* observed:

[W]hile it is a common refrain that a living wage would force employers to hire fewer workers and thus destroy jobs, there are persuasive empirical and philosophical responses to this objection. The stagnation of real wages for American workers does not reflect their low productivity so much as the increasing concentration of wealth within companies. In 1965, the average top chief executive made 21 times as much as a typical worker in America. In 2020, the ratio was 351 to 1.²⁵

Even considering Walmart's recent increases in their wages, the Company is still receiving negative press attention for its failure to meet living wage standards. For example, author Rick Wartzman was originally a part of a 2003 Pulitzer-prize-winning L.A. Times investigation of Walmart's wage issues. Walmart gave Wartzman "inside access" for his 2022 book on the changes Walmart has implemented, but he argues

25 Nick Romeo, The M.I.T. Professor Defining What It Means to Live, *The New York Times* (December 28, 2021), available at <https://www.nytimes.com/2021/12/28/opinion/living-wage-calculator.html>.

that the Company “hasn’t fixed things yet” and titled his book “Still Broke.” He argues Walmart’s proud claims of paying an average of \$17 an hour are insufficient because the Company still does not pay a living wage.²⁶

Particularly in the case of a major employer such as Walmart, the ability of shareholders to drive corporate practices on wages significantly affects the wider economy, which is of particular concern for diversified investors. As referenced in the Background section above, Walmart’s wages have a significant impact on the economy, with 1.6 million Walmart associates employed in the United States.²⁷ This Proposal addresses a significant social policy issue and thus should not be excluded as ordinary business.

II. Inclusion of the Proposal is merited as a human capital management issue.

The Company argues the Proposal is excludable because it relates to general employee compensation. However, inclusion of the Proposal is consistent with recent Staff bulletins and precedent. Where the focus of the Proposal is clearly on a significant policy issue, the fact that it may touch on issues related to employee compensation should not result in exclusion. This was made clear in SLB L:

[P]roposals squarely raising human capital management issues with a broad societal impact would not be subject to exclusion solely because the proponent did not demonstrate that the human capital management issue was significant to the company.

Even before the bulletin, the Staff recognized that the issue of corporate externalized costs that damage diversified portfolios satisfies the significant policy exception under Rule 14a-8(i)(7). See *PepsiCo, Inc.*, (March 12, 2021) (Staff declined to concur in exclusion under Rule 14a-8(i)(7) when proposal requested a study of public health costs associated with the company’s business and the manner in which such costs affect diversified shareholders who rely on overall market returns); *CVS Health Corp.*, recon. denied (March 30, 2021) (“a proposal related to the external public health costs... may raise a significant policy issue that transcends a company’s ordinary business operations”); and see later decisions in *Johnson & Johnson* (February 8, 2022) and *CVS Health Corporation* (March 15, 2022) (discussed above).

The Staff’s perspective on finding a transcendent significant social policy issue where the proposal focuses on compensation issues and the returns of diversified investors is exemplified in *Tractor Supply Company* (January 6, 2022). There, the Staff stated the proposal “transcends ordinary business matters because it raises human capital management issues with a broad societal impact. See Staff Legal Bulletin No. 14L (Nov. 3, 2021).” (Citation in original.) The proposal requested that “the board commission and publish a report on (1) whether the Company participates in compensation and workforce practices that prioritize Company financial performance over the economic and social costs and risks created by inequality and racial and gender disparities and (2) the manner in which such costs and risks threaten

²⁶ <https://www.cbsnews.com/news/walmart-minimum-wage-20-an-hour-still-broke-rick-wartzman-author/>

²⁷ <https://corporate.walmart.com/askwalmart/how-many-people-work-at-walmart>

returns of diversified shareholders who rely on a stable and productive economy.” Like the Tractor Supply proposal, the Proposal at hand also focuses on compensation and its relationship to the returns of diversified investors and should similarly be found to address a significant social policy issue that transcends the Company’s ordinary business. In its no action challenge, Tractor Supply also attempted to argue the Proposal was excludable because “its subject matter relates to general employee compensation” and did not focus on a significant policy issue, but the SEC Staff rejected this argument.

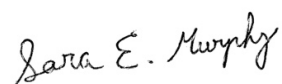
The Company’s cited precedents regarding general compensation matters are distinguishable. In arguing the Proposal does not focus on a significant social policy issue, the Company references precedents that touched on general compensation matters but were not found to address a transcendent significant social policy issue. In contrast, this Proposal is concerned with the portfolio-wide impact of inadequate wages.

The Company states “[p]roposals with passing references touching upon topics that might raise significant social policy issues—but that do not focus on or have only tangential implications for such issues—are not transformed from an otherwise ordinary business proposal into one that transcends ordinary business.” The Company then references Staff precedents where the proposals focused on broad issues with a large scope, such as “community impacts of the company’s operations.” In contrast to cited precedents, the current Proposal focuses on a specific issue with broad societal impact: living wage policies and the impact on diversified investors. Contrary to the Company’s assertion, this Proposal does more than make “passing references” to the impact of wage inequality on the Company’s own diversified investors. The Resolved Clause makes clear that the Proposal request is for the Company to establish wage policies that provide a living wage because failure to do so is harmful to the returns of diversified investors. The Supporting Statement continues to express the current lack of a living wage policy at the Company and how that failure affects the economy and the portfolio-wide returns of diversified investors.

CONCLUSION

Based on the foregoing, it is clear 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 deny the Company’s no-action letter request. If you have any questions, you can write to me at sara@theshareholdercommons.com.

Sincerely,



Sara E. Murphy
Chief Strategy Officer

EXHIBIT I: SHAREHOLDER PROPOSAL

[Walmart Inc.: Rule 14a-8 Proposal, December 12, 2023]
[This line and any line above it – Not for publication.]

ITEM 4*: Set compensation policy that optimizes portfolio value for Company shareholders

BE IT RESOLVED, shareholders ask that the board and management exercise their discretion to establish Company wage policies that are consistent with fiduciary duties and reasonably designed to provide workers with the minimum earnings necessary to meet a family's basic needs, because Company compensation practices that fail to provide a living wage are harmful to the economy and therefore to the returns of diversified shareholders.²⁸

Supporting Statement:

The Company increased the minimum hourly wage for store associates to \$14/hour in 2023. While that is good progress, the living wage in 2022 was \$25.02 per hour per worker annually for a family of four (two working adults).²⁹ The Company's CEO, meanwhile, makes 933 times more than the Company's median employee. While people of color compose more than half the Company's U.S. workforce, they account for only 29 percent of officer roles,³⁰ indicating they make up a disproportionate number of employees not earning a living wage.

Such inequality and disparity harm the entire economy. For example, closing the living wage gap worldwide could generate an additional \$4.56 trillion every year through increased productivity and spending,³¹ translating to a more than 4 percent increase in annual GDP. A 2020 report found that had four key racial gaps for Black Americans—wages, education, housing, and investment—been closed in 2000, \$16 trillion could have been added to the U.S. economy. Closing those gaps in 2020 could have added \$5 trillion to the U.S. economy over the ensuing five years.³²

By paying so many of its employees below a living wage, the Company may believe it will increase margins and thus financial performance. But gain in Company profit that comes at the expense of society and the economy is a bad trade for Company shareholders who are diversified and rely on broad economic growth to achieve their financial objectives. The costs and risks created by low wages and inequality will directly reduce long-term diversified portfolio returns because a drag on GDP directly reduces returns on diversified portfolios.³³

This proposal asks the Board to set a Company compensation policy of paying a living wage to prevent contributing to inequality and racial/gender disparity. The Company could achieve this Proposal's

²⁸ <https://theshareholdercommons.com/case-studies/labor-and-inequality-case-study/>

²⁹ <https://livingwage.mit.edu/articles/103-new-data-posted-2023-living-wage-calculator>

³⁰ <https://corporate.walmart.com/purpose/belonging-diversity-equity-inclusion/belonging-diversity-equity-and-inclusion-report>

³¹ <https://tacklinginequality.org/files/introduction.pdf>

³² <https://ir.citi.com/%2FPRxPvgNWu319AU1ajGf%2BsKbjJjBJSaTOSdw2DF4xynPwFB8a2jV1FaA3ldy7vY59bOtN2lxVQM=>

³³ <https://www.epi.org/publication/secular-stagnation/>

objective by securing Living Wage for US Employer certification.³⁴ Additionally, MIT has an online living wage calculator, or the Company can work within frameworks promulgated by organizations such as IDH Sustainable Trade Initiative or The Living Wage Network. The Company should use such frameworks in a manner that allows shareholders to gauge compliance and progress, while providing the Company with discretion as to how to achieve the living-wage goal.

Please vote for: Set compensation policy that optimizes portfolio value for Company shareholders –
Proposal 4*

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³⁴ <https://livingwageforum.org/becoming-certified/>