



DIVISION OF
CORPORATION FINANCE

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

March 26, 2025

Sidley Austin LLP
Sonia Gupta Barros

Re: Tractor Supply Company (the "Company")
Incoming letter dated January 3, 2025

Dear Sonia Gupta Barros:

This letter is in response to your correspondence concerning the shareholder proposal (the "Proposal") submitted to the Company by the LongView LargeCap 500 Index Fund for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders.

The Proposal requests the board prepare and issue a report describing the research and analysis the board undertook before making changes to its DEI policies and practices in Summer 2024.

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 relates to the Company's ordinary business operations. 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/2024-2025-shareholder-proposals-no-action>.

Sincerely,

Rule 14a-8 Review Team

cc: Luke Morgan
As You Sow



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January 3, 2025

Via Online Submission Form

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

Re: *Tractor Supply Company*
Shareholder Proposal of LONGVIEW LARGE CAP 500 INDEX FUND
Securities Exchange Act of 1934—Rule 14a-8

Dear Ladies and Gentlemen:

On behalf of the Tractor Supply Company (the “Company”), and pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), we hereby request confirmation that the staff (the “Staff”) of the Securities and Exchange Commission (the “Commission” or the “SEC”) will not recommend enforcement action if the Company excludes a shareholder proposal received on November 25, 2024 (collectively with the supporting statement provided therewith, the “Proposal”) from As You Sow® on behalf of LONGVIEW LARGE CAP 500 INDEX FUND (the “Proponent”) from its proxy statement and form of proxy for its 2025 Annual Meeting of Shareholders (collectively, the “2025 Proxy Materials”). The Company expects to file the 2025 Proxy Materials in definitive form with the SEC on or about March 26, 2025.

Pursuant to Rule 14a-8(j) under the Exchange Act, we have:

- filed this letter with the Commission no later than eighty (80) calendar days before the Company intends to file its definitive 2025 Proxy Materials with the Commission; and
- concurrently sent copies of this correspondence to the Proponent.

Rule 14a-8(k) and *Staff Legal Bulletin No. 14D* (Nov. 7, 2008) (“SLB 14D”) provide that shareholder proponents are required to send companies a copy of any correspondence that the proponents elect to submit to the Commission or the Staff. 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 that

SIDLEY

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correspondence should be furnished concurrently to the undersigned on behalf of the Company pursuant to Rule 14a-8(k) and SLB 14D.

THE PROPOSAL

A copy of the Proposal and the corresponding supporting statement is attached hereto as Exhibit A. The Proposal states:

RESOLVED: Shareholders request that Tractor Supply's Board prepare and issue a report, at reasonable expense, excluding proprietary information, describing the research and analysis the Board undertook before making changes to its DEI policies and practices in Summer 2024.

BASES FOR EXCLUSION

We hereby request that the Staff concur in our view that the Proposal may be excluded from the 2025 Proxy Materials pursuant to Rule 14a-8(i)(7) because the Proposal deals with matters relating to the Company's ordinary business, does not focus on an issue that transcends ordinary business matters, and micromanages the Company by probing too deeply into matters of a complex nature (in each case, as defined in Staff guidance). As explained in more detail below, we believe that the Proposal is excludable on the foregoing bases because it seeks to dictate the Company's public disclosure with respect to the research and analysis the Board of Directors (the "Board") undertook in its decision with respect to certain Company policies and practices and would require disclosure beyond the level deemed appropriate by the Company's Board. We believe that a company's disclosure practices with respect to Board actions are related to the Board's and management's discretion on ordinary business matters and are not a proper subject for a shareholder proposal submitted through the SEC's Rule 14a-8 process, even if arguably related to a topic of broader societal impact. If the Staff does not concur with our ability to exclude the Proposal, Rule 14a-8 would become an avenue for proponents to seek and dictate additional disclosure on board materials and processes for every board or company action with which a stockholder disagreed, and we believe that is not the intended purpose of these procedures.

BACKGROUND

On June 27, 2024, the Company announced certain changes in its approach to its policies and practices regarding diversity, equity and inclusion ("DEI"). As the Board and the Company deemed appropriate, these changes and other information regarding the Board's rationale for making such changes were described in a press release issued by the Company, the contents of which were also included in the body of a Current Report on Form 8-K filed with the

Commission on June 28, 2024 (the “Company Statement”).¹ The Board had considered and approved of the policy changes described in the Company Statement, taking into account the information that Board members deemed relevant to that decision, which included information provided by Company management and internal discussion, as well as their own experience and business judgment.

ANALYSIS

The Proposal Is Excludable Under Rule 14a-8(i)(7)

Rule 14a-8(i)(7) Background

Rule 14a-8(i)(7) permits a company to omit a proposal from its proxy materials if the proposal “deals with a matter relating to the company’s ordinary business operations.” The purpose 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.” *See Release No. 34-40018* (May 21, 1998) (the “1998 Release”). As explained by the Commission, the term “ordinary business” in this context refers to “matters that are not necessarily ‘ordinary’ in the common meaning of the word, and is rooted in the corporate law concept of providing management with flexibility in directing certain core matters involving the company’s business and operations.” *Id.*

The 1998 Release explains that there are two central considerations underlying the ordinary business exclusion. First, as it relates to the subject matter of the proposal, “[c]ertain tasks are so fundamental to management’s ability to run a company on a ‘day-to-day basis’ that they could not, as a practical matter, be subject to direct shareholder oversight.” *Id.* The Commission has differentiated between these ordinary business matters and “significant social policy issues” that “transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote.” *Id.* The latter is not excludable as pertaining to ordinary business matters, and in assessing whether a particular proposal raises a “significant social policy issue,” the Staff will review the terms of the proposal as a whole, including the supporting statement. *Id.*

Second, as it relates to the implementation of the subject matter of the proposal, the ability to exclude a proposal “relates to the degree to which the proposal ‘micromanages’ 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.* As stated in *Staff Legal Bulletin No. 14L* (Nov. 3, 2021) (“SLB 14L”), the Staff will “focus on the level of granularity

¹ Available here: <https://www.sec.gov/ix?doc=/Archives/edgar/data/916365/000091636524000077/tsc0-20240627.htm>.

sought in the proposal and whether and to what extent it inappropriately limits discretion of the board or management” while considering “the sophistication of investors generally on the matter, the availability of data, and the robustness of public discussion and analysis on the topic.” The Staff stated that “[t]his 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.” *Id.*

Where a shareholder proposal requests the issuance of a report or disclosure, as is the case with the Proposal, the Staff has stated that it will look to whether the underlying subject matter of the report or disclosure concerns an ordinary business issue of the company. *SEC Staff Legal Bulletin No. 14E* (Oct. 27, 2009).

The Proposal Is Excludable Under Rule 14a-8(i)(7) Because It Deals with Matters Relating to the Company’s Ordinary Business and Does Not Focus on an Issue that Transcends Ordinary Business Matters

The Proposal is excludable under Rule 14a-8(i)(7) because it deals with matters relating to ordinary business decisions, specifically the Board’s operations and processes in exercising its oversight of the Company’s policies and the public disclosure that should be made with respect to the research and analysis the Board undertook in its DEI policy decisions.

The Proposal Relates to the Board’s Operations and Processes in Exercising Its Oversight of the Company’s Policies

The Company believes that the Proposal is exactly the type of matter that the “ordinary business” exception in Rule 14a-8(i)(7) is intended to address. The Proposal relates to the Board’s operations and processes and seeks certain disclosure of the information the Board took into account in exercising its oversight authority over the Company’s policies in a level of detail and manner that is not typical or appropriate for public companies.

The Board’s responsibility and authority for overseeing the Company’s DEI policies is governed by Delaware law and set forth in the Company’s and the Board’s governance documents, including the Company’s Corporate Governance Guidelines and the Charter of the Compensation and Human Capital Committee. Indeed, “[a]dopting policies and practices related to talent recruitment, retention, engagement and succession as well as diversity, equality and inclusion initiatives” is described in the Company’s Corporate Governance Guidelines as a “primary function” of the Board. Requesting disclosure related to the research and analysis the Board undertook in connection with the change in the Company’s policies represents an attempt to intervene directly in the Board’s operations and processes, as well as the Company’s public disclosures, each which are squarely within the ambit of the Company’s “ordinary business.”

Unlike proposals that relate to issues of a broader societal impact, this proposal seeks to dictate to the Board and the Company the specifics of disclosures it should make to the broader public regarding Board deliberations and decisions, which we believe is not a topic appropriate for shareholder proposals submitted under Rule 14a-8. Accordingly, the Proposal does not enable stockholders to provide “high-level direction on large strategic corporate matters,” but rather would enable them to weigh in on the Board’s operations and processes and the Board and the Company’s disclosure practices for internal decision-making.

The Proposal Requests Disclosure Relating to the Board’s Rationale for a Policy Change, Where the Implementation of the Policy Relates to the Company’s Ordinary Business

The Staff has also concurred with the exclusion of proposals relating to disclosure of a company’s rationale for its position with respect to policy or regulatory questions, where the implementation of such policies or regulations related to the company’s ordinary business. *See, e.g., Yahoo! Inc.* (Apr. 5, 2007) (concurring with the exclusion of a proposal requesting that the board prepare a report on the company’s rationale for supporting and/or advocating public policy measures that would increase government regulation of the Internet, on the grounds that evaluating the impact of expanded government regulation of the internet related to the company’s ordinary business); and *Comcast Corporation* (Mar. 18, 2010) (concurring with the exclusion of a proposal requesting that the board prepare a report on the merits of the board publicly adopting a set of guiding principles for the company to promote a free and open internet, on the grounds that the proposal implicated the company’s network management techniques, which fall within the company’s ordinary business). Similarly, the Proposal requests information underlying the Board’s rationale for the policy changes disclosed in the Company Statement, where the underlying subject of the policy relates to ordinary business matters: the Board’s operations and processes and the Company’s public disclosure practices.

The Proposal Does Not Transcend the Company’s Ordinary Business Operations.

While “DEI policies and practices” implicate policy considerations, the fundamental nature of the Proposal requests disclosure of information related to Board materials and the Board’s practices with respect to its discharge of its oversight responsibilities. These matters are within the realm of the Company’s ordinary business and, consequently, the Proposal does not transcend the Company’s ordinary business operations.

While SLB 14L emphasized that proposals that otherwise concern ordinary business matters may nonetheless be appropriate for a shareholder vote if the proposal raises a policy issue that is sufficiently significant to transcend day-to-day business matters, Staff letters have also made clear that the mere fact that a proposal invokes matters that implicate significant policy issues is not sufficient to transform a proposal that is otherwise about ordinary business

issues. Consistent with the 1998 Release, the Staff routinely concurs with the exclusion of proposals that relate to ordinary business decisions even where the proposal may reference a significant social policy issue. For example, in *The Walt Disney Co.* (Jan. 8, 2021), the proposal requested that the company produce a report “assessing how and whether [the company] ensures [its] advertising policies are not contributing to violations of civil or human rights.” Despite concerns expressed in the proposal that the company’s policies were “contributing to the spread of racism, hate speech, and disinformation,” the Staff concurred that the proposal was excludable under Rule 14a-8(i)(7) as relating to ordinary business matters. In *Amazon.com, Inc.* (Mar. 28, 2019), the Staff allowed 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.” In its no-action request, the company successfully argued that “[e]ven if some of [the] issues that would be addressed in the report requested by the [p]roposal could touch upon significant policy issues within the meaning of the Staff’s interpretation, the [p]roposal is not focused on those issues, but instead encompasses a wide range of issues implicating the [c]ompany’s ordinary business operations within the meaning of Rule 14a-8(i)(7).” In *Lowes Companies, Inc.* (Feb. 23, 2017), the Staff permitted exclusion of a proposal seeking a report “detailing the known and potential risks and costs to the Company caused by pressure campaigns to oppose religious freedom laws (or efforts), public accommodation laws (or efforts), freedom of conscience laws (or efforts) and campaigns against candidates from Title IX exempt institutions, detailing the known and potential risks and costs to the Company caused by these pressure campaigns supporting discrimination against religious individuals and those with deeply held beliefs, and detailing strategies that the Company may deploy to defend the Company’s employees and their families against discrimination and harassment that is encouraged or enabled by such efforts.”

Similar to the proposals addressed in these precedents, this Proposal, while purporting to concern “DEI policies and practices,” nonetheless focuses primarily on the ordinary business matter of the Board’s operations and processes and the Board and the Company’s disclosure practices.

The Proposal Is Excludable Under Rule 14a-8(i)(7) Because It Seeks to Micromanage the Company by Probing Too Deeply into Complex Matters and Aspects of the Company’s Internal Operations

The Staff has also consistently concurred with the exclusion under Rule 14a-8(i)(7) of shareholder proposals that seek to micromanage a company’s ordinary business operations 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” (SLB 14L), including when such proposals inappropriately limit discretion of the board or management.

The Proposal here seeks to probe too deeply into the judgment of management and the Company's Board by seeking to dictate disclosures regarding the Board's internal processes and materials considered by the Board in making a determination regarding the Company's policies. The Proposal seeks disclosure in a manner that goes beyond what the Board and management have deemed appropriate, and indeed beyond normal market practice. In the Company Statement, the Company has already set forth disclosure regarding its new approach on certain DEI matters (see the Company Statement, cited in footnote 1 above); and the Company expects to provide additional disclosure on its policies in the ordinary course to the extent it deems appropriate and/or required by law. Requesting disclosure of the materials the Board relied upon in approving these policy changes – i.e., detailed descriptions of the Company's Board books and records – goes beyond the scope of typical disclosure and attempts to mandate specific disclosures related to Board deliberations in a manner that the Board does not believe is in the best interests of the Company. It is not a typical practice of Delaware corporations, like the Company, to disclose to the broader public such detail on the materials their boards of directors refer to in their meetings and deliberations, as the Proposal requests. This Proposal inappropriately limits the discretion, and attempts to supplant the judgment of, the Board and management in making disclosures regarding Board processes and decisions. The Proposal also attempts to impose a specific method for disclosing the research and analysis the Board undertook before making changes to the Company's DEI policies and practices, including the below suggestions set forth in the supporting statement for specific and granular disclosures:

- “A qualitative and quantitative description of the DEI-related concerns raised by the Company's consumer base, if any;
- The process and level of Board involvement in decision-making related to the Company's DEI strategy;
- Current and planned strategies to ensure a workplace free of harassment and discrimination; and
- Any foreseeable impacts on the Company's ability to source diverse talent, consumer sentiment, or brand value.”

The Proposal and the supporting statement thus prescribe specific actions that the Company's management must undertake without affording management sufficient flexibility or discretion, thus unduly limiting the ability of management and the Board to manage complex matters with a level of flexibility to fulfill their fiduciary duties to the Company's shareholders. Consequently, the Proposal is excludable under Rule 14a-8(i)(7) as seeking to micromanage the Company.

In addition, under Rule 14a-8(i)(7), as reinforced by SLB 14L, a proposal may be excluded if it seeks to micromanage the company, without regard for whether it focuses on a significant social issue or transcends the company's ordinary course operations. The Staff has consistently allowed the exclusion of proposals focusing on significant policy issues because they seek to micromanage the company. For example, in *Verizon Communications Inc.* (Mar. 17, 2022), the Staff did not object to exclusion of a proposal requesting annual publication of written and oral content of diversity, inclusion, equity, or related employee-training materials, notwithstanding the fact that DEI matters represent a significant policy issue. *See also Sea World Entertainment, Inc.* (Apr. 20, 2021) (concurring that a proposal seeking a report on specific changes to the company's business to address animal welfare concerns was excludable as an attempt to micromanage the company); *Exxon Mobil Corporation* (Mar. 6, 2020) (concurring with the exclusion of a proposal requesting that the company's board charter a new board committee on climate risk, noting that as a result, "the Proposal unduly limits the board's flexibility and discretion in determining how the board should oversee climate risk"); and *JPMorgan Chase & Co. (Christensen Fund)* (Mar. 30, 2018) (concurring on the basis of micromanagement with the exclusion of a proposal that requested a report on the reputational, financial and climate risks associated with project and corporate lending, underwriting, advising and investing for tar sands production and transportation, noting that the proposal sought to "impose specific methods for implementing complex policies").

CONCLUSION

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

We would be happy to provide you with any additional information and answer any questions that you may have regarding this subject. If we can be of any further assistance, please do not hesitate to contact me at the telephone number or e-mail address appearing on the first page of this letter.

Very truly yours,

/s/ Sonia Gupta Barros

Sonia Gupta Barros

Attachment

cc: Meredith Benton
Shareholder Engagement, As You Sow

EXHIBIT A

Copy of the Proposal and Related Correspondence

(See attached.)



VIA FEDEX & EMAIL

November 25, 2024

Noni L. Ellison
Sr. Vice President, General Counsel,
and Corporate Secretary
Tractor Supply Company
5401 Virginia Way
Brentwood, TN 37027
[REDACTED]

Dear Ms. Ellison,

As You Sow® is filing a shareholder proposal on behalf of LONGVIEW LARGE CAP 500 INDEX FUND, (“Proponent”), a shareholder of Tractor Supply Company for inclusion in Tractor Supply’s 2025 proxy statement and for consideration by shareholders in accordance with Rule 14a-8 of the General Rules and Regulations of the Securities Exchange Act of 1934.

A letter from the Proponent authorizing *As You Sow* to act on its behalf is enclosed. A representative of the Proponent will attend the stockholder meeting to move the resolution as required.

We are available to discuss this issue and are optimistic that such a discussion could result in resolution of the Proponent’s concerns.

To schedule a dialogue, please contact Meredith Benton, Workplace Equity Program Manager at [REDACTED]. Please send all correspondence **with a copy to** [REDACTED].

Sincerely,

Andrew Behar
CEO, *As You Sow*

Enclosures

- Shareholder Proposal
- Shareholder Authorization

cc: Mary Winn Pilkington, Sr. Vice President of Investor Relations and Public Relations,
[REDACTED]

WHEREAS: Tractor Supply states in its 2024 proxy statement that “diversity and inclusion are values ingrained in our culture and essential to our business” and “diversity, equity and inclusion plays a key role in moving our business forward.”¹

However, in a June 2024 8-K filing, Tractor Supply reported making apparently substantive shifts in its workplace diversity strategy, including eliminating diversity, equity, and inclusion (DEI) roles, ceasing to pursue DEI goals, and no longer submitting data to the Human Rights Campaign’s corporate survey.²

Many investors value ensuring that a company’s human capital management strategy results in a meritocratic workplace. Dismantling key DEI policies and practices may expose Tractor Supply to legal, financial, and reputational risks that will undermine its long-term growth.

Legal: The 1964 Civil Rights Act prohibits racial and gender discrimination. It requires that companies maintain harassment policies “reasonably designed and reasonably effectual,” and an employer can be held responsible if it should reasonably have known that harassment was occurring. Reducing or eliminating DEI initiatives creates legal risk and may indicate a lack of corporate commitment to managing discriminatory behavior.³

Financial: Many studies indicate that investors benefit from companies with management diversity. McKinsey studies have consistently found that companies with higher diversity in corporate leadership are more likely to outperform peers on profitability. This includes a 39 percent greater likelihood of outperformance for companies in the top quartile for diverse representation in executive teams versus those in the bottom quartile.⁴

A review by *As You Sow* and Whistle Stop Capital of management diversity in over 1,600 companies found statistically significant positive correlations for key financial indicators, including: return on equity, invested capital, revenue growth, and share price performance.

A 2024 meta-analysis found that companies with DEI initiatives experience increased innovation, enhanced employee engagement and satisfaction, and improved decision-making.⁵

Long-term growth: Tractor Supply’s core consumers are rural Americans, a demographic on the cusp of significant change. The percentage of non-White rural Americans rose 19 percent between the 2010 and 2020 census.⁶ The current average age of American farmers is over 58 years, with almost 40 percent

¹ <https://www.sec.gov/ix?doc=/Archives/edgar/data/916365/000119312524077638/d569535ddef14a.htm>

² <https://www.sec.gov/ix?doc=/Archives/edgar/data/916365/000091636524000077/tsco-20240627.htm>

³ <https://niwr.org/wp-content/uploads/2024/10/NIWR-Summary-Memo-on-DEI.pdf>

⁴ <https://www.mckinsey.com/featured-insights/diversity-and-inclusion/diversity-matters-even-more-the-case-for-holistic-impact>

⁵ https://www.researchgate.net/publication/380115625_ENHANCING_ORGANIZATIONAL_PERFORMANCE_THROUGH_DIVERSITY_AND_INCLUSION_INITIATIVES_A_META-ANALYSIS

⁶ <https://ruralinnovation.us/blog/who-lives-in-rural-america-part-i/>

over 65. Among new farmers, 41 percent are female, with more women than men involved in financial management.⁷

RESOLVED: Shareholders request that Tractor Supply's Board prepare and issue a report, at reasonable expense, excluding proprietary information, describing the research and analysis the Board undertook before making changes to its DEI policies and practices in Summer 2024.

SUPPORTING STATEMENT: Shareholders suggest the report include, at Board discretion:

- A qualitative and quantitative description of the DEI-related concerns raised by the Company's consumer base, if any;
- The process and level of Board involvement in decision-making related to the Company's DEI strategy;
- Current and planned strategies to ensure a workplace free of harassment and discrimination; and
- Any foreseeable impacts on the Company's ability to source diverse talent, consumer sentiment, or brand value.

⁷ <https://www.nass.usda.gov/Publications/Highlights/2020/census-beginning%20-farmers.pdf>;
https://www.nass.usda.gov/Publications/Highlights/2024/Census22_HL_FarmProducers_FINAL.pdf

February 23, 2024

VIA ONLINE SUBMISSION

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

Email: shareholderproposals@sec.gov

Re: Shareholder Proposal to Tractor Supply Co. Regarding Changes to DEI Policies and Practices on Behalf of Longview Largecap 500 Index Fund

Ladies and Gentlemen:

Amalgamated Bank, as trustee of the LongView LargeCap 500 Index Fund (the “Proponent”), a beneficial owner of common stock of Tractor Supply Co. (the “Company” or “TSCO”), has submitted a shareholder proposal (the “Proposal”) requesting that the Company disclose the research and analysis the Board undertook before making changes to its diversity, equity, and inclusion (“DEI”) policies and practices in Summer 2024. The Proponent has designated *As You Sow* to act as its representative with respect to the Proposal, including responding to the Company’s January 3, 2025 “No Action” letter (the “Company Letter”).

The Company Letter contends that the Proposal may be excluded from the Company’s 2024 proxy statement because, TSCO argues, the Proposal relates to, and does not transcend, the Company’s ordinary business and seeks to micromanage the Company. However, the Proposal transcends the Company’s ordinary business because it concerns the Company’s alignment with its previous public commitments on a policy matter of particular significance to the Company. Moreover, the simple disclosure request of the Proposal does not seek overly granular or complex information. Therefore, there is no basis for exclusion of the Proposal.¹

A copy of this letter is being emailed to the Company concurrently with its submission to the Commission’s online shareholder proposal portal.

SUMMARY

On June 27, 2024, the Company abruptly abandoned longstanding and repeatedly reaffirmed climate and DEI goals, announcing that it was “eliminat[ing] DEI roles and retir[ing its] current

¹ The undersigned delayed submission of this response in anticipation of the release of Staff Legal Bulletin No. 14M (“SLB 14M”) (Feb. 12, 2025). The arguments herein that the Proposal satisfies the standards of SLB 14M are not concessions that it is lawful to retroactively apply SLB 14M’s standards to proposals submitted prior to its publication, and the Proponent and its representative expressly reserve all rights and arguments to contest such retroactive application as appropriate and permitted by law.

DEI goals.”² It did so in response to political attacks from a social media influencer that began just three weeks earlier on June 6.³ Public reporting indicates the decision was rushed to avoid additional political attacks.⁴

The abrupt reversal — and apparent conclusion that its diversity, equity, and inclusion roles and goals were either counterproductive or dispensable — contradicted years of public statements by the Company describing DEI as a “business imperative”⁵ and “essential to [its] business.”⁶ The Company repeated those statements as recently as just two months prior to the abrupt reversal in June.⁷

This sequence of events raises legitimate investor concern about the Board’s assessment process with respect to the decision to eliminate the Company’s DEI roles and retire its goals. Specifically, given the Company’s previous insistence on the business rationale for adopting DEI policies and goals, and the publicly available information and research backing up its rationale, it is important for investors to understand if and how the board informed itself about the benefits and risks of abruptly reversing policies, and how it assessed the long term implications to the Company of hastily reversing its DEI policies and goals.

The Company argues that the Proposal deals with, and does not transcend, ordinary business and also seeks to micromanage the Company. Neither argument has merit.

The Proposal concerns two issues that transcend the Company’s ordinary business. First, it is well-established in Staff precedent that a Company’s DEI strategy is a significant policy issue that transcends ordinary business. The Proposal raises the issue of the Board’s decision making with respect to DEI strategy. Second, the Proposal also concerns alignment or congruence between Company statements and action on a matter that generally transcends ordinary business.

Nor does the Proposal seek to micromanage the Company. The Proposal seeks only a report describing the research and analysis the Board undertook prior to making its decision. Nothing about that request implicates the granularity or complexity concerns of the micromanagement rule as applied to disclosure requests. Nor does it seek to limit Company discretion in any way.

² Press Release, *Tractor Supply Company Statement* (June 27, 2024), <https://corporate.tractorsupply.com/newsroom/news-releases/news-releases-details/2024/Tractor-Supply-Company-Statement/default.aspx/>.

³ See Sarah Nassauer, *How Tractor Supply Decided to End DEI, and Fast*, Wall St. J. (June 30, 2024), <https://www.wsj.com/business/retail/how-tractor-supply-decided-to-end-dei-and-fast-16b45803>.

⁴ *Id.*

⁵ Tractor Supply Co., *2022 Stewardship Tear Sheet*, at p. 13 (2023), https://s23.q4cdn.com/539497486/files/doc_financials/2022/sr/TSCO23-ESG-Tear-Sheet-FINAL.pdf (“Diversity, Equity and Inclusion (DE&I) is a business imperative.”).

⁶ Tractor Supply Co., *Annual Proxy Statement (2024)*, at p. 16 (March 2024), <https://www.sec.gov/ix?doc=/Archives/edgar/data/916365/000119312524077638/d569535ddef14a.htm>.

⁷ In TSCO’s 2024 Q1 earnings call on April 25, 2024, the Company’s CEO described the Company as “proud” to share its progress towards meeting its DEI goals, referencing an updated “Stewardship Tear Sheet” released that week. See *Tractor Supply Company Q1 2024 Earnings Call Transcript*, Yahoo Finance (Apr. 30, 2024) <https://finance.yahoo.com/news/tractor-supply-company-nasdaq-tSCO-164818076.html>.

Here, too, recent Staff precedent confirms the authority of shareholders to seek insight into the process of significant corporate decisions.

The recently released Staff Legal Bulletin No. 14M (“SLB 14M”) does not alter these conclusions in any way. SLB 14M reaffirms the necessity of articulating the relevance of a significant policy issue raised by a proposal to the company to which the proposal is submitted. There is no question here that the Company’s DEI strategy is significant to it—it has said as much itself. Similarly, the congruence between a corporation’s actions and public statements is necessarily relevant to the company.

SLB 14M rescinded Staff Legal Bulletin No. 14L (“SLB 14L”) (Nov. 3, 2021)’s guidance on micromanagement, restoring guidance from previous bulletins, including Staff Legal Bulletins 14J and 14K. Those changes largely relate to proposals that seek “to impose specific timeframes or methods for implementing complex policies,” a concern not relevant to this Proposal, which seeks a report on the Board’s decision making related to a significant strategy matter and which does not rely on SLB 14L.

THE PROPOSAL

WHEREAS: Tractor Supply states in its 2024 proxy statement that “diversity and inclusion are values ingrained in our culture and essential to our business” and “diversity, equity and inclusion plays a key role in moving our business forward.”¹

However, in a June 2024 8-K filing, Tractor Supply reported making apparently substantive shifts in its workplace diversity strategy, including eliminating diversity, equity, and inclusion (DEI) roles, ceasing to pursue DEI goals, and no longer submitting data to the Human Rights Campaign’s corporate survey.²

Many investors value ensuring that a company’s human capital management strategy results in a meritocratic workplace. Dismantling key DEI policies and practices may expose Tractor Supply to legal, financial, and reputational risks that will undermine its long-term growth.

Legal:

The 1964 Civil Rights Act prohibits racial and gender discrimination. It requires that companies maintain harassment policies “reasonably designed and reasonably effectual,” and an employer can be held responsible if it should reasonably have known that harassment was occurring. Reducing or eliminating DEI initiatives creates legal risk and may indicate a lack of corporate commitment to managing discriminatory behavior.³

Financial:

¹ <https://www.sec.gov/ix?doc=/Archives/edgar/data/916365/000119312524077638/d569535ddef14a.htm>

² <https://www.sec.gov/ix?doc=/Archives/edgar/data/916365/000091636524000077/tsco-20240627.htm>

³ <https://niwr.org/wp-content/uploads/2024/10/NIWR-Summary-Memo-on-DEI.pdf>

Many studies indicate that investors benefit from companies with management diversity. McKinsey studies have consistently found that companies with higher diversity in corporate leadership are more likely to outperform peers on profitability. This includes a 39 percent greater likelihood of outperformance for companies in the top quartile for diverse representation in executive teams versus those in the bottom quartile.⁴

A review by *As You Sow* and Whistle Stop Capital of management diversity in over 1,600 companies found statistically significant positive correlations for key financial indicators, including: return on equity, invested capital, revenue growth, and share price performance. A 2024 meta-analysis found that companies with DEI initiatives experience increased innovation, enhanced employee engagement and satisfaction, and improved decision-making.⁵

Long-term growth:

Tractor Supply's core consumers are rural Americans, a demographic on the cusp of significant change. The percentage of non-White rural Americans rose 19 percent between the 2010 and 2020 census.⁶ The current average age of American farmers is over 58 years, with almost 40 percent over 65. Among new farmers, 41 percent are female, with more women than men involved in financial management.⁷

RESOLVED: Shareholders request that Tractor Supply's Board prepare and issue a report, at reasonable expense, excluding proprietary information, describing the research and analysis the Board undertook before making changes to its DEI policies and practices in Summer 2024.

SUPPORTING STATEMENT: Shareholders suggest the report include, at Board discretion:

- A qualitative and quantitative description of the DEI-related concerns raised by the Company's consumer base, if any;
- The process and level of Board involvement in decision-making related to the Company's DEI strategy;
- Current and planned strategies to ensure a workplace free of harassment and discrimination; and
- Any foreseeable impacts on the Company's ability to source diverse talent, consumer sentiment, or brand value.

⁴ <https://www.mckinsey.com/featured-insights/diversity-and-inclusion/diversity-matters-even-more-the-case-for-holistic-impact>

⁵ https://www.researchgate.net/publication/380115625_ENHANCING_ORGANIZATIONAL_PERFORMANCE_THROUGH_DIVERSITY_AND_INCLUSION_INITIATIVES_A_META-ANALYSIS

⁶ <https://ruralinnovation.us/blog/who-lives-in-rural-america-part-i/>

⁷ <https://www.nass.usda.gov/Publications/Highlights/2020/census-beginning%20-farmers.pdf>;

https://www.nass.usda.gov/Publications/Highlights/2024/Census22_HL_FarmProducers_FINAL.pdf

ANALYSIS

I. The Proposal Transcends TSCO's Ordinary Business

A. Ordinary Business Standard

Rule 14a-8(i)(7) permits the exclusion of proposals that “deal[] with a matter relating to the company’s ordinary business operations.” All proposals, if implemented, *must* in some way relate to a company’s ordinary business, but not every shareholder proposal is excludable. Rather, Proposals that raise substantial corporate or social policy issues that transcend the Company’s ordinary business may be brought to the proxy for shareholder analysis and a vote. *See Pacific Group Telesis* (Feb. 2, 1989) (declining to concur in exclusion of proposal that “involve[d] substantial corporate policy considerations that go beyond the conduct of the [c]ompany’s ordinary business operations”); SLB 14M (noting that Staff will focus on “whether the proposal . . . raises a policy issue that transcends the individual company’s ordinary business operations.”

This policy exception to the ordinary business rule reflects the reasoning behind the rule. Rule 14a-8(i)(7) is intended to prevent interference with “tasks. . . so fundamental to management’s ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight.” 1998 Release. The Rule preserves the Company’s ability to run the company while allowing shareholder oversight over “important issue[s] that [are] appropriate for stockholders to address.” *Broadridge Financial Solutions, Inc.* (Sept. 22, 2021). Similarly, the social policy exception applies when the proposal “focuses on sufficiently significant social policy issues,” in which case a proposal may not be excluded even if it “relates to the ‘nitty-gritty’ of [the company’s] core business.” Staff Legal Bulletin No. 14H (Oct. 22, 2015).

Staff precedent applying Rule 14a-8(i)(7) and the significant policy exception has been consistent in upholding two relevant principles. First, proposals concerning a company’s DEI policies, goals, and disclosures raise a significant policy issue that transcends the Company’s ordinary business. *See, e.g., Eli Lilly & Co.* (Mar. 10, 2023) (declining to concur in exclusion of proposal requesting disclosures on “the effectiveness of the company’s diversity, equity, and inclusion efforts” because it “raise[d] human capital management issues with a broad societal impact” and therefore “transcend[ed] ordinary business matters”). Second, proposals concerning alignment between a company’s statements and actions likewise transcend ordinary business. *See, e.g., Comcast Corp.* (Apr. 13, 2022) (concluding that proposal requesting analysis of how company’s retirement plan options aligned with its climate action goals transcended ordinary business); *id.* at Proponent Letter at 4-7 (arguing that proposals addressing alignment or congruency transcend ordinary business and aggregating citations to concurring Staff precedent).

B. The Proposal focuses on at least two significant policy issues, transcending TSCO's ordinary business

Under the Staff's well-established Rule 14a-8(i)(7) standards and precedents, the Proposal unquestionably transcends the Company's ordinary business.

First, like other DEI-focused proposals, the Proposal "raises human capital management issues with a broad societal impact" and therefore transcends the Company's ordinary business. *Eli Lilly, supra*. DEI has long been recognized as a transcendent policy issue; it is rarely challenged as ordinary business; and the Company Letter does not actually dispute that DEI is a transcendent policy issue, *see* Company Letter at 5.

SLB 14M does not change this analysis whatsoever. SLB 14M instructs that "a policy issue that is significant to one company may not be significant to another," and therefore "whether the significant policy exception applies depends on the particular policy issue raised by the proposal and its significance in relation to the company." SLB 14M. Here, it cannot seriously be argued that the Company's DEI strategy is not significant to it. *See supra* notes 5 and 6 (Company describing its DEI strategy as a "business imperative" and "essential to [its] business").

Second, the Proposal focuses on the issue of inconsistency in the Company's public statements about DEI and its recent actions. Overnight, the Company went from describing DEI as a business imperative essential to its long-term growth to eliminating its DEI roles and goals. This raises transcendent issues concerning investors' reliance on Company disclosures going forward. Because of this exact concern, the Staff has long concluded that proposals raising issues of alignment and/or congruence are independently transcendent, even if they would otherwise be excludable on significant social policy grounds. The Proponent Letter in *Comcast Corp., supra*, focused extensively on this issue, providing numerous cites. For example, in *Franklin Resources, Inc.* (Nov. 24, 2015), the proposal requested a report assessing incongruities between the company's climate policy positions and the voting practices of the asset manager and its subsidiaries. The Staff declined to concur in the exclusion of the proposal after the proponent argued that the proposal's focus on incongruities transcended ordinary business. *See also McDonald's Corp.* (Feb. 28, 2017) (proposal requested congruency analysis of charitable contributions with corporate values; Staff declined to concur); *The Procter & Gamble Co.* (Aug. 6, 2014) (congruency analysis between Company's corporate values and its political and electioneering expenditures not excludable); *Deere & Co.* (Dec. 3, 2015) (same). *Cf. Comcast Corp.* (Apr. 10, 2023) (Company Letter at 8-9 n. 8 (acknowledging that congruency proposals transcend ordinary business)). Notably, most of this precedent predates the now-rescinded SLB 14L and arose under the previous "nexus" rule, highlighting that congruence of company statements and actions is a company-specific significant issue under SLB 14M.

The Company's arguments that the Proposal does not transcend its ordinary business are not persuasive. It states that while the Proposal raises DEI, "the fundamental nature of the Proposal requests disclosure of information related to Board materials and the Board's practices with respect to its discharge of its oversight responsibilities." Company Letter at 5. Simply restating

the ordinary business matter the Proposal implicates is a common, circular argument made by issuers seeking to avoid application of the significant policy exception.

Staff precedent forecloses the Company's argument. In *JPMorgan Chase & Co.* (Mar. 21, 2023), the proposal requested that "the board conduct an evaluation and issue a report within the next year evaluating how it oversees risks related to discrimination against individuals based on their race, color, religion (including religious views), sex, national origin, or political views, and whether such discrimination may impact individuals' exercise of their constitutionally protected civil rights." If the Company were correct that a proposal focused on DEI could be excluded because it relates to "the Board's practices with respect to its discharge of its oversight responsibilities," then the *JPMorgan Chase & Co.* proposal should have been excluded, as it requested a report on *exactly* that topic. Yet, the Staff declined to concur in the exclusion of the Proposal, concluding that it "transcends ordinary business matters."¹

The Staff precedents cited in the Company Letter all postdated *JPMorgan Chase* and are nowhere near as relevant

- In *Walt Disney Co.* (Jan. 8, 2021), the proposal requested that the board commission a report assessing "how and whether Disney ensures the company's advertising policies are not contributing to violations of civil or human rights," including "whether advertising policies contribute to the spread of hate speech, disinformation, white supremacist recruitment efforts, or voter suppression efforts, and whether the policies undermine efforts to defend civil and human rights." The proposal's fundamental argument was that Disney was somehow at fault for "advertising on social media platforms like Facebook, YouTube, and Twitter." The company's reply that the proposal did not transcend its ordinary business was based entirely on the "nexus" test that has since been rescinded. *See id.* (Company Letter at 6-7). The company argued that the proposal "d[id] not raise a significant policy issue *as to the Company* because it d[id] not have a sufficient nexus to the business of the Company. The business of the Company is entertainment, not hosting and/or creation of content on a social media platform." *Id.*

No such argument is available to the Company here. There can be no dispute that a proposal concerning a company's decision to abandon *its own* DEI roles and goals is sufficiently related to the company at issue.

¹ Proposals addressing how boards "discharge ... [their] oversight responsibilities" are commonplace and not generally excludable when addressed to a significant policy issue. *See, e.g., American Express Co.* (Mar. 13, 2024) and *Mastercard Inc.* (Apr. 25, 2023) (proposals requesting "that the board issue a report concerning its oversight of management's decision-making" concerning a topic related to gun and ammunition sales transcended ordinary business); *Apple Inc.* (Jan. 3, 2023) (proposal requesting that board adopt policy that if majority of non-insider shareholders supported a shareholder proposal, board would make member(s) available for discussion with proponents "d[id] not address ordinary business"). Similarly, the Commission has stated that proposals requesting the creation of a board committee will be evaluated for ordinary business based on whether the subject of the proposed committee transcends ordinary business, not that the board-oversight-focused nature of such proposals somehow cancels out transcending policy matters. *See* Exchange Act Release No. 34-20091 (Aug. 16, 1983).

- In *Amazon.com, Inc.* (Mar. 28, 2019), the proposal requested an annual report of the board’s “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.” There is no need to speculate about the basis of the Staff’s decision that the proposal could be excluded: the Staff explicitly stated that “the Proposal relates generally to ‘the community impacts’ of the Company’s operations and does not appear to focus on an issue that transcends ordinary business matters.” See also *Dollar Tree, Inc.* (May 2, 2022) and *Amazon.com, Inc.* (Apr. 8, 2022) (both requesting reports on the effect of prevailing labor market conditions on the company’s workforce management; excluded because the effect of existing labor market conditions is an inherent factor in the ordinary business of workforce management).

These precedents provide no support for the Company. DEI policies are an acknowledged transcendent policy issue.

- *Lowe’s Companies, Inc.* (Feb. 23, 2017), similarly, provides no more support. There, the proposal requested the company report on “the known and potential risks and costs to the company caused by pressure campaigns to oppose religious freedom laws (or efforts), public accommodation laws (or efforts), freedom of conscience laws (or efforts) and campaigns against candidates from Title IX exempt institutions, detailing the known and potential risks and costs to the company caused by these pressure campaigns supporting discrimination against religious individuals and those with deeply held beliefs, and detailing strategies that the company may deploy to defend the company’s employees and their families against discrimination and harassment that is encouraged or enabled by such efforts.” It is unclear what comparison the Company Letter attempts to make between the *Lowe’s* proposal and the Proposal here, but the two are readily distinguishable. The *Lowe’s* proposal demanded the Company quantify the “costs” caused by alleged third-party “pressure campaigns” associated with LGBTQ+ rights, which the proposal referred to as “supporting discrimination against religious individuals.” The body of the *Lowe’s* proposal made additional recommendations about workforce management, but the proponent’s portrayal of its proposal as concerned about a transcendent “human right” or discrimination fell flat as the Staff concurred with the Company. There is, to put it bluntly, no meaningful comparison between the *Lowe’s* proposal and the one here, and the Company Letter does not even bother trying to make one.

II. The Proposal Does Not Seek to Micromanage TSCO

A. Micromanagement Standard

The Commission has recognized the exclusion under Rule 14a-8(i)(7) of proposals seeking to “micromanage” companies by “probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment.” 1998

Release.

In SLB 14M, the Staff reinstated guidance concerning the scope of the micromanagement exclusion from SLBs 14J and 14K. The guidance in those bulletins emphasizes that a proposal may seek to micromanage if it “involves intricate detail, or seeks to impose specific time-frames or methods for implementing complex policies.” SLB 14M (Annex A, quoting SLB 14J). Additionally, the Staff looks “to whether the proposal seeks intricate detail or imposes a specific strategy, method, action, outcome, or timeline for addressing an issue, thereby supplanting the judgment of management and the board.” SLB 14K (emphasis added).

B. The Proposal does not probe too deeply into matters too complex for shareholder consideration

The Company argues that the Proposal “seeks to probe too deeply into the judgment of management and the Company’s Board by seeking to dictate disclosures regarding the Board’s internal processes and materials considered by the Board in making a determination regarding the Company’s policies.” Company Letter at 7. It further argues that the proposal “seeks disclosure . . . beyond what the Board and management have deemed appropriate.” *Id.*

Rule 14a-8(i)(7) does not give companies unfettered discretion to reject investors’ disclosure requests beyond what the Board and management have disclosed. All disclosure proposals, by definition, seek information the company has not yet disclosed and necessarily asks for specific information in so doing. Under modern securities law, it is investors—not registrants—that decide whether information is material to their investment decisionmaking. *See TSC Industries v. Northway*, 426 U.S. 438, 445 (1976) (defining materiality as information that a reasonable investor would consider important).

The appropriate inquiry when assessing the excludability of a disclosure proposal under the micromanagement rule is whether the Proposal seeks overly “intricate detail” or if its disclosure request otherwise inappropriately imposes a specific action on the company. *See* SLB 14M. Ultimately, whether judged by either standard — “intricacy” or “imposing a specific method” — the Company fails to meet its burden here of demonstrating that the Proposal is excludable.

Much of the Company’s argument turns on the supposedly unique and sacrosanct nature of Board deliberations. But, as described *supra*, proposals seeking transparency into Board oversight processes are commonplace and are generally not excludable despite some intrusion on the Board’s domain. *See, e.g., American Express Co., supra* (concluding that proposal requesting “report concerning [the board’s] oversight of management’s decision-making” on transcendent policy topic “d[id] not seek to micromanage the company”); *Texas Instruments Inc.* (Mar. 4, 2024) (proposal requested board report on its due diligence process to determine whether customers’ misuse of its products exposed it to risk; micromanagement argument rejected); *Texas Pacific Land Corp.* (Sept. 27, 2023) (proposal stated that shareholders would consider it a breach of fiduciary duty for the board to authorize severance pay for senior managers in excess of annual compensation unless unanimously approved; micromanagement argument rejected);

Chubb Ltd. (Mar. 27, 2023) (proposal requested board publish report describing how human rights risks and impacts are evaluated in underwriting process; micromanagement argument rejected); *Johnson & Johnson* (Mar. 2, 2022) (proposal requested that Board adopt policy that no financial performance metric shall be adjusted to exclude legal or compliance costs when evaluating performance for purposes of executive incentive compensation awards; micromanagement argument rejected); *The AES Corp.* (Feb. 16, 2022) (proposal requested that board seek shareholder approval of senior manager pay packages that provided for severance or termination payments with an estimated value exceeding 2.99 times the sum of the executive's base salary plus short term bonuses; micromanagement argument rejected). As these examples demonstrate, even proposals which *directly* seek to limit Board discretion or impose specific reporting obligations — and even those proposals which place extraordinarily specific limits on Board action — are routinely permitted over micromanagement arguments.

Moreover, this Proposal does not seek to impose any specific method or strategy on the Board. It does not, for instance, ask the Board to reverse its changes to the Company's DEI policies. Nor does it approach the level of detail permitted in instances like *AES* and *Johnson & Johnson*. There is no colorable argument that the Proposal meaningfully limits the Board or management's discretion in any way *other* than by requesting that the Board publish the requested information.

The Company Letter appears to suggest that the Proposal is overly prescriptive with respect to *how* the information it seeks be presented. *See* Company Letter at 7 (arguing that Proposal "attempts to impose a specific method for disclosing the research and analysis"). The Company points to portions of the Proposal's Supporting Statement offering what the Company acknowledges are "suggestions" and which the Proposal itself explicitly states are suggested for inclusion "at Board discretion." The inclusion of explicitly discretionary suggestions to help provide additional detail on what shareholders seek in a disclosure request is well-established practice that is not generally understood to create an additional basis for micromanagement arguments. Providing suggestions, not mandates, on what would be useful information to investors can help define the scope of disclosure for the Company.

The Company's argument about the Supporting Statement is also in direct conflict with its repeated attempts to portray the Proposal as a "books and records" request or some similar demand for extraordinarily granular information in disguise. *See, e.g.*, Company Letter at 7 (suggesting, incorrectly, that the Proposal seeks "detailed descriptions of the Company's Board books and records"), 2 (stating that the Proposal seeks disclosure of "board materials"). But the plain text of the Proposal is a request for a report "*describing* the research and analysis the Board undertook." (emphasis added). And the Supporting Statements buttress the descriptive nature of the Proposal's request, suggesting a "quantitative and qualitative *description*" of concerns raised by the Company's customer base, and a description of "the process and level of Board involvement in" the decision. The Proposal is plainly *not* a books and records request — it does not request the disclosure of *any* primary material. That the Company needs to exaggerate the Proposal in order to argue against it is telling. Read fairly, the Proposal is no different from any number of proposals seeking oversight into Board decision-making, which are routinely included in company proxies every year. *See, e.g., American Express, supra; Texas Instruments, supra.*

Finally, neither the Proposal's primary request nor the Supporting Statement invoke remotely the level of granularity (SLB14L) or intricacy (SLB 14M) which leads to micromanagement exclusions of disclosure requests, including those cited by the Company. *See, e.g., Verizon Communications Inc.* (Mar. 17, 2022) (proposal requested disclosure of the written or oral content of every piece of employee training material offered to any subset of the company's employees by the company or with its consent, as well as any such materials the company sponsored, in whole or in part) (emphasis added). The Proposal is nowhere near this line. Its request for a qualitative description of the Board's decision-making process is significantly less granular than proposals for which micromanagement exclusions have been rejected. For example, in *Republic Services, Inc.* (Mar. 27, 2024), the proposal requested a report from the Board describing "how the Company is addressing the impact of its climate strategy on relevant stakeholders, including but not limited to its employees, workers in its supply chain, and communities in which it operates, consistent with the "Just Transition" guidelines of the International Labor Organization and indicators of the World Benchmarking Alliance." The company argued that the "ILO and the WBA guidelines are complex," with "the ILO guidelines includ[ing] at least 29 indicators the Company would have to consider and the WBA guidelines includ[ing] at least 21. Mandating that the Company modify its sustainability reporting to include these complex topics supplants and limits the judgment of management." *Id.* (Company Letter at 11). Nonetheless, the micromanagement argument was rejected.²

Despite the Company making the same argument here, *see* Company Letter at 7, the Proposal is nowhere near as complex as that in *Republic Services*. Given the acknowledged significance of the policy issue at stake, investors seeking a description of the Board's decision-making process regarding the reversal of a self-admittedly important policy to the Company hardly seeks inappropriately intricate detail. The Proposal cannot be excluded for micromanagement.

CONCLUSION

Almost overnight, the Company abandoned longstanding policies and goals it had described for years as "imperative" and "essential" to its business. Investors require information about that decision, both to understand the Company's approach to DEI moving forward and the alignment of Company statements and actions. This request transcends the Company's ordinary business and does not probe too deeply into matters too complex for investor insight.

²*See also Apple Inc.* (Jan. 3, 2024) and *Paramount Global* (Apr. 19, 2024). Each proposal requested that the company prepare a transparency report on the company's use of AI, including the disclosure of "any ethical guidelines that the company has adopted." The companies argued that the broad request to disclose both the companies' use of AI across all of their business and to disclose every guideline regarding the use of AI probed too deeply for investor consideration. But because the Company's use of artificial intelligence constituted a matter appropriate for shareholder insight, and the level of detail requested was commensurate with shareholders' role, the Staff rejected the companies' micromanagement argument.

Office of Chief Counsel
February 23, 2025
Page 12 of 12

Based on the foregoing, the Company has provided no basis for the conclusion that the Proposal is excludable from the 2025 proxy statement pursuant to Rule 14a-8. We urge the Staff to deny the no action request.

Sincerely,

A handwritten signature in black ink, appearing to read 'LM', with a long, sweeping horizontal flourish extending to the right.

Luke Morgan
Staff Attorney, *As You Sow*

CC:

Sonia Gupta Barros, Sidley Austin LLP



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March 6, 2025

Via Online Submission Form

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

Re: *Tractor Supply Company*
Shareholder Proposal of LongView LargeCap 500 Index Fund
Securities Exchange Act of 1934—Rule 14a-8

Dear Ladies and Gentlemen:

This letter is submitted on behalf of the Tractor Supply Company (the “Company”), in relation to a shareholder proposal on the topic of changes to the Company’s diversity, equity, and inclusion (DEI) policies (the “Proposal”) submitted by Amalgamated Bank, as trustee of the LongView LargeCap 500 Index Fund (the “Proponent”). We have previously submitted to the staff of the Division of Corporation Finance of the Securities and Exchange Commission (the “Staff”) a letter dated January 3, 2025 (the “No-Action Letter Request”) requesting, on behalf of the Company, confirmation that the Staff will not recommend enforcement action if the Company excludes the Proposal from its proxy statement and form of proxy for its 2025 Annual Meeting of Shareholders (collectively, the “2025 Proxy Materials”). The printing deadline for the Company’s 2025 Proxy Materials is March 26, 2025, and the Company expects to file its definitive 2025 Proxy Materials on or about such date.

This letter responds to additional correspondence submitted to the Staff by As You Sow on behalf of the Proponent (the “Response Letter”), which is attached to this letter as Exhibit A, and highlights the applicability of *Staff Legal Bulletin No. 14M* (Feb. 12, 2025) (“SLB 14M”) to the Proposal. In the Response Letter, the Proponent argues that exclusion of the Proposal pursuant to Rule 14a-8(i)(7) is inappropriate, asserting that the Proposal (a) focuses on significant policy issues transcending the Company’s ordinary business and (b) does not seek to micromanage the Company.

(a) The Proposal is excludable under Rule 14a-8(i)(7) because it deals with matters relating to the Company’s ordinary business and does not focus on an issue that transcends ordinary business matters.

As noted in the No-Action Letter Request, the Staff has consistently permitted exclusion under Rule 14a-8(i)(7) of proposals relating to ordinary business decisions even where the proposal may reference a significant social policy issue. Furthermore, in SLB 14M, the Staff, among other things, rescinded *Staff Legal Bulletin No. 14L* (Nov. 3, 2021) (“SLB 14L”) and returned to past practice in evaluating significant social policy issues. SLB 14M provides that “the Staff will take a company-specific approach in evaluating significance, rather than focusing solely on whether a proposal raises a policy issue with broad societal impact or whether particular issues or categories of issues are universally ‘significant.’” SLB 14M also cites to *Staff Legal Bulletin No. 14H* (Oct. 22, 2015) (“SLB 14H”) which stated that, “[w]hether the significant policy exception applies depends, in part, on the connection between the significant policy issue and the company’s business operations.” See footnote 32 to SLB 14H. In this case, although the Proposal references DEI matters, its underlying purpose is the disclosure of information supporting the Board’s rationale for policy changes it adopted pursuant to the responsibility and authority delegated to it under Delaware law and as set forth in the Company’s and Board’s governance documents. Thus, the Proposal relates directly to the Company’s ordinary business operations and the Proponent fails to establish a sufficient nexus to the Company’s business operations such that it transcends the Company’s ordinary business operations.

In arguing that the Proposal transcends the Company’s ordinary business, the Proponent cites in the Response Letter several Staff precedents which are inapplicable here and do not support inclusion of the Proposal. In the following precedents, the Staff denied relief under Rule 14a-8(i)(7) applying the guidance of SLB 14L which has been rescinded by SLB 14M: *Eli Lilly & Co.* (Mar. 10, 2023); *Comcast Corp.* (Apr. 13, 2022); *Comcast Corp.* (Apr. 10, 2023); *JPMorgan Chase & Co.* (Mar. 21, 2023); *American Express Co.* (Mar. 13, 2024); and *Mastercard Inc.* (Apr. 25, 2023). The other precedents cited in the Response Letter are no-action letters in which the Staff denied relief under Rule 14a-8(i)(7) because the proposals were substantively very different than this Proposal:

1. *Pacific Group Telesis* (Feb. 2, 1989) (proposal related to broad social and economic impacts of plant closings or relocations);
2. *Broadridge Financial Solutions, Inc.* (Sept. 22, 2021) (proposal related to corporate structure, which is a matter appropriate for shareholder vote);
3. *Franklin Resources, Inc.* (Nov. 24, 2015) (proposal addressed incongruities between proxy voting practices and the company’s policies on climate change);
4. *McDonald’s Corp.* (Feb. 28, 2017) (proposal related to the company’s charitable contributions generally);
5. *The Procter & Gamble Co.* (Aug. 6, 2014) and *Deere & Co.* (Dec. 3, 2015) (proposals focused primarily on companies’ general political activities); and
6. *Apple Inc.* (Jan. 3, 2023) (proposal related to adoption of shareholder proposals receiving majority non-insider support).

(b) The Proposal is excludable under Rule 14a-8(i)(7) because it seeks to micromanage the Company by probing too deeply into complex matters and aspects of the Company's internal operations.

As noted in the No-Action Letter Request, the Staff has also consistently permitted exclusion under Rule 14a-8(i)(7) of proposals that seek to micromanage a company, without regard for whether it focuses on a significant social issue or transcends a company's ordinary business operations. Furthermore, in SLB 14M, the Staff, among other things, reinstated previously rescinded guidance from *Staff Legal Bulletin No. 14K* (Oct. 16, 2019) ("SLB 14K"), shifting the focus of the Staff's micromanagement evaluation on the level of detail sought by a proposal. With respect to making such evaluation, SLB 14K specifically states that "if a supporting statement modifies or refocuses the intent of the resolved clause, or effectively requires some action in order to achieve the proposal's central purpose as set forth in the resolved clause, [the Staff] take[s] that into account in determining whether the proposal seeks to micromanage the company." The Staff's reinstatement of SLB 14K serves to bolster the Company's argument in the No Action Letter Request that the Proposal attempts to impose a specific method for disclosing the research and analysis the Board undertook before making changes to the Company's DEI policies and practices, including the below suggestions set forth in the supporting statement for specific and granular disclosures:

- "A qualitative and quantitative description of the DEI-related concerns raised by the Company's consumer base, if any;
- The process and level of Board involvement in decision-making related to the Company's DEI strategy;
- Current and planned strategies to ensure a workplace free of harassment and discrimination; and
- Any foreseeable impacts on the Company's ability to source diverse talent, consumer sentiment, or brand value."

Thus, the Proposal, including its supporting statement, probes too deeply into the judgment of management and the Board by seeking to dictate the Company's disclosure practices related to the Board's decision-making process.

In arguing that the Proposal does not seek to micromanage the Company, the Proponent cites in the Response Letter a number of Staff precedents which are inapplicable here and do not support inclusion of the Proposal. In the following precedents, the Staff denied relief under Rule 14a-8(i)(7) applying the guidance of SLB 14L which has been rescinded by SLB 14M: *Texas Instruments Inc.* (Mar. 4, 2024); *Texas Pacific Land Corp.* (Sept. 27, 2023); *Chubb Ltd.* (Mar. 27, 2023); *Verizon Communications Inc.* (Mar. 17, 2022); and *Republic Services, Inc.* (Mar. 27, 2024). The other precedents cited with respect to micromanagement in the Response Letter, are no-action requests in which the Staff denied relief under Rule 14a-8(i)(7) because the proposals were substantively very different than the Proposal: *Johnson & Johnson* (Mar. 2, 2022) (proposal related

U.S. Securities and Exchange Commission
Division of Corporation Finance
March 6, 2025

to financial performance metrics for executive incentive compensation awards) and *The AES Corp.* (Feb. 16, 2022) (proposal related to aspects of compensation available only to senior executives).

CONCLUSION

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

If you have any questions regarding the above analysis or the request for concurrence with the exclusion of the Proposal, please do not hesitate to contact me at the telephone number or e-mail address appearing on the first page of this letter.

Very truly yours,

Sonia Barros

Sonia Gupta Barros

Attachment

cc: Meredith Benton
Shareholder Engagement, As You Sow

Exhibit A

Copy of the Response Letter

February 23, 2024

VIA ONLINE SUBMISSION

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

Email: shareholderproposals@sec.gov

Re: Shareholder Proposal to Tractor Supply Co. Regarding Changes to DEI Policies and Practices on Behalf of Longview Largecap 500 Index Fund

Ladies and Gentlemen:

Amalgamated Bank, as trustee of the LongView LargeCap 500 Index Fund (the “Proponent”), a beneficial owner of common stock of Tractor Supply Co. (the “Company” or “TSCO”), has submitted a shareholder proposal (the “Proposal”) requesting that the Company disclose the research and analysis the Board undertook before making changes to its diversity, equity, and inclusion (“DEI”) policies and practices in Summer 2024. The Proponent has designated *As You Sow* to act as its representative with respect to the Proposal, including responding to the Company’s January 3, 2025 “No Action” letter (the “Company Letter”).

The Company Letter contends that the Proposal may be excluded from the Company’s 2024 proxy statement because, TSCO argues, the Proposal relates to, and does not transcend, the Company’s ordinary business and seeks to micromanage the Company. However, the Proposal transcends the Company’s ordinary business because it concerns the Company’s alignment with its previous public commitments on a policy matter of particular significance to the Company. Moreover, the simple disclosure request of the Proposal does not seek overly granular or complex information. Therefore, there is no basis for exclusion of the Proposal.¹

A copy of this letter is being emailed to the Company concurrently with its submission to the Commission’s online shareholder proposal portal.

SUMMARY

On June 27, 2024, the Company abruptly abandoned longstanding and repeatedly reaffirmed climate and DEI goals, announcing that it was “eliminat[ing] DEI roles and retir[ing its] current

¹ The undersigned delayed submission of this response in anticipation of the release of Staff Legal Bulletin No. 14M (“SLB 14M”) (Feb. 12, 2025). The arguments herein that the Proposal satisfies the standards of SLB 14M are not concessions that it is lawful to retroactively apply SLB 14M’s standards to proposals submitted prior to its publication, and the Proponent and its representative expressly reserve all rights and arguments to contest such retroactive application as appropriate and permitted by law.

DEI goals.”² It did so in response to political attacks from a social media influencer that began just three weeks earlier on June 6.³ Public reporting indicates the decision was rushed to avoid additional political attacks.⁴

The abrupt reversal — and apparent conclusion that its diversity, equity, and inclusion roles and goals were either counterproductive or dispensable — contradicted years of public statements by the Company describing DEI as a “business imperative”⁵ and “essential to [its] business.”⁶ The Company repeated those statements as recently as just two months prior to the abrupt reversal in June.⁷

This sequence of events raises legitimate investor concern about the Board’s assessment process with respect to the decision to eliminate the Company’s DEI roles and retire its goals. Specifically, given the Company’s previous insistence on the business rationale for adopting DEI policies and goals, and the publicly available information and research backing up its rationale, it is important for investors to understand if and how the board informed itself about the benefits and risks of abruptly reversing policies, and how it assessed the long term implications to the Company of hastily reversing its DEI policies and goals.

The Company argues that the Proposal deals with, and does not transcend, ordinary business and also seeks to micromanage the Company. Neither argument has merit.

The Proposal concerns two issues that transcend the Company’s ordinary business. First, it is well-established in Staff precedent that a Company’s DEI strategy is a significant policy issue that transcends ordinary business. The Proposal raises the issue of the Board’s decision making with respect to DEI strategy. Second, the Proposal also concerns alignment or congruence between Company statements and action on a matter that generally transcends ordinary business.

Nor does the Proposal seek to micromanage the Company. The Proposal seeks only a report describing the research and analysis the Board undertook prior to making its decision. Nothing about that request implicates the granularity or complexity concerns of the micromanagement rule as applied to disclosure requests. Nor does it seek to limit Company discretion in any way.

² Press Release, *Tractor Supply Company Statement* (June 27, 2024), <https://corporate.tractorsupply.com/newsroom/news-releases/news-releases-details/2024/Tractor-Supply-Company-Statement/default.aspx/>.

³ See Sarah Nassauer, *How Tractor Supply Decided to End DEI, and Fast*, Wall St. J. (June 30, 2024), <https://www.wsj.com/business/retail/how-tractor-supply-decided-to-end-dei-and-fast-16b45803>.

⁴ *Id.*

⁵ Tractor Supply Co., *2022 Stewardship Tear Sheet*, at p. 13 (2023), https://s23.q4cdn.com/539497486/files/doc_financials/2022/sr/TSCO23-ESG-Tear-Sheet-FINAL.pdf (“Diversity, Equity and Inclusion (DE&I) is a business imperative.”).

⁶ Tractor Supply Co., *Annual Proxy Statement (2024)*, at p. 16 (March 2024), <https://www.sec.gov/ix?doc=/Archives/edgar/data/916365/000119312524077638/d569535ddef14a.htm>.

⁷ In TSCO’s 2024 Q1 earnings call on April 25, 2024, the Company’s CEO described the Company as “proud” to share its progress towards meeting its DEI goals, referencing an updated “Stewardship Tear Sheet” released that week. See *Tractor Supply Company Q1 2024 Earnings Call Transcript*, Yahoo Finance (Apr. 30, 2024) <https://finance.yahoo.com/news/tractor-supply-company-nasdaq-tSCO-164818076.html>.

Here, too, recent Staff precedent confirms the authority of shareholders to seek insight into the process of significant corporate decisions.

The recently released Staff Legal Bulletin No. 14M (“SLB 14M”) does not alter these conclusions in any way. SLB 14M reaffirms the necessity of articulating the relevance of a significant policy issue raised by a proposal to the company to which the proposal is submitted. There is no question here that the Company’s DEI strategy is significant to it—it has said as much itself. Similarly, the congruence between a corporation’s actions and public statements is necessarily relevant to the company.

SLB 14M rescinded Staff Legal Bulletin No. 14L (“SLB 14L”) (Nov. 3, 2021)’s guidance on micromanagement, restoring guidance from previous bulletins, including Staff Legal Bulletins 14J and 14K. Those changes largely relate to proposals that seek “to impose specific timeframes or methods for implementing complex policies,” a concern not relevant to this Proposal, which seeks a report on the Board’s decision making related to a significant strategy matter and which does not rely on SLB 14L.

THE PROPOSAL

WHEREAS: Tractor Supply states in its 2024 proxy statement that “diversity and inclusion are values ingrained in our culture and essential to our business” and “diversity, equity and inclusion plays a key role in moving our business forward.”¹

However, in a June 2024 8-K filing, Tractor Supply reported making apparently substantive shifts in its workplace diversity strategy, including eliminating diversity, equity, and inclusion (DEI) roles, ceasing to pursue DEI goals, and no longer submitting data to the Human Rights Campaign’s corporate survey.²

Many investors value ensuring that a company’s human capital management strategy results in a meritocratic workplace. Dismantling key DEI policies and practices may expose Tractor Supply to legal, financial, and reputational risks that will undermine its long-term growth.

Legal:

The 1964 Civil Rights Act prohibits racial and gender discrimination. It requires that companies maintain harassment policies “reasonably designed and reasonably effectual,” and an employer can be held responsible if it should reasonably have known that harassment was occurring. Reducing or eliminating DEI initiatives creates legal risk and may indicate a lack of corporate commitment to managing discriminatory behavior.³

Financial:

¹ <https://www.sec.gov/ix?doc=/Archives/edgar/data/916365/000119312524077638/d569535ddef14a.htm>

² <https://www.sec.gov/ix?doc=/Archives/edgar/data/916365/000091636524000077/tsco-20240627.htm>

³ <https://niwr.org/wp-content/uploads/2024/10/NIWR-Summary-Memo-on-DEI.pdf>

Many studies indicate that investors benefit from companies with management diversity. McKinsey studies have consistently found that companies with higher diversity in corporate leadership are more likely to outperform peers on profitability. This includes a 39 percent greater likelihood of outperformance for companies in the top quartile for diverse representation in executive teams versus those in the bottom quartile.⁴

A review by *As You Sow* and Whistle Stop Capital of management diversity in over 1,600 companies found statistically significant positive correlations for key financial indicators, including: return on equity, invested capital, revenue growth, and share price performance. A 2024 meta-analysis found that companies with DEI initiatives experience increased innovation, enhanced employee engagement and satisfaction, and improved decision-making.⁵

Long-term growth:

Tractor Supply's core consumers are rural Americans, a demographic on the cusp of significant change. The percentage of non-White rural Americans rose 19 percent between the 2010 and 2020 census.⁶ The current average age of American farmers is over 58 years, with almost 40 percent over 65. Among new farmers, 41 percent are female, with more women than men involved in financial management.⁷

RESOLVED: Shareholders request that Tractor Supply's Board prepare and issue a report, at reasonable expense, excluding proprietary information, describing the research and analysis the Board undertook before making changes to its DEI policies and practices in Summer 2024.

SUPPORTING STATEMENT: Shareholders suggest the report include, at Board discretion:

- A qualitative and quantitative description of the DEI-related concerns raised by the Company's consumer base, if any;
- The process and level of Board involvement in decision-making related to the Company's DEI strategy;
- Current and planned strategies to ensure a workplace free of harassment and discrimination; and
- Any foreseeable impacts on the Company's ability to source diverse talent, consumer sentiment, or brand value.

⁴ <https://www.mckinsey.com/featured-insights/diversity-and-inclusion/diversity-matters-even-more-the-case-for-holistic-impact>

⁵ https://www.researchgate.net/publication/380115625_ENHANCING_ORGANIZATIONAL_PERFORMANCE_THROUGH_DIVERSITY_AND_INCLUSION_INITIATIVES_A_META-ANALYSIS

⁶ <https://ruralinnovation.us/blog/who-lives-in-rural-america-part-i/>

⁷ <https://www.nass.usda.gov/Publications/Highlights/2020/census-beginning%20-farmers.pdf>;

https://www.nass.usda.gov/Publications/Highlights/2024/Census22_HL_FarmProducers_FINAL.pdf

ANALYSIS

I. The Proposal Transcends TSCO's Ordinary Business

A. Ordinary Business Standard

Rule 14a-8(i)(7) permits the exclusion of proposals that “deal[] with a matter relating to the company’s ordinary business operations.” All proposals, if implemented, *must* in some way relate to a company’s ordinary business, but not every shareholder proposal is excludable. Rather, Proposals that raise substantial corporate or social policy issues that transcend the Company’s ordinary business may be brought to the proxy for shareholder analysis and a vote. *See Pacific Group Telesis* (Feb. 2, 1989) (declining to concur in exclusion of proposal that “involve[d] substantial corporate policy considerations that go beyond the conduct of the [c]ompany’s ordinary business operations”); SLB 14M (noting that Staff will focus on “whether the proposal . . . raises a policy issue that transcends the individual company’s ordinary business operations.”

This policy exception to the ordinary business rule reflects the reasoning behind the rule. Rule 14a-8(i)(7) is intended to prevent interference with “tasks. . . so fundamental to management’s ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight.” 1998 Release. The Rule preserves the Company’s ability to run the company while allowing shareholder oversight over “important issue[s] that [are] appropriate for stockholders to address.” *Broadridge Financial Solutions, Inc.* (Sept. 22, 2021). Similarly, the social policy exception applies when the proposal “focuses on sufficiently significant social policy issues,” in which case a proposal may not be excluded even if it “relates to the ‘nitty-gritty’ of [the company’s] core business.” Staff Legal Bulletin No. 14H (Oct. 22, 2015).

Staff precedent applying Rule 14a-8(i)(7) and the significant policy exception has been consistent in upholding two relevant principles. First, proposals concerning a company’s DEI policies, goals, and disclosures raise a significant policy issue that transcends the Company’s ordinary business. *See, e.g., Eli Lilly & Co.* (Mar. 10, 2023) (declining to concur in exclusion of proposal requesting disclosures on “the effectiveness of the company’s diversity, equity, and inclusion efforts” because it “raise[d] human capital management issues with a broad societal impact” and therefore “transcend[ed] ordinary business matters”). Second, proposals concerning alignment between a company’s statements and actions likewise transcend ordinary business. *See, e.g., Comcast Corp.* (Apr. 13, 2022) (concluding that proposal requesting analysis of how company’s retirement plan options aligned with its climate action goals transcended ordinary business); *id.* at Proponent Letter at 4-7 (arguing that proposals addressing alignment or congruency transcend ordinary business and aggregating citations to concurring Staff precedent).

B. The Proposal focuses on at least two significant policy issues, transcending TSCO's ordinary business

Under the Staff's well-established Rule 14a-8(i)(7) standards and precedents, the Proposal unquestionably transcends the Company's ordinary business.

First, like other DEI-focused proposals, the Proposal "raises human capital management issues with a broad societal impact" and therefore transcends the Company's ordinary business. *Eli Lilly, supra*. DEI has long been recognized as a transcendent policy issue; it is rarely challenged as ordinary business; and the Company Letter does not actually dispute that DEI is a transcendent policy issue, *see* Company Letter at 5.

SLB 14M does not change this analysis whatsoever. SLB 14M instructs that "a policy issue that is significant to one company may not be significant to another," and therefore "whether the significant policy exception applies depends on the particular policy issue raised by the proposal and its significance in relation to the company." SLB 14M. Here, it cannot seriously be argued that the Company's DEI strategy is not significant to it. *See supra* notes 5 and 6 (Company describing its DEI strategy as a "business imperative" and "essential to [its] business").

Second, the Proposal focuses on the issue of inconsistency in the Company's public statements about DEI and its recent actions. Overnight, the Company went from describing DEI as a business imperative essential to its long-term growth to eliminating its DEI roles and goals. This raises transcendent issues concerning investors' reliance on Company disclosures going forward. Because of this exact concern, the Staff has long concluded that proposals raising issues of alignment and/or congruence are independently transcendent, even if they would otherwise be excludable on significant social policy grounds. The Proponent Letter in *Comcast Corp., supra*, focused extensively on this issue, providing numerous cites. For example, in *Franklin Resources, Inc.* (Nov. 24, 2015), the proposal requested a report assessing incongruities between the company's climate policy positions and the voting practices of the asset manager and its subsidiaries. The Staff declined to concur in the exclusion of the proposal after the proponent argued that the proposal's focus on incongruities transcended ordinary business. *See also McDonald's Corp.* (Feb. 28, 2017) (proposal requested congruency analysis of charitable contributions with corporate values; Staff declined to concur); *The Procter & Gamble Co.* (Aug. 6, 2014) (congruency analysis between Company's corporate values and its political and electioneering expenditures not excludable); *Deere & Co.* (Dec. 3, 2015) (same). *Cf. Comcast Corp.* (Apr. 10, 2023) (Company Letter at 8-9 n. 8 (acknowledging that congruency proposals transcend ordinary business)). Notably, most of this precedent predates the now-rescinded SLB 14L and arose under the previous "nexus" rule, highlighting that congruence of company statements and actions is a company-specific significant issue under SLB 14M.

The Company's arguments that the Proposal does not transcend its ordinary business are not persuasive. It states that while the Proposal raises DEI, "the fundamental nature of the Proposal requests disclosure of information related to Board materials and the Board's practices with respect to its discharge of its oversight responsibilities." Company Letter at 5. Simply restating

the ordinary business matter the Proposal implicates is a common, circular argument made by issuers seeking to avoid application of the significant policy exception.

Staff precedent forecloses the Company's argument. In *JPMorgan Chase & Co.* (Mar. 21, 2023), the proposal requested that "the board conduct an evaluation and issue a report within the next year evaluating how it oversees risks related to discrimination against individuals based on their race, color, religion (including religious views), sex, national origin, or political views, and whether such discrimination may impact individuals' exercise of their constitutionally protected civil rights." If the Company were correct that a proposal focused on DEI could be excluded because it relates to "the Board's practices with respect to its discharge of its oversight responsibilities," then the *JPMorgan Chase & Co.* proposal should have been excluded, as it requested a report on *exactly* that topic. Yet, the Staff declined to concur in the exclusion of the Proposal, concluding that it "transcends ordinary business matters."¹

The Staff precedents cited in the Company Letter all postdated *JPMorgan Chase* and are nowhere near as relevant

- In *Walt Disney Co.* (Jan. 8, 2021), the proposal requested that the board commission a report assessing "how and whether Disney ensures the company's advertising policies are not contributing to violations of civil or human rights," including "whether advertising policies contribute to the spread of hate speech, disinformation, white supremacist recruitment efforts, or voter suppression efforts, and whether the policies undermine efforts to defend civil and human rights." The proposal's fundamental argument was that Disney was somehow at fault for "advertising on social media platforms like Facebook, YouTube, and Twitter." The company's reply that the proposal did not transcend its ordinary business was based entirely on the "nexus" test that has since been rescinded. *See id.* (Company Letter at 6-7). The company argued that the proposal "d[id] not raise a significant policy issue *as to the Company* because it d[id] not have a sufficient nexus to the business of the Company. The business of the Company is entertainment, not hosting and/or creation of content on a social media platform." *Id.*

No such argument is available to the Company here. There can be no dispute that a proposal concerning a company's decision to abandon *its own* DEI roles and goals is sufficiently related to the company at issue.

¹ Proposals addressing how boards "discharge ... [their] oversight responsibilities" are commonplace and not generally excludable when addressed to a significant policy issue. *See, e.g., American Express Co.* (Mar. 13, 2024) and *Mastercard Inc.* (Apr. 25, 2023) (proposals requesting "that the board issue a report concerning its oversight of management's decision-making" concerning a topic related to gun and ammunition sales transcended ordinary business); *Apple Inc.* (Jan. 3, 2023) (proposal requesting that board adopt policy that if majority of non-insider shareholders supported a shareholder proposal, board would make member(s) available for discussion with proponents "d[id] not address ordinary business"). Similarly, the Commission has stated that proposals requesting the creation of a board committee will be evaluated for ordinary business based on whether the subject of the proposed committee transcends ordinary business, not that the board-oversight-focused nature of such proposals somehow cancels out transcending policy matters. *See* Exchange Act Release No. 34-20091 (Aug. 16, 1983).

- In *Amazon.com, Inc.* (Mar. 28, 2019), the proposal requested an annual report of the board’s “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.” There is no need to speculate about the basis of the Staff’s decision that the proposal could be excluded: the Staff explicitly stated that “the Proposal relates generally to ‘the community impacts’ of the Company’s operations and does not appear to focus on an issue that transcends ordinary business matters.” See also *Dollar Tree, Inc.* (May 2, 2022) and *Amazon.com, Inc.* (Apr. 8, 2022) (both requesting reports on the effect of prevailing labor market conditions on the company’s workforce management; excluded because the effect of existing labor market conditions is an inherent factor in the ordinary business of workforce management).

These precedents provide no support for the Company. DEI policies are an acknowledged transcendent policy issue.

- *Lowe’s Companies, Inc.* (Feb. 23, 2017), similarly, provides no more support. There, the proposal requested the company report on “the known and potential risks and costs to the company caused by pressure campaigns to oppose religious freedom laws (or efforts), public accommodation laws (or efforts), freedom of conscience laws (or efforts) and campaigns against candidates from Title IX exempt institutions, detailing the known and potential risks and costs to the company caused by these pressure campaigns supporting discrimination against religious individuals and those with deeply held beliefs, and detailing strategies that the company may deploy to defend the company’s employees and their families against discrimination and harassment that is encouraged or enabled by such efforts.” It is unclear what comparison the Company Letter attempts to make between the *Lowe’s* proposal and the Proposal here, but the two are readily distinguishable. The *Lowe’s* proposal demanded the Company quantify the “costs” caused by alleged third-party “pressure campaigns” associated with LGBTQ+ rights, which the proposal referred to as “supporting discrimination against religious individuals.” The body of the *Lowe’s* proposal made additional recommendations about workforce management, but the proponent’s portrayal of its proposal as concerned about a transcendent “human right” or discrimination fell flat as the Staff concurred with the Company. There is, to put it bluntly, no meaningful comparison between the *Lowe’s* proposal and the one here, and the Company Letter does not even bother trying to make one.

II. The Proposal Does Not Seek to Micromanage TSCO

A. Micromanagement Standard

The Commission has recognized the exclusion under Rule 14a-8(i)(7) of proposals seeking to “micromanage” companies by “probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment.” 1998

Release.

In SLB 14M, the Staff reinstated guidance concerning the scope of the micromanagement exclusion from SLBs 14J and 14K. The guidance in those bulletins emphasizes that a proposal may seek to micromanage if it “involves intricate detail, or seeks to impose specific time-frames or methods for implementing complex policies.” SLB 14M (Annex A, quoting SLB 14J). Additionally, the Staff looks “to whether the proposal seeks intricate detail or imposes a specific strategy, method, action, outcome, or timeline for addressing an issue, thereby supplanting the judgment of management and the board.” SLB 14K (emphasis added).

B. The Proposal does not probe too deeply into matters too complex for shareholder consideration

The Company argues that the Proposal “seeks to probe too deeply into the judgment of management and the Company’s Board by seeking to dictate disclosures regarding the Board’s internal processes and materials considered by the Board in making a determination regarding the Company’s policies.” Company Letter at 7. It further argues that the proposal “seeks disclosure . . . beyond what the Board and management have deemed appropriate.” *Id.*

Rule 14a-8(i)(7) does not give companies unfettered discretion to reject investors’ disclosure requests beyond what the Board and management have disclosed. All disclosure proposals, by definition, seek information the company has not yet disclosed and necessarily asks for specific information in so doing. Under modern securities law, it is investors—not registrants—that decide whether information is material to their investment decisionmaking. *See TSC Industries v. Northway*, 426 U.S. 438, 445 (1976) (defining materiality as information that a reasonable investor would consider important).

The appropriate inquiry when assessing the excludability of a disclosure proposal under the micromanagement rule is whether the Proposal seeks overly “intricate detail” or if its disclosure request otherwise inappropriately imposes a specific action on the company. *See* SLB 14M. Ultimately, whether judged by either standard — “intricacy” or “imposing a specific method” — the Company fails to meet its burden here of demonstrating that the Proposal is excludable.

Much of the Company’s argument turns on the supposedly unique and sacrosanct nature of Board deliberations. But, as described *supra*, proposals seeking transparency into Board oversight processes are commonplace and are generally not excludable despite some intrusion on the Board’s domain. *See, e.g., American Express Co., supra* (concluding that proposal requesting “report concerning [the board’s] oversight of management’s decision-making” on transcendent policy topic “d[id] not seek to micromanage the company”); *Texas Instruments Inc.* (Mar. 4, 2024) (proposal requested board report on its due diligence process to determine whether customers’ misuse of its products exposed it to risk; micromanagement argument rejected); *Texas Pacific Land Corp.* (Sept. 27, 2023) (proposal stated that shareholders would consider it a breach of fiduciary duty for the board to authorize severance pay for senior managers in excess of annual compensation unless unanimously approved; micromanagement argument rejected);

Chubb Ltd. (Mar. 27, 2023) (proposal requested board publish report describing how human rights risks and impacts are evaluated in underwriting process; micromanagement argument rejected); *Johnson & Johnson* (Mar. 2, 2022) (proposal requested that Board adopt policy that no financial performance metric shall be adjusted to exclude legal or compliance costs when evaluating performance for purposes of executive incentive compensation awards; micromanagement argument rejected); *The AES Corp.* (Feb. 16, 2022) (proposal requested that board seek shareholder approval of senior manager pay packages that provided for severance or termination payments with an estimated value exceeding 2.99 times the sum of the executive's base salary plus short term bonuses; micromanagement argument rejected). As these examples demonstrate, even proposals which *directly* seek to limit Board discretion or impose specific reporting obligations — and even those proposals which place extraordinarily specific limits on Board action — are routinely permitted over micromanagement arguments.

Moreover, this Proposal does not seek to impose any specific method or strategy on the Board. It does not, for instance, ask the Board to reverse its changes to the Company's DEI policies. Nor does it approach the level of detail permitted in instances like *AES* and *Johnson & Johnson*. There is no colorable argument that the Proposal meaningfully limits the Board or management's discretion in any way *other* than by requesting that the Board publish the requested information.

The Company Letter appears to suggest that the Proposal is overly prescriptive with respect to *how* the information it seeks be presented. *See* Company Letter at 7 (arguing that Proposal "attempts to impose a specific method for disclosing the research and analysis"). The Company points to portions of the Proposal's Supporting Statement offering what the Company acknowledges are "suggestions" and which the Proposal itself explicitly states are suggested for inclusion "at Board discretion." The inclusion of explicitly discretionary suggestions to help provide additional detail on what shareholders seek in a disclosure request is well-established practice that is not generally understood to create an additional basis for micromanagement arguments. Providing suggestions, not mandates, on what would be useful information to investors can help define the scope of disclosure for the Company.

The Company's argument about the Supporting Statement is also in direct conflict with its repeated attempts to portray the Proposal as a "books and records" request or some similar demand for extraordinarily granular information in disguise. *See, e.g.*, Company Letter at 7 (suggesting, incorrectly, that the Proposal seeks "detailed descriptions of the Company's Board books and records"), 2 (stating that the Proposal seeks disclosure of "board materials"). But the plain text of the Proposal is a request for a report "*describing* the research and analysis the Board undertook." (emphasis added). And the Supporting Statements buttress the descriptive nature of the Proposal's request, suggesting a "quantitative and qualitative *description*" of concerns raised by the Company's customer base, and a description of "the process and level of Board involvement in" the decision. The Proposal is plainly *not* a books and records request — it does not request the disclosure of *any* primary material. That the Company needs to exaggerate the Proposal in order to argue against it is telling. Read fairly, the Proposal is no different from any number of proposals seeking oversight into Board decision-making, which are routinely included in company proxies every year. *See, e.g., American Express, supra; Texas Instruments, supra.*

Finally, neither the Proposal's primary request nor the Supporting Statement invoke remotely the level of granularity (SLB14L) or intricacy (SLB 14M) which leads to micromanagement exclusions of disclosure requests, including those cited by the Company. *See, e.g., Verizon Communications Inc.* (Mar. 17, 2022) (proposal requested disclosure of the written or oral content of every piece of employee training material offered to any subset of the company's employees by the company or with its consent, as well as any such materials the company sponsored, in whole or in part) (emphasis added). The Proposal is nowhere near this line. Its request for a qualitative description of the Board's decision-making process is significantly less granular than proposals for which micromanagement exclusions have been rejected. For example, in *Republic Services, Inc.* (Mar. 27, 2024), the proposal requested a report from the Board describing "how the Company is addressing the impact of its climate strategy on relevant stakeholders, including but not limited to its employees, workers in its supply chain, and communities in which it operates, consistent with the "Just Transition" guidelines of the International Labor Organization and indicators of the World Benchmarking Alliance." The company argued that the "ILO and the WBA guidelines are complex," with "the ILO guidelines includ[ing] at least 29 indicators the Company would have to consider and the WBA guidelines includ[ing] at least 21. Mandating that the Company modify its sustainability reporting to include these complex topics supplants and limits the judgment of management." *Id.* (Company Letter at 11). Nonetheless, the micromanagement argument was rejected.²

Despite the Company making the same argument here, *see* Company Letter at 7, the Proposal is nowhere near as complex as that in *Republic Services*. Given the acknowledged significance of the policy issue at stake, investors seeking a description of the Board's decision-making process regarding the reversal of a self-admittedly important policy to the Company hardly seeks inappropriately intricate detail. The Proposal cannot be excluded for micromanagement.

CONCLUSION

Almost overnight, the Company abandoned longstanding policies and goals it had described for years as "imperative" and "essential" to its business. Investors require information about that decision, both to understand the Company's approach to DEI moving forward and the alignment of Company statements and actions. This request transcends the Company's ordinary business and does not probe too deeply into matters too complex for investor insight.

²*See also Apple Inc.* (Jan. 3, 2024) and *Paramount Global* (Apr. 19, 2024). Each proposal requested that the company prepare a transparency report on the company's use of AI, including the disclosure of "any ethical guidelines that the company has adopted." The companies argued that the broad request to disclose both the companies' use of AI across all of their business and to disclose every guideline regarding the use of AI probed too deeply for investor consideration. But because the Company's use of artificial intelligence constituted a matter appropriate for shareholder insight, and the level of detail requested was commensurate with shareholders' role, the Staff rejected the companies' micromanagement argument.

Office of Chief Counsel
February 23, 2025
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Based on the foregoing, the Company has provided no basis for the conclusion that the Proposal is excludable from the 2025 proxy statement pursuant to Rule 14a-8. We urge the Staff to deny the no action request.

Sincerely,

A handwritten signature in black ink, appearing to read 'LM', with a long, sweeping horizontal flourish extending to the right.

Luke Morgan
Staff Attorney, *As You Sow*

CC:

Sonia Gupta Barros, Sidley Austin LLP