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December 26, 2023

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

Re: *Ecolab Inc.*
Stockholder Proposal of James McRitchie
Securities Exchange Act of 1934 ("Exchange Act")—Rule 14a-8

Ladies and Gentlemen:

This letter is to inform you that our client, Ecolab Inc. (the "Company"), intends to omit from its proxy statement and form of proxy for its 2024 Annual Meeting of Stockholders (collectively, the "2024 Proxy Materials") a stockholder proposal (the "Proposal") and statements in support thereof (the "Supporting Statement") received from James McRitchie (the "Proponent").

Pursuant to Rule 14a-8(j), we have:

- filed this letter with the Securities and Exchange Commission (the "Commission") no later than eighty (80) calendar days before the Company intends to file its definitive 2024 Proxy Materials with the Commission; and

- concurrently sent copies of this correspondence to the Proponent.

Rule 14a-8(k) and Staff Legal Bulletin No. 14D (Nov. 7, 2008) ("SLB 14D") provide that stockholder proponents are required to send companies a copy of any correspondence that the proponents elect to submit to the Commission or the staff of the Division of Corporation Finance (the "Staff"). Accordingly, we are taking this opportunity to inform the Proponent that if the Proponent elects to submit additional correspondence to the Commission or the Staff with respect to this Proposal, a copy of that correspondence should be furnished concurrently to the undersigned on behalf of the Company pursuant to Rule 14a-8(k) and SLB 14D.

THE PROPOSAL

The Proposal states:

> Shareholders request the Board of Directors adopt and disclose a policy stating how it will exercise its discretion to treat shareholders' nominees for board membership equitably and avoid encumbering such nominations with unnecessary administrative or evidentiary requirements.

The Supporting Statement elaborates on the Proposal, noting that it refers to "paperwork requirements" that should "*generally* treat . . . nominees equitably" (emphasis added). More generally, the Proposal expresses concerns about "[a]dvance notice bylaws . . . be[ing] used to conduct 'fishing expeditions' to which board nominees are not subject." The Proposal and related correspondence with the Proponent are attached to this letter as Exhibit A.

BASIS FOR EXCLUSION

We hereby respectfully request that the Staff concur in our view that the Proposal may be excluded from the 2024 Proxy Materials pursuant to Rule 14a-8(i)(10) because the Board has considered, adopted and disclosed policies and procedures regarding stockholder nominations of directors, as set forth in its By-Laws (recently amended on May 4, 2023) (the "By-Laws")[1] and Corporate Governance Principles (the "Governance Principles")[2] that substantially implement the Proposal.

ANALYSIS

The Proposal May Be Excluded Under Rule 14a-8(i)(10) Because It Has Been Substantially Implemented.

A. Background On Existing Policies And Procedures.

As set forth in the By-Laws, stockholders may nominate directors by following either of the procedures set forth in Section 3 or in Section 15 of Article II of the By-Laws.

- Section 3 applies to, among other things, candidates nominated by stockholders

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[1] The Company's By-Laws are *available at*: https://www.sec.gov/Archives/edgar/data/31462/000110465923056030/tm2314173d1_ex3-1.htm.

[2] The Company's Corporate Governance Principles are *available at*: https://s24.q4cdn.com/931105847/files/doc_downloads/2023/05/corporate-governance-principles-2023.pdf.

from the floor of a stockholder meeting, who are addressed in a proxy solicitation separate from the Company's solicitation, and who are subject to the Commission's "universal proxy rules" ("Floor Nominees" or "Floor Nominations").

- Section 15 applies to candidates nominated by stockholders for inclusion in the Company's proxy materials ("Proxy Access Nominees" or "Proxy Access Nominations").

In addition, stockholders may recommend director candidates for the Board's consideration as nominees. Although outside of the scope of the Proposal (which applies to "shareholders' *nominees* for board membership" (emphasis added)), we note that the Board evaluates director candidates (regardless of their source) using the same criteria. Specifically, the Governance Principles state: "The Governance Committee will screen Director candidates (*including those recommended by stockholders*) in light of the criteria approved by the Board . . . ." (emphasis added).[3]

As discussed below, the Board's discretion with respect to Floor Nominees and Proxy Access Nominees is limited by the Company's governing documents and Delaware law, the state where the Company is incorporated. Moreover, the Board's policies and procedures regarding "paperwork" and other requirements for Floor Nominees and Proxy Access Nominees "generally treat . . . nominees equitably" to the extent that the Board has discretion, and they do not impose "unnecessary" procedural burdens on stockholder nominees. Importantly, the Board has limited the "discretion" that it may exercise in seeking information about such stockholder nominees. In addition, in connection with recent amendments to the By-Laws, the Board (on the advice of counsel) evaluated and revised the advance notice bylaws (which apply to Floor Nominees and Proxy Access Nominees) to reflect a balanced approach that is consistent with applicable law. Thus, the Board has already publicly disclosed in its By-Laws and Governance Principles "how [the Board] will exercise its discretion to treat shareholders' nominees for board membership equitably and avoid . . . unnecessary administrative or evidentiary requirements." For these reasons, the Board has substantially implemented the Proposal, and thus the Proposal may be excluded pursuant to Rule 14a-8(i)(10).

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[3] The Company's proxy statement for its 2023 Annual Meeting of Stockholders (the "2023 Proxy Statement") also states that the Company "evaluates director candidates recommended by stockholders *in the same way* that it evaluates candidates recommended by its members, other members of the Board, or other persons" (emphasis added). Notice of 2023 Annual Meeting and Proxy Statement, at p. 18, *available at*: https://www.sec.gov/ix?doc=/Archives/edgar/data/31462/000155837023004123/ecl-20230504xdef14a.htm.

B. Background On The Substantial Implementation Standard Under Rule 14a-8(i)(10).

Rule 14a-8(i)(10) permits the exclusion of a stockholder proposal "[i]f the company has already substantially implemented the proposal." The Commission stated in 1976 that the predecessor to Rule 14a-8(i)(10) was "designed to avoid the possibility of shareholders having to consider matters which already have been favorably acted upon by the management." *See* Exchange Act Release No. 12598 (July 7, 1976). Originally, the Staff narrowly interpreted this predecessor rule and granted no-action relief for the exclusion of proposals on this basis only when proposals were "'fully' effected" by the company. *See* Exchange Act Release No. 19135 (Oct. 14, 1982). By 1983, the Commission recognized that the "previous formalistic application of [the Rule] defeated its purpose" because proponents were successfully convincing the Staff to deny no-action relief by submitting proposals that differed from existing company policy in minor respects. Exchange Act Release No. 20091 at § II.E.6 (Aug. 16, 1983). Therefore, in 1983, the Commission adopted a revised interpretation of the rule to permit the omission of proposals that had been "substantially implemented." *Id.* The 1998 amendments to Rule 14a-8 codified this position. *See* Exchange Act Release No. 40018 (May 21, 1998) (the "1998 Release"), at n.30 and accompanying text.

Under this standard, when a company can demonstrate that it already has taken actions to address the underlying concerns and essential objectives of a stockholder proposal, the Staff has concurred that the proposal has been "substantially implemented" and may be excluded from the company's proxy materials as moot. The Staff has noted that "a determination that the company has substantially implemented the proposal depends upon whether [the company's] particular policies, practices and procedures compare favorably with the guidelines of the proposal." *Walgreen Co.* (avail. Sept. 26, 2013); *Texaco, Inc.* (avail. Mar. 28, 1991).

At the same time, a company need not implement a proposal in exactly the same manner as set forth by the proponent. *See* 1998 Release at n.30 and accompanying text. The Staff has not required that a company implement the action requested in a proposal exactly in all details but has been willing to issue no-action relief under the predecessor of Rule 14a-8(i)(10) in situations where the "essential objective" of the proposal had been satisfied. *See General Motors Corp.* (avail. Mar. 4, 1996) (concurring with the exclusion of a proposal where the company argued, "[i]f the mootness requirement of paragraph (c)(10) [of the predecessor rule] were applied too strictly, the intention of [the rule]—permitting exclusion of 'substantially implemented' proposals—could be evaded merely by including some element in the proposal that differs from the registrant's policy or practice"). Thus, differences between a company's actions and a stockholder proposal are permitted as long as the company's actions satisfactorily address the proposal's essential objectives. For

example, in *Bank of America Corp.* (avail. Dec. 15, 2010), the Staff concurred with the exclusion under Rule 14a-8(i)(10) of a proposal requesting that the company amend its bylaws to provide holders of 10% of the company's common stock the power to call a special meeting, including that the governing documents "will not have any exception or exclusion conditions . . . that apply only to shareowners but not to management and/or the board." The company argued that it had substantially implemented the proposal by providing holders of 10% of the company's stock the power to call a special meeting and the company's bylaws only contained basic informational requirements that were reasonable and necessary for the administration of special meetings. *See also The Dow Chemical Co.* (avail. Mar. 18, 2014, *recon. denied* Mar. 25, 2014) (concurring with the exclusion under Rule 14a-8(i)(10) of a proposal that requested a report on the company's evaluation of a particular issue, where the proponents disputed statements made in the company's report); *Walgreen Co.* (avail. Sept. 26, 2013) (concurring with the exclusion of a proposal requesting elimination of supermajority voting requirements in the company's governing documents where the company had eliminated all but one supermajority voting requirement); *The Boeing Co.* (avail. Feb. 17, 2011) (concurring with the exclusion of a proposal requesting that the company "review its policies related to human rights" and report its findings, where the company had already adopted human rights policies and provided an annual report on corporate citizenship); *Hewlett-Packard Co.* (avail. Dec. 11, 2007) (concurring with the exclusion of a proposal requesting that the board permit stockholders to call special meetings where the proposal was substantially implemented by a proposed bylaw amendment to permit stockholders to call a special meeting unless the board determined that the special business to be addressed had been addressed recently or would soon be addressed at an annual meeting); *Johnson & Johnson* (avail. Feb. 17, 2006) (concurring with the exclusion of a proposal requesting the company to confirm the legitimacy of all current and future U.S. employees where the company had verified the legitimacy of over 91% of its domestic workforce).

C. Existing Policies And Procedures Substantially Implement The Proposal.

The Board's discretion with respect to "paperwork" and other requirements applicable to Floor Nominees and Proxy Access Nominees is limited by the Company's governing documents and Delaware law. The fact that the Board does not exercise unfettered discretion over stockholders' nominees is illustrated in the By-Laws, which specify and limit what information and other requirements the Board applies to Floor Nominees and Proxy Access Nominees. Moreover, the Company is incorporated in Delaware, and Delaware courts have consistently held that a board's application of advance

notice bylaw and other requirements impacting stockholder nominees must be related to a proper corporate objective and be reasonable in relation to those objectives.[4]

The Board exercised its discretion to adopt By-Laws that contain certain "paperwork" and other requirements related to stockholder nominees (which the Company believes are customary and reasonable). These requirements support compliance with required public company disclosure obligations and appropriately limit Board discretion. For example, the By-Laws provide that stockholders must satisfy certain procedural and disclosure requirements in order to raise a Floor Nomination or a Proxy Access Nomination. This includes the By-Laws requiring that specific information be disclosed regarding Floor Nominees and Proxy Access Nominees (*e.g.*, age, principal occupation, Company stock ownership, voting agreements, hedging or pledging transactions and consent to be named as a nominee and to serve if elected), generally consistent with the information required from the Board's nominees (through director questionnaires) and other Company policies.[5] The By-Laws also expressly prevent the Board from requesting any and all information from Proxy Access Nominees by restricting which additional representations can be requested to reflect that they must only represent to also "*provide such information as the Board of Directors requires of all directors*, including promptly submitting all completed and signed questionnaires required of the Corporation's directors" (emphasis added). Thus, these requirements "generally treat . . . nominees equitably" consistent with the Proposal, as they are comparable to what is required for the Board's nominees.

The By-Laws also reflect the Board's policies regarding director independence. As disclosed in the Governance Principles and required by the New York Stock Exchange listing standards, the Board "at least annually" assesses the independence of each director and director nominee in order to maintain a Board that is comprised of "a majority of independent directors who meet the criteria required for independence." Moreover, eligibility to serve as an independent director is a critical component of the Board's director

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[4] *See, e.g.*, *Rosenbaum v. CytoDyn Inc.*, 2021 WL 4890876, *22 (Del. Ch. Oct. 13, 2021) (holding that an incumbent board's decision to reject a stockholder's nomination notice was subject to review based upon whether there was "manipulative conduct" or whether "the electoral machinery is applied inequitably"); *Jorgl v. AIM ImmunoTech, Inc.*, 2022 WL 16543834, *17 (Del. Ch. Oct. 28. 2022) (holding that an incumbent board's decision to reject a stockholder's nomination notice was subject to review based upon whether the board had "'identif[ied] the proper corporate objectives served by their actions' and 'justif[ied] their actions as reasonable in relation to those objectives'" and that the board's actions must "function as a reasonable limitation on the rights of stockholders to nominate directors").

[5] For example, as disclosed in the 2023 Proxy Statement, Company policies provide: "Our directors may not pledge shares or enter into any risk hedging arrangements with respect to Company stock."

criteria for its nominees, as set forth in the Governance Principles.[6] Evaluation of director independence necessarily requires an evaluation of each nominee's background, experience, relationships and other factors that may implicate independence. As a result, for example, the information requests for Floor Nominees and Proxy Access Nominees, and requirements for Proxy Access Nominees (given that the nominating stockholder need not finance the solicitation costs since qualifying Proxy Access nominees will be included in the Company's proxy statement), concern the stockholder nominees' eligibility to be determined to be independent and free from conflicts of interest. The Company believes these requirements also "generally treat . . . nominees equitably," consistent with the Proposal.

Further, the Supporting Statement requests that "[c]onsideration should also be given . . . to repealing any advance notice bylaw provisions . . . [requiring that] [s]hareholders or nominees provide information that is already required to be publicly disclosed under applicable law or regulation." The Board considered changes to the advance notice provisions in the By-Laws most recently in May 2023 and determined to make the changes described in its Current Report on Form 8-K,[7] including changes reflecting the Commission's new "universal proxy" rules. Notably, the By-Laws do not require "[n]ominees [to] submit to interviews" but (as discussed above) do require "questionnaires regarding [a nominee's] background and qualifications" (which the Supporting Statement states is acceptable under the policy advocated for in the Proposal). In revising the By-Laws, the Board (with the advice of counsel) retained various information requirements, including those discussed above as well as those covered by applicable laws or regulations. This information can be important to a board in determining whether it should decide itself to nominate a stockholder's nominee in advance of the disclosures being provided in a proxy statement. Moreover, the By-Laws as amended allow beneficial stockholders to nominate directors but require that they act through a stockholder of record, consistent with Delaware law and the overwhelming majority of public companies incorporated in Delaware.

The Supporting Statement also asks that the Board consider "repealing any advance notice bylaw provisions imposing . . . [e]xcessive or inappropriate levels of disclosure

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[6] For example, the Governance Principles state: "Members of the Board, at a minimum, should have broad perspectives, backgrounds, experience and knowledge and demonstrate independent judgment." The Governance Principles also provide: "In accordance with the Code of Conduct, directors shall promptly disclose to the Board any situation which could reasonably be considered as a conflict of interest with service as a director, or having the appearance of such. Both the existence of the interest and the nature thereof (e.g., financial, family relationship, professional, charitable or business affiliation) should be disclosed."

[7] *See* https://www.sec.gov/ix?doc=/Archives/edgar/data/0000031462/000110465923056030/tm2314173d1_8k.htm.

regarding [nominees]." As noted above, the By-Laws limit the Board's discretion in various ways. In the context of Floor Nominations,[8] discretion is limited to requesting the following additional information from Floor Nominees:

> . . . information (a) as may reasonably be required by the Corporation to determine the *eligibility of such proposed nominee to serve as an independent director* under the rules and listing standards of the principal United States securities exchanges upon which the common stock of the Corporation is listed or traded, any applicable rules of the U.S. Securities and Exchange Commission or any publicly disclosed standards used by the Board of Directors in determining and disclosing the independence of the Corporation's directors (collectively, the 'Independence Standards'), (b) that could be *material to a reasonable stockholder's understanding of the independence, or lack thereof, of such nominee* or (c) that may reasonably be requested by the Corporation to determine the *eligibility of such nominee to serve as a director of the Corporation*.

By-Laws, Article II, Section 3.

Thus, the Board's discretionary authority is further restricted to information that is reasonably relevant to a nominee's eligibility to serve as a director and independence. In this regard, the By-Laws do not allow the Board to "conduct 'fishing expeditions' to which board nominees are not subject."

For these reasons, to the extent that the Board has discretion, we believe that the Board has considered, adopted and disclosed policies and procedures regarding "paperwork" and other requirements that "generally treat . . . [Floor Nominees and Proxy Access Nominees] equitably" and do not impose "unnecessary" administrative or evidentiary requirements on stockholders' nominees. Thus, the Board's actions compare favorably to the Proposal as they accomplish the essential objective of the Proposal, consistent with *Bank of America Corp.*, *The Boeing Co.* and the other well-established precedents cited above, and the Proposal therefore may be excluded from the 2024 Proxy Materials pursuant to Rule 14a-8(i)(10).

CONCLUSION

Based upon the foregoing analysis, we respectfully request that the Staff concur that it will take no action if the Company excludes the Proposal from its 2024 Proxy Materials.

We would be happy to provide you with any additional information and answer any

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[8] Similar provisions apply with respect to Proxy Access Nominees. *See* By-Laws, Article II, Section 15(g).

questions that you may have regarding this subject. Correspondence regarding this letter should be sent to shareholderproposals@gibsondunn.com. If we can be of any further assistance in this matter, please do not hesitate to call me at (202) 955-8287 or Theresa Corona, Deputy General Counsel Corporate & Assistant Secretary for the Company, at (651) 250-2054.

Sincerely,

Elizabeth A. Ising

Enclosures

cc: Theresa Corona, Ecolab Inc.
James McRitchie

EXHIBIT A

From: James McRitchie [redacted]
Sent: Thursday, November 16, 2023 4:24 PM
To: ECL Corporate Secretary <ECLCorporateSecretary@ecolab.com>
Cc: John Chevedden [redacted]
Subject: (ECL) Shareholder Submission

Please find attached and acknowledge my shareholder proposal, **Fair Treatment of Shareholder Nominees.** 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."

James McRitchie
Shareholder Advocate
Corporate Governance
http://www.corpgov.net
[redacted]

[redacted]

Corporate Governance

CorpGov.net: improving accountability through democratic corporate governance since 1995

Ecolab Global Headquarters
1 Ecolab Place
St. Paul, MN 55102
ECLCorporateSecretary@ecolab.com
(651) 250-2054 or 1-800-232-6522
Attention: Corporate Secretary

Dear Lanesha T. Minnix 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 Ecolab Inc, adopt and disclose a policy providing **Fair Treatment of Shareholder Nominees**. I pledge to continue to hold the required amount of stock until after the date of that meeting.

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 the Company representative via phone on November 30, at 8:00 am or 8:30 am Pacific or at any time on any day that is mutually convenient.

I am delegating John Chevedden to act as my agent to present this proposal at the forthcoming shareholder meeting if I am unavailable to do so myself. Please copy John Chevedden [redacted] 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]. 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 16, 2023

Date

[ECL: Rule 14a-8 Proposal, November 16, 2023]
[This line and any line above it – *Not* for publication.]

Proposal [4*] – Fair Treatment of Shareholder Nominees

Resolved

Shareholders request the Board of Directors adopt and disclose a policy stating how it will exercise its discretion to treat shareholders' nominees for board membership equitably and avoid encumbering such nominations with unnecessary administrative or evidentiary requirements.

Supporting Statement

In the view of the proponent, the Board should consider exercising its discretion under the proposed policy toward ensuring that paperwork requirements governing the nomination and election of directors should generally treat shareholder and Board nominees equitably; requirements regarding endorsements and solicitations should not unnecessarily encumber the nomination process.

Consideration should also be given under the policy to repealing any advance notice bylaw provisions imposing additional requirements inconsistent with this proposal, unless legally required, such as those requiring:

- Nominating shareholders be shareholders of record, rather than beneficial owners;
- Nominees submit questionnaires regarding background and qualifications (other than as required in the Company's certificate of incorporation or bylaws);
- Nominees submit to interviews with the Board or any committee thereof;
- Shareholders or nominees provide information that is already required to be publicly disclosed under applicable law or regulation; and
- Excessive or inappropriate levels of disclosure regarding nominees' eligibility to serve on the Board, the nominees' background, or experience.

The legitimacy of Board power to oversee the executives of Ecolab Inc. (Company) rests on the power of shareholders to elect directors:[1] [T]he unadorned right to cast a ballot in a contest for [corporate] office . . . is meaningless without the right to participate in selecting the contestants... To allow for voting while maintaining a closed candidate selection process thus renders the former an empty exercise."[2]

[1] https://ssrn.com/abstract=4565395
[2] https://casetext.com/case/durkin-v-national-bank-of-olyphant

Burdening shareholder nominees can entrench incumbent directors and management. Laws and regulations overseen and enforced by the U.S. Securities and Exchange Commission, a neutral third party, ensure shareholders have pertinent information on nominating shareholders and nominees before executing proxies,[3]

Advance notice bylaws can create hurdles for shareholders exercising their rights and can be used to conduct "fishing expeditions" to which board nominees are not subject.

These practices delegitimize corporate activity because directors work *on behalf of shareholders,* who should be able to replace their own fiduciaries. Company interference in this process is especially dangerous because financial theory recommends that most shareholders diversify their portfolios.

Such diversified investors have an interest in ensuring our Company does not profit from practices that threaten social and environmental systems upon which diversified portfolios depend.[4] Company directors influenced by executives, in contrast, may prioritize Company profitability over systems that are of critical importance to shareholders.[5]

Accordingly, giving Company directors a gatekeeper role through a burdensome unequal nomination process threatens the interests of shareholders to nominate candidates free of management influence.

Fair Treatment of Shareholder Nominees - Vote FOR Proposal [4*]

[This line and any below it, other than footnotes, is *not* for publication]
Number 4* to be assigned by the Company.

The above title is part of the proposal and within the word limit. It should not be altered or misrepresented. The title should be used in all references to the proposal in the proxy and on the ballot. If there is an objection to the title, please negotiate or seek no-action relief as a last resort.

The graphic above is intended to be published with the rule 14a-8 proposal. The graphic would be the same size as the largest management graphic (and/or accompanying bold or highlighted management text with a graphic, box or shading) or any highlighted management executive summary used in conjunction with a management proposal or any other rule 14a-8 shareholder proposal in the 2024 proxy.

The proponent is willing to discuss the mutual elimination of both shareholder graphic and management graphic in the proxy in regard to specific proposals. Issuers should not assume proponent will not insist on inclusion of the graphic if the issuer unilaterally decides not to include their own graphic.

Reference: SEC Staff Legal Bulletin No. **14L** (CF)**[16]**

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[3] https://www.ecfr.gov/current/title-17/chapter-II/part-240/subpart-A/subject-group-ECFR8c9733e13b955d6/section-240.14a-101
[4] https://theshareholdercommons.com/wp-content/uploads/2022/09/Climate-Change-Case-Study-FINAL.pdf
[5] https://ssrn.com/abstract=4056602

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 (with our emphasis):

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;
- 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.

We believe that 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)

The stock supporting this proposal will be held until after the annual meeting and the proposal will be presented at the annual meeting. Please acknowledge receipt of this proposal promptly by emailing the proponent.