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January 4, 2025

Rule 14a-8(i)(7)

VIA ONLINE SHAREHOLDER PROPOSAL 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: ***Bristol-Myers Squibb Company – Proposal Submitted by James McRitchie***

To Whom it May Concern:

On behalf of Bristol-Myers Squibb Company (the "***Company***"), we are submitting this letter pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934 to notify the Securities and Exchange Commission (the "***Commission***") of the Company's intention to exclude a shareholder proposal (the "***Proposal***"), and a statement in support thereof (the "***Supporting Statement***") submitted by James McRitchie (the "***Proponent***") from the Company's proxy statement and form of proxy (together, the "***2025 Proxy Materials***") to be distributed to the Company's shareholders in connection with its 2025 annual meeting of shareholders (the "***2025 Annual Meeting***"). The Company respectfully requests confirmation that the staff of the Division of Corporation Finance (the "***Staff***") will not recommend to the Commission that enforcement action be taken if the Company omits the Proposal from the 2025 Proxy Materials for the reasons discussed below.

In accordance with Staff guidance, this letter is being submitted using the Staff's online Shareholder Proposal Form. Pursuant to Rule 14a-8(j), a copy of this submission also is being sent to the Proponent. Rule 14a-8(k) and SLB No. 14D provide that a shareholder proponent is required to send to the Company a copy of any correspondence the proponent elects to submit to the Commission or the Staff. Accordingly, we hereby inform the Proponent that if the Proponent elects to submit additional correspondence to the Commission or the Staff relating to the Proposal, the Proponent should concurrently furnish a copy of that correspondence to the undersigned on behalf of the Company (by e-mail).

Pursuant to the guidance provided in Section F of Staff Legal Bulletin 14F (October 18, 2011), we ask that the Staff provide its response to this request to the undersigned via e-mail at the address noted in the last paragraph of this letter.

The Company intends to file its definitive 2025 Proxy Materials with the Commission on or about March 26, 2025.

THE PROPOSAL

The Proposal sets forth the following resolution to be voted on by shareholders at the 2025 Annual Meeting:

> **Resolved:** Bristol-Myers Squibb (BMY) shareholders request the Board of Directors issue a tax transparency report to shareholders, at a reasonable expense and excluding confidential information, prepared in consideration of the indicators and guidelines outlined in the Global Reporting Initiative's (GRI) Tax Standard.

A copy of the Proponent's complete submission, including the Proposal, the Supporting Statement, and related materials, is attached hereto as Exhibit A.

BASIS FOR EXCLUSION

The Company hereby respectfully requests that the Staff concur in its view that the Proposal may be excluded from the 2025 Proxy Materials pursuant to Rule 14a-8(i)(7) because the Proposal relates to the Company's ordinary business operations and seeks to impermissibly micromanage the Company.

Rule 14a-8(i)(7) – The Proposal Relates to the Company's Ordinary Business Operations and Seeks to Impermissibly Micromanage the Company

A. ***Overview of Rule 14a-8(i)(7)***

A shareholder proposal may be excluded under Rule 14a-8(i)(7) if "the proposal deals with a matter relating to the company's ordinary business operations." The term "ordinary business" refers to matters that are not necessarily "ordinary" in the common meaning of the word; instead, the term "is rooted in the corporate law concept of providing management with flexibility in directing certain core matters involving the company's business and operations." *See* Securities Exchange Act Release No. 34-40018 (May 21, 1998) (the "***1998 Release***"). Per the 1998 Release, the underlying policy of the ordinary business exclusion is "to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting."

In the 1998 Release, the Commission identified the two "central considerations" for the ordinary business exclusion. The first is the subject matter of the proposal, with the 1998 Release concluding that "[c]ertain tasks are so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight." The second consideration is the degree to which the proposal attempts to micromanage a 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," which "may come into play in a number of circumstances, such as where the proposal involves intricate detail, or seeks to impose specific time-frames or methods for implementing complex policies," even those circumstances where the proposal is found to address a significant social policy. Securities Exchange Act Release No. 34-40018 (May 21, 1998). The Commission noted in the 1998 Release that determinations as to the excludability of proposals on the basis of micromanagement will "be made on a case-by-case basis, taking into account factors such as the nature of the proposal and the circumstances of the company to which it is directed." *Id*. In addition, the Commission has indicated that "the Staff will take a measured approach to evaluating companies' micromanagement arguments" and "will focus on the level of granularity sought in the proposal and whether and to what extent it inappropriately limits discretion of the board or management." *See* Staff Legal Bulletin No. 14L (November 3, 2021).

Framing a shareholder proposal in the form of a request for a report does not change the nature of the proposal. The Commission has stated that a proposal requesting the dissemination of a report may be excludable under Rule 14a-8(i)(7) if the subject matter of the proposed report is within the ordinary business of the issuer. *See* Exchange Act Release No. 20091 (Aug. 16, 1983); *Johnson Controls, Inc.* (October 26, 1999) ("[Where] the subject matter of the additional disclosure sought in a particular proposal involves a matter of ordinary business . . . it may be excluded under [R]ule 14a-8(i)(7)."); *see also Ford Motor Co.* (March 2, 2004) (concurring with the exclusion of a proposal requesting that the company publish a report about global warming/cooling, where the report was required to include details of indirect environmental consequences of its primary automobile manufacturing business).

B. *The Proposal May be Excluded Under Rule 14a-8(i)(7) Because it Relates to the Company's Ordinary Business Operations*

The Commission and Staff have long held that shareholder proposals that relate to a company's management of its tax expense and financial reporting, both core aspects of management's day-to-day running of the company, may be excluded under Rule 14a-8(i)(7). Notably, the Staff has consistently recognized that proposals requiring the assessment and reporting of a company's approach to taxation and its tax management efforts are excludable under Rule 14a-8(i)(7). For example, in *Exxon Mobil Corp.* (March 20, 2024) ("***Exxon Mobil***"), the Staff permitted exclusion of a substantially identical proposal as the Proposal to "issue a tax transparency report to shareholders…prepared in consideration of the indicators and guidelines set forth in the Global Reporting Initiative's (GRI) Tax Standard," stating that such proposal "relates to ordinary business matters." The company in *Exxon Mobil* argued that that "[m]anagement of corporation taxation is a task fundamental to management's ability to run the company on a day-to-day basis" and that the level of information required by the proposal "is

competitively sensitive, is not required by SEC public reporting standards, and is a matter to be properly determined by management as part of its risk management and oversight functions." In *Nike, Inc.* (June 22, 2018), the Staff concurred with exclusion of a proposal under Rule 14a-8(i)(7) requesting the company respond to rising public pressure to limit offshore tax avoidance strategies by adopting and disclosing to shareholders a set of principles to guide the Company's tax practices, on the basis that "the Proposal relates to decisions concerning the Company's tax expenses." *See also Allergan plc* (February 7, 2018) (permitting exclusion of a similar proposal) In *The Boeing Co.* (February 8, 2012), a proposal requested the Company to prepare a report "disclosing its assessment of the financial, reputational and commercial effects of changes to, and changes in interpretation and enforcement of, US federal, state, and local tax laws and policy that pose risks to shareholder value." The Staff concurred that the proposal was excludable under Rule 14a-8(i)(7) because it "relate[d] to decisions concerning the company's tax expenses and sources of financing." *See also Amazon.com, Inc.* (March 8, 2012) (same). Similarly, in *Amazon.com, Inc.* (March 21, 2011), the proposal requested the company to prepare a report regarding the board's assessment of "the risks created by the actions [the company] takes to avoid or minimize US federal, state and local taxes." The Staff concurred with the exclusion of the proposal under Rule 14a-8(i)(7) because it "relate[d] to decisions concerning the company's tax expenses and sources of financing." *See also The TJX Companies Inc.* (March 29, 2011) (same); *Wal-Mart Stores, Inc.* (March 21, 2011) (same); *The Home Depot Inc.* (March 2, 2011) (same); and *Lazard Ltd.* (February 16, 2011) (same).

The Staff has also concurred with exclusion under Rule 14a-8(i)(7) where a proposal requests a report on the estimated impacts of a flat tax for the company. *See, e.g., Verizon Communications Inc.* (January 31, 2006); *Johnson & Johnson* (January 24, 2006); and *General Electric Co.* (National Legal and Policy Center) (January 17, 2006). In addition, the Staff has historically found that proposals seeking additional, detailed financial disclosure, the subject matter of which involves ordinary business operations, may be excluded under Rule 14a-8(i)(7). *See, e.g., Citigroup Inc.* (February 20, 2008) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting disclosure of certain prescribed financial information on a website on a quarterly basis); *AmerInst Insurance Group. Ltd.* (April 14, 2005) (permitting the exclusion of a proposal requesting that the board provide each quarter a full, complete and adequate disclosure of the accounting of the line items and amounts of the operating and management expenses of the company); *Johnson Controls, Inc.* (October 26, 1999) (permitting the exclusion of a proposal requesting additional disclosure of financial statements in reports to shareholders); and *Santa Fe Southern Pacific Corp.* (January 30, 1986) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting disclosure of cost basis financial statements to all shareholders, noting that the proposal related to the conduct of ordinary business operations, including "financial disclosure not required by law").

Here, as in *Exxon Mobil*, the Proposal concerns the Company's management of its tax expense and tax strategies because it seeks a tax transparency report "prepared in consideration of the indicators and guidelines outlined in the Global Reporting Initiative's (GRI) Tax Standard." In 2019, the Global Sustainability Standards Board (GSSB), GRI's independent standard-setting

body, approved the GRI Tax Standard, known as GRI 207.[1] To implement the Proposal, the Company would be required to consider each of the "indicators and guidelines" prescribed in the four components under GRI 207:

• GRI 207-1 would require the Company to include a description of the Company's approach to tax, including tax strategy, approach to regulatory compliance and how the approach is linked to its business and sustainable development strategies.[2]

• GRI 207-2 would require the Company to include a description of its tax governance and control framework, including the approach to tax risks and how compliance with tax governance and control framework is evaluated. [3]

• GRI 207-3 would require the Company to report on its approach to "stakeholder engagement and management of stakeholder concerns related to tax," including the approach to "engagement with tax authorities" and "public policy advocacy on tax."[4]

• GRI 207-4 would require the Company to disclose, on a country-by country basis, all tax jurisdictions of which the Company and its subsidiaries are tax residents, and for each country, the names of the resident entities, revenues from third-party sales and intra-group transactions, profit and loss before tax, tangible assets other than cash and cash equivalents and corporate income tax paid on a cash basis.[5]

Although the Company's existing policies, principles and disclosures already incorporate many of these concepts, the specific and comprehensive disclosure framework set forth in GRI 207 would override management's judgment and require an analysis and disclosure of complex corporate taxation and financial reporting matters on which "shareholders, as a group, would not be in a position to make an informed judgment," as shareholders would be unable to fully understand the Company's tax strategies and related risk assessments, and the reporting thereof, without the requisite knowledge of tax regulations and policies. *1998 Release*.

The Company is one of the world's leading biopharmaceutical companies and is engaged in the discovery, development, licensing, manufacturing, marketing, distribution, and sale of biopharmaceutical products on a global basis. Its products are sold worldwide, through wholesalers, distributors, specialty pharmacies, retailers, hospitals, clinics and government agencies. The Company operates manufacturing operations in the U.S., Puerto Rico, Switzerland, Ireland, and the Netherlands and has employees in 43 different countries. As a taxpayer with subsidiaries in a number of domestic and foreign jurisdictions, the Company is subject to various tax regimes that involve many complex rules, regulations and tax authorities. Managing the Company's tax strategies requires an intricate understanding of current and pending tax

[1] https://www.globalreporting.org/standards/standards-development/topic-standard-for-tax/.
[2] *See* GRI 207: Tax 2019 ("GRI 207"), *available at*: https://www.globalreporting.org/pdf.ashx?id=12434.
[3] *Id*. at 9.
[4] *Id*. at 11.
[5] *Id*. at 12.

regulations and policies (including changes in interpretation and enforcement) in every country where the Company operates. The Company's assessment of the impact of tax regulations and the possible implications from changes in tax law and policy necessarily impacts ordinary business decisions on a variety of routine matters that are core to the Company's day-to-day operations, ranging from decisions regarding the management of expenses and sources of financing, legal compliance, product pricing, and the location of manufacturing and research facilities. Tax management, compliance and planning associated with the multitude of jurisdictions where the Company operates is highly complex and requires significant management resources and effort that involves expert judgment and advice from hundreds of internal and external tax professionals with multi-jurisdictional tax expertise.

In addition, the Company is subject to numerous tax reporting obligations, including under Commission regulations, foreign reporting requirements, and the Company's own Global Tax Policy and Approach policy statement,[6] and is also analyzing and planning for new and proposed tax compliance and reporting obligations, which include those proposed by the Financial Accounting Standards Board, the Organisation for Economic Co-operation and Development's (OECD) Inclusive Framework on Base Erosion Profit Shifting's Model Global Anti-Base Erosion (GloBE) rules (Pillar Two), and the European Union's Corporate Sustainability Reporting Directive (CSRD). Navigation of these standards requires significant management expertise and judgment to comply with complex and intricate reporting requirements, and this expertise and judgment is fundamentally a part of the Company's ordinary business of tax compliance and reporting. The Company's compliance with these or other frameworks may implicate some or most of the standards requested by the Proposal, but it is management, and not shareholders, who is best positioned to steer the Company's specific reporting strategy and determine the best way to ensure the Company has met its multi-faceted, and multi-jurisdictional, reporting obligations.

Tax management, compliance and planning is thus a significant component of the Company's business strategies, financial planning, financial reporting and legal compliance, which are precisely the types of ordinary business issues which should remain with the Company's management and board and which would be inappropriate for direct shareholder oversight. Management of corporate taxation, and the public reporting thereof, is fundamental to management's operation of the Company on a day-to-day basis.

Accordingly as in Exxon Mobil, *Nike, Inc.* (June 22, 2018), *The Boeing Co.* (February 8, 2012) and the other precedent cited above, the Proposal relates to the Company's management of its tax expense and financial reporting, both core aspects of management's day-to-day running of the Company, and is therefore excludable under Rule 14a-8(i)(7).

[6] https://www.bms.com/assets/bms/us/en-us/pdf/global-tax-policy.pdf

C. ***The Proposal Does Not Raise Significant Social Policy Issues that Transcend the Company's Ordinary Business Operations***

In the 1998 Release, the Commission distinguished proposals pertaining to ordinary business matters that are excludable under Rule 14a-8(i)(7) from those that "focus on" significant social policy issues and indicated that proposals that relate to both ordinary business matters and significant social policy issues may be excludable if the proposals do not "transcend the day-to-day business matters." In Staff Legal Bulletin No. 14L (November 3, 2021) ("***SLB 14L***"), the Staff states that in making a determination on whether a proposal raises a significant social policy issue, it will "focus on the social policy significance of the issue that is the subject of the shareholder proposal" and "consider whether the proposal raises issues with a broad societal impact, such that they transcend the ordinary business of the company." The mere fact that a proposal is phrased to reference or invoke issues that could implicate significant social policy issues under the Staff's current interpretation of Rule 14a-8(i)(7) is not sufficient to transcend day-to-day business matters. A proposal may still be excluded when it effectively focuses on an ordinary business matter. When assessing proposals under Rule 14a-8(i)(7), the Staff will also consider the terms of the resolution and its supporting statement as a whole. *See* Staff Legal Bulletin No. 14C (June 28, 2005) ("In determining whether the focus of these proposals is a significant social policy issue, we consider both the proposal and the supporting statement as a whole.").

Accordingly, shareholder proposals that focus on ordinary business matters and only touch upon topics that might raise significant social policy issues—but which do not focus on such issues—are not transformed into proposals that transcend ordinary business. As a result, such proposals remain excludable under Rule 14a-8(i)(7). For example, in *Amazon.com, Inc.* (April 8, 2022), the company argued that the proposal, which requested a report on workforce turnover and an assessment of its impact on the company's diversity, equity and inclusion, merely "touches upon a significant social policy issue" but primarily related to an ordinary business matter, and was distinguishable from a proposal related to human capital management practices that raise specific social policy issues "with a broad societal impact." *See also CIGNA Corp.* (February 23, 2011) (permitting exclusion under Rule 14a-8(i)(7) when, although the proposal addressed the potential significant policy issue of access to affordable health care, it also asked CIGNA to report on expense management, an ordinary business matter); *Capital One Financial Corp.* (February 3, 2005) (permitting exclusion under Rule 14a-8(i)(7) when, although the proposal addressed the significant policy issue of outsourcing, it also asked the company to disclose information about how it manages its workforce, an ordinary business matter).

As demonstrated by the Staff's concurrence in these precedents, citing potential social policy implications in a proposal does not qualify as "focusing" on such issues, even if the social policies happen to be the subject of substantial public focus. The underlying subject of the Proposal—like in Exxon Mobil—is to seek extensive incremental financial disclosure (by jurisdiction) concerning the Company's "business activities, including revenues, profits and losses, and tax payments within each jurisdiction." This level of information is not required by Commission public reporting standards and is a matter to be properly determined by management as part of its own risk management and oversight functions. While the Supporting Statement

references alleged profit shifting and tax avoidance among jurisdictions, the focus of the Proposal is primarily related to tax expense management and reporting, an area that has long been held by Staff precedent (as cited above) to be within the realm of day-to-day business matters. Accordingly, the Proposal may be excluded under Rule 14a-8(i)(7).

D. ***The Proposal May be Excluded Under Rule 14a-8(i)(7) Because it Seeks to Micromanage the Company***

As mentioned above, a proposal that seeks to micromanage a company is excludable under Rule 14a-8(i)(7). As stated by the Commission, the exclusion of a proposal under Rule 14a-8(i)(7) on micromanagement grounds "may come into play in a number of circumstances, such as where the proposal involves intricate detail, or seeks to impose specific time frames or methods for implementing complex policies." 1998 Release. Proposals that impermissibly micromanage a company "by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment" are excludable under Rule 14a-8(i)(7), even in circumstances where the proposal is found to address a significant social policy. *Id*. The Staff has repeatedly confirmed that the micromanagement basis of exclusion also applies to proposals that call for a study or report. To that end, the Staff has stated that this "approach is consistent with the Commission's views on the ordinary business exclusion, which is designed to preserve management's discretion on ordinary business matters but not prevent shareholders from providing high-level direction on large strategic corporate matters." SLB 14L. SLB 14L set forth the Staff's current approach to the micromanagement analysis, which is to "focus on the level of granularity sought in the proposal and whether and to what extent it inappropriately limits discretion of the board or management." *Id.*

In the period following the release of SLB 14L, the Staff has permitted exclusion under micromanagement grounds of numerous proposals requesting reporting of information that is significantly less complex and detailed than the information requested by the Proposal. *See e.g.*, *Delta Air Lines, Inc.* (April 24, 2024) (permitting exclusion of a proposal requiring a report regarding "union suppression expenditures," including internal and external expenses); *Paramount Global* (April 19, 2024) (permitting exclusion of a proposal requesting disclosure of the recipients of corporate charitable contributions of $5,000 or more); *Walmart Inc.* (April 18, 2024) (permitting exclusion of a proposal submitted by Green Century Capital Management requiring a breakdown of greenhouse gas emissions for different categories of products in a manner inconsistent with existing reporting frameworks); *Amazon.com, Inc.* (April 1, 2024) (permitting exclusion of proposal calling for highly detailed living wage report); *Deere & Co*. (January 3, 2022) (permitting exclusion of proposal requesting publication of employee-training materials). Even when a proposal raises significant social policy issues, the Staff has permitted exclusion on the basis of micromanagement where the proposal seeks information of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment. *See e.g.*, *Air Products & Chemicals*, *Inc.* (November 29, 2024) (permitting exclusion of a proposal requesting a detailed annual report on the company's lobbying activities and payments that would require dozes of distinct pieces of information); *Amazon.com, Inc.* (April 7, 2023) (permitting exclusion of a proposal requesting the company measure and disclose scope 3 greenhouse gas emissions from the company's full value chain by imposing a specific method for

implementing a complex policy without affording discretion to management); *Chubb Limited* (March 27, 2023) (permitting exclusion of a proposal requesting the board adopt and disclose a policy related to risks associated with new fossil fuel exploration and development project would micromanage the company); *Phillips 66* (March 20, 2023) (permitting exclusion of a proposal requesting an audited report describing the undiscounted expected value to settle obligations for the company's asset retirement obligations with indeterminate settlement dates); *The Coca-Cola Co.* (February 16, 2022) (permitting exclusion of proposal requiring the company to submit any proposed political statement to the next shareholder meeting for approval prior to issuing the statement publicly).

The Proposal is highly prescriptive and granular in the information covered by its requested report. Section B. above details the extensive disclosures and reporting that would be required of the Company in order to comply with the Proposal's cited GRI 207 reporting standard. Preparing the requested report would require an analysis of financial, economic, and tax-related information for every jurisdiction in which the Company operates and require disclosure that would go far beyond the information called for under existing Commission tax reporting rules and regulations. For example, the report would require, among other things, on a country-by country basis, reporting of all tax jurisdictions of which the Company and its subsidiaries are tax residents, and for each country, the names of the resident entities, revenues from third-party sales and intra-group transactions, profit and loss before tax, tangible assets other than cash and cash equivalents and corporate income tax paid on a cash basis. This information would be unduly burdensome to produce, is competitively sensitive, and is much more detailed than the disclosures made by most of the Company's primary peers. The Proposal would require granular disclosure of tax expenses on a jurisdiction-by jurisdiction basis regardless of their significance to the Company's operations, or even with respect to their significance to the Company's overall tax obligations. This level of detail is asymmetrical to the level of detail that the Company provides with respect to its other business activities or categories of operating expenditures.

Furthermore, the Proposal ignores the fact that tax management and structure are highly complex and based on a range of considerations related to the day-to-day operations of the business, and also that such activities are already subject to disclosure under Commission financial reporting rules and other state and foreign requirements, and that the Company already files publicly accessible information relating to its tax expenses in its financial statements (including an extensive breakdown of the Company's effective tax rate, U.S. statutory Federal income tax rate, tax benefits and expenses, deferred taxes, tax valuation allowance and unrecognized tax benefits)[7]. The Company has also published its aforementioned Global Tax Policy and Approach policy statement that discloses the Company's principles related to tax strategy, tax governance, control and risk management and stakeholder engagement. These existing disclosures are carefully calibrated by management to provide transparency to stakeholders under legal and accounting requirements and additional voluntary disclosure principles, and are properly vetted by internal controls, internal audits and external financial audit

[7] *See, e.g.*, "Note 7. Income Taxes" to the Company's consolidated financial statements included in its Annual Report on Form 10-K for the fiscal year ended December 31, 2023.

and tax authority reviews. As noted above, the Company is also currently analyzing new tax reporting obligations proposed by, among others, the Financial Accounting Standards Board, the OECD Inclusive Framework on Base Erosion Profit Shifting's Model GloBE rules (Pillar Two), and the CSRD. These standards are complex and intricate, and require significant management expertise and judgment to navigate. The Company's management requires flexibility and opportunity to prepare its tax reporting program in compliance with such frameworks and its internal principles in a manner that provides transparency while also protecting competitively sensitive information. Adherence to a new and prescriptive shareholder-imposed tax reporting framework among a sea of overlapping global requirements would limit management's discretion to chart the course of the Company's tax reporting program, reduce management's ability to balance the many competing factors inherent to disclosure determinations and subject the Company to redundant and/or inconsistent reporting requirements, any of which would impermissibly micromanage a foundational management task related to tax compliance and reporting.

In addition, implementation of the Proposal would impermissibly micromanage management's discretion in administering the Company's ordinary business matters relating to tax planning and reporting. Tax planning decisions are made by management and tax professionals with the requisite knowledge of both the applicable tax rules and regulations and the Company's operations to ensure the Company makes properly informed decisions. This requires knowledge across over numerous national jurisdictions with many additional sub-jurisdictions and is not isolated by any specific region. The analysis is further complicated by the need to understand how competing tax regimes relating to operations, manufacturing, employment and sales are interwoven. Taxation in each jurisdiction is overlaid by U.S. federal income tax rules which require the Company, as a U.S. multinational, to account for its global operations and the elements of worldwide taxation to which it is subject. To understand and synthesize such tax data from the Company, and to make decisions regarding the public reporting thereof, requires dedicated teams of tax experts with specialized country knowledge. The Proposal, by overriding management's judgment about tax reporting and planning with that of the shareholders', impermissibly limits management's discretion in this core business area.

In sum, the Proposal seeks to micromanage the Company by probing too deeply into matters of a complex nature in seeking disclosure of the intricate details of the manner in which the Company manages its tax expenses, and limits management's discretion to choose the form, substance, or manner of its disclosure. Accordingly, the Proposal should be excluded under Rule 14a-8(i)(7) because it seeks to micromanage the Company with respect to its global tax policies by probing too deeply into matters of a complex nature in seeking a report that requires detailed and sensitive information about which shareholders would not be in a position to make an informed judgment at an annual meeting.

CONCLUSION

For the reasons discussed above, the Company believes that it may omit the Proposal from its 2025 Proxy Materials. We request the Staff's concurrence in our view or, alternatively, confirmation that the Staff will not recommend any enforcement action if the Company excludes the Proposal.

If you have any questions or need additional information, please feel free to contact me at (202) 637-5464. Correspondence regarding this letter may be sent to me by e-mail at: john.beckman@hoganlovells.com.

Sincerely,

John B. Beckman

Enclosures

cc: Amy Fallone, Bristol-Myers Squibb Company
Lisa A. Atkins, Bristol-Myers Squibb Company
James McRitchie
John Chevedden

Exhibit A

Proponent's Submission

CorpGov.net: Corporations are not Democratic-Free Zones

Bristol-Myers Squibb Company
Route 206 & Province Line Road
Princeton, NJ 08543
Attention: Corporate Secretary
Via: [redacted]@bms.com
cc: Atkins, Lisa <[redacted]@bms.com>; Gardella, Alexis <[redacted]@bms.com>; Lesniewska, Sylwia <[redacted]@bms.com>; Bail, Sophie <[redacted]@bms.com>
Tel: [redacted]

Dear Kimberly Jablonski or current Corporate Secretary:

I am submitting the attached shareholder proposal, which I support, for a vote at the next annual shareholder meeting requesting that Bristol-Myers Squibb Company issue an annual Tax Transparency Report. I will meet Rule 14a-8 requirements, including the continuous ownership of the required stock value until after the date of the next shareholder meeting.

My submitted format, with the shareholder-supplied emphasis, is intended to be used for definitive proxy publication. I am available to meet with a Company representative via phone on December 16 or 17, 2024, at 7:30 am Pacific or at mutually convenient time.

John Chevedden is authorized to present this proposal at the forthcoming shareholder meeting if I am unavailable. Please copy John Chevedden (PH: [redacted], [redacted]) at: [redacted] (at) earthlink.net in future communications.

Avoid the time and expense of filing a deficiency letter to verify ownership by acknowledging receipt of my proposal promptly by emailing [redacted]@corpgov.net. That will prompt me to request the required letter from my broker and submit it to you.

Per SEC SLB 14L https://www.sec.gov/corpfin/staff-legal-bulletin-14l-shareholder-proposals, Section F, Staff "encourages both companies and shareholder proponents to acknowledge receipt of emails when requested." As stated above, I so request.

Sincerely,

James McRitchie

November 26, 2024

Date

- James McRitchie

[BMY: Rule 14a-8 Proposal, November 22, 2024]
[This line and any line above it – *Not* for publication. *Proposal number to be assigned by Company.]

ITEM 4* — Tax Transparency Report

Resolved: Bristol-Myers Squibb (BMY) shareholders request the Board of Directors issue a tax transparency report to shareholders, at reasonable expense and excluding confidential information, prepared in consideration of the indicators and guidelines outlined in the Global Reporting Initiative's (GRI) Tax Standard.

Supporting Statement

BMY's tax practices and failure to disclose has harmed our company's reputation, resulting in an investigation into whether BMY was using an "abusive" tax shelter that would cheat the United States out of $1.4 billion in taxes.[1] Tax transparency is required to restore BMY's reputation and prevent future losses.

BMY does not disclose revenues or profits in non-US markets, and foreign tax payments are not disaggregated, challenging investors' ability to evaluate the risks to BMY of taxation reforms or whether BMY is engaged in responsible tax practices that ensure long-term value creation. BMY's alleged profit shifting to Ireland is central to current scrutiny involving its tax practices.[2]

Global OECD tax reforms are now implemented worldwide. There are growing demands for the United Nations to play a stronger role, ensuring multinationals pay taxes where profits are earned. The Financial Accounting Standards Board adopted new reporting requirements on tax payments, effective in 2025. A European Union directive to implement country-by-country reporting (CbCR) is effective in 2024.[3] Similar legislation is expected in Australia in the same timeframe.

Unchecked corporate tax avoidance poses a risk to the long-term portfolios of diversified investors. While such activities may help one company, they can cause externalities for other companies, taxpayers, consumers, and workers — ultimately hampering economic value creation and portfolio growth upon which long-term diversified investors depend.[4]

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[1] https://www.nytimes.com/2021/04/01/business/bristol-myers-taxes-irs.html
[2] https://www.investigate-europe.eu/posts/deadly-prices-pharma-firms-stash-profits-in-europes-tax-havens-as-patients-struggle-with-drug-prices
[3] https://www.internationaltaxreview.com/article/b1vf7yc65qpzcd/this-week-in-tax-eu-on-track-for-public-cbcr-by-2023
[4] https://theshareholdercommons.com/wp-content/uploads/2024/09/Sample-Text_Portfolio-focused-Proxy-Actions_2024September.pdf

- James McRitchie

The GRI Standards is the world's most utilized reporting standard, actively supported by global investors representing over $10 trillion.[5] The GRI Tax Standard was developed in response to investor concerns regarding the lack of corporate tax transparency and the impact of tax avoidance on governments' ability to fund services and support sustainable development.[6] It is the first comprehensive, global standard for public tax disclosure. It requires public reporting of a company's business activities, including revenues, profits and losses, and tax payments within each jurisdiction.[7]

Profit shifting by corporations is estimated to cost the US government $70 - 100 billion annually.[8] The OECD estimates annual revenue losses of $100 – 240 billion globally.[9] The PRI states that tax avoidance is a key driver of global inequality.[10] Further reforms and greater international scrutiny of BMY's tax practices will continue to put shareholders at risk without greater transparency.

This proposal would bring BMY's disclosures in line with leading companies using the Tax Standard.[11] The reporting burden is negligible, since BMY already reports similar confidential CbCR information shared with OECD tax authorities.

Enhance Shareholder Reputation and Value, Vote FOR
Lobbying Disclosure – Proposal [4*]
Except for footnotes, this line and any line below are n*ot* for publication.
Number 4* to be assigned by the Company

The above graphic is intended to be published with the rule 14a-8 proposal. It would be the same size as the largest management graphic (or highlighted management text) used in conjunction with a management proposal or opposition to a Rule 14a-8 shareholder proposal in the proxy.

The proponent is willing to discuss mutual elimination of both shareholder graphic and any management graphic in the proxy regarding this specific proposal. Reference SEC Staff Legal Bulletin No. 14I (CF) [16].

> Companies should not minimize or otherwise diminish the appearance of a shareholder's graphic. For example, if the Company includes its own graphics in its proxy statement, it should give similar prominence to a shareholder's graphics. If a company's proxy statement appears in black and white, however, the shareholder proposal and accompanying graphics may also appear in black and white.

Notes: This proposal is believed to conform with Staff Legal Bulletin No. 14B (CF), September 15, 2004, including (emphasis added):

> Accordingly, going forward, we believe that it would not be appropriate for companies to exclude supporting statement language and/or an entire proposal in reliance on rule 14a-8(i)(3) in the following circumstances:
>
> - the Company objects to factual assertions because they are not supported;

[5] https://assets.kpmg/content/dam/kpmg/xx/pdf/2020/11/the-time-has-come.pdf
[6] https://www.globalreporting.org/about-gri/news-center/backing-for-gri-s-tax-standard/
[7] https://www.globalreporting.org/standards/standards-development/topic-standard-for-tax/
[8] https://thefactcoalition.org/trillions-at-stake-behind-the-numbers-at-play-in-u-s-international-corporate-tax-reform/
[9] https://www.washingtonpost.com/us-policy/2020/11/19/global-tax-evasion-data/
[10] https://www.globalreporting.org/about-gri/news-center/backing-for-gri-s-tax-standard/
[11] https://www.globalreporting.org/about-gri/news-center/momentum-gathering-behind-public-country-by-country-tax-reporting/

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  - the Company objects to factual assertions that, while not materially false or misleading, may be disputed or countered;
  - the Company objects to factual assertions because those assertions may be interpreted by shareholders in a manner that is unfavorable to the Company, its directors, or its officers; and/or
  - the Company objects to statements because they represent the opinion of the shareholder proponent or a referenced source, but the statements are not identified specifically as such.

  It is appropriate under rule 14a-8 for companies to address these objections in their statements of opposition.

See also Sun Microsystems, Inc. (July 21, 2005)

I also take this opportunity to remind you of the SEC's guidance and my request that you acknowledge receipt of this shareholder proposal submission. SLB 14L Section F, https://www.sec.gov/corpfin/staff-legal-bulletin-14l-shareholder-proposals, Staff "encourages both companies and shareholder proponents to acknowledge receipt of emails when requested."