



DIVISION OF
CORPORATION FINANCE

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

March 27, 2024

Julia Lapitskaya
Gibson, Dunn & Crutcher LLP

Re: The Charles Schwab Corporation (the "Company")
Incoming letter dated January 12, 2024

Dear Julia Lapitskaya:

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

The Proposal requests that the Company prepare a report on the reputational and financial risks to the Company of misalignments between proxy votes it casts on behalf of clients and its clients' values and preferences, as well as strategies for addressing such misalignments on important issues.

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 ordinary business matters. Accordingly, we will not recommend enforcement action to the Commission if the Company omits the Proposal from its proxy materials in reliance on Rule 14a-8(i)(7).

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

Sincerely,

Rule 14a-8 Review Team

cc: James McRitchie

January 12, 2024

VIA ONLINE SUBMISSION

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

Re: *The Charles Schwab Corporation*
Stockholder Proposal of James McRitchie
Securities Exchange Act of 1934—Rule 14a-8

Ladies and Gentlemen:

This letter is to inform you that our client, The Charles Schwab Corporation (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 a copy of this correspondence to the Proponent.

Rule 14a-8(k) and Staff Legal Bulletin No. 14D (Nov. 7, 2008) (“SLB 14D”) provide that 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.

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THE PROPOSAL

The Proposal states:

Resolved: Charles Schwab (“SCHWAB,” or “Company”) shareholders request our Company prepare a report on the reputational and financial risks to the Company of misalignment between proxy votes it casts on behalf of clients and its client’s values and preferences, as well as strategies for addressing such misalignments on important issues. The requested report shall be available to stockholders and investors by October 1, 2024, prepared at reasonable cost and omitting proprietary information.

A copy of the Proposal, the Supporting Statement and related correspondence with the Proponent is attached to this letter as Exhibit A.

BASIS FOR EXCLUSION

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

BACKGROUND

Proxy voting is an integral part of the Company’s relationships with its clients whose investments are managed by Charles Schwab Investment Management, Inc. (“CSIM”), Charles Schwab Investment Advisory, Inc. (“CSIA”) and other affiliated entities (each, an “asset manager” and, together, referred to herein as “asset managers”).¹ As asset managers, CSIM, CSIA and our other affiliated entities have the fiduciary responsibility to use their proxy votes to encourage transparency, corporate governance structures, and the management of environmental, social and governance (“ESG”) issues that they believe protect and promote stockholder value. Our client-first philosophy drives their efforts, including their approach to decision making. In the investment stewardship context, that unfolds through our asset managers’ efforts to appropriately manage risk by encouraging

¹ While the Proposal and Supporting Statement are focused on the proxy voting practices and policies of CSIM, CSIA and other affiliated asset managers, we note that in its role as a securities broker-dealer, Charles Schwab & Co., Inc. (“Schwab”), a subsidiary of the Company, does not vote proxies on behalf of its clients. In its role as an investment advisor for clients of our wealth management programs, Schwab does not accept or assume from clients proxy voting authority for any securities held in their advisory accounts. Instead, clients retain proxy authority and may vote proxies themselves unless they delegate proxy voting authority to the underlying asset manager such as CSIM, CSIA or a third-party manager. As noted below, if the client delegates proxy voting authority to CSIM or CSIA, the client’s proxies will be voted according to CSIM’s Proxy Voting Policy.

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transparency and focusing on corporate governance structures that will help protect or promote stockholder value. Our asset managers also recognize that companies can conduct themselves in ways that have important environmental and social consequences. Therefore, our focus on maximizing long-term stockholder value includes consideration of potential environmental and social impacts that our asset managers believe are relevant to individual companies.

In light of this fundamental responsibility, our affiliated asset managers undertake an ongoing and active review of their proxy voting policies and procedures. For example, CSIM annually reviews its Proxy Voting Policy,² which CSIM follows when voting proxies with respect to the securities held in accounts of investment companies and other clients that have delegated the authority to vote proxies to CSIM, and the most recent annual review was completed in January 2024. As part of this annual evaluation, CSIM's Proxy Committee, with input from the Investment Stewardship Team (a team of experienced corporate governance professionals with extensive experience researching, analyzing and advising on proxy issues), assesses whether to implement new policies and procedures—from both a governance perspective and a technological perspective, including, as further described below, the feasibility of deploying new technologies and offerings in light of client demand.

For instance, the Company offers customers a range of wealth management solutions advised by affiliated and third-party investment advisers, including separately managed accounts, mutual funds and exchange traded funds (“ETFs”) managed by CSIM and CSIA. Through CSIM and CSIA, the Company offers two separately managed account options—Schwab Personalized Indexing (“SPP”),³ which is advised by CSIM, and Schwab Intelligent Portfolios (“SIP”),⁴ which is currently advised by CSIA.

SPP and SIP clients may delegate authority to CSIM and CSIA or, importantly, they may elect to vote their own proxies in accordance with any voting strategy they desire to address particular topics or concerns.

² Available at <https://www.schwabassetmanagement.com/resource/csim-and-funds-proxy-voting-policy>.

³ See <https://www.schwab.com/direct-indexing> (“Portfolio management for Schwab Personalized Indexing is provided by [CSIM]. Schwab Asset Management is the dba name for CSIM, a registered investment adviser and an affiliate of [Schwab]. Both CSIM and Schwab are separate entities and subsidiaries of [the Company].”).

⁴ See <https://www.schwab.com/intelligent-portfolios> (“Schwab Intelligent Portfolios® and Schwab Intelligent Portfolios Premium® are made available through [Schwab], a dually registered investment advisor and broker dealer. Portfolio management services are provided by [CSIA]. Schwab and CSIA are subsidiaries of [the Company].”).

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If they do not wish to retain proxy voting authority, SPP and SIP clients, just like other clients advised by CSIM, CSIA and our other affiliated asset managers, such as mutual funds and ETFs, delegate authority to the applicable asset manager to vote proxies on their behalf for the securities held in their manager-advised accounts. The asset manager then votes these proxies consistent with its proxy voting policies. Notably, CSIA has delegated its proxy voting authority for SIP clients to CSIM—so CSIM votes both SIP and SPP clients’ proxies according to CSIM’s Proxy Voting Policy. To assist CSIM in its responsibility for voting proxies and the overall proxy voting process, CSIM has retained third-party proxy advisors to provide in-depth research, global issuer analysis, and voting recommendations as well as vote execution, reporting and record keeping and may retain additional experts in the proxy voting, corporate governance, and ESG areas in the future.

As part of their day-to-day management of their business operations, CSIM, CSIA and our other affiliated asset managers also regularly evaluate the proxy voting products and services they offer. That evaluation includes assessing the availability and feasibility of providing additional or different methods for proxy voting in light of available technologies and client interest. For example, in October 2022, CSIM launched a year-long pilot program for a new proxy polling solution that was designed to give CSIM an opportunity to gather information from fund stockholders regarding their overarching voting preferences in respect of various proxy issues.⁵ The results of the pilot program demonstrated that CSIM’s rigorous stewardship process is well-aligned with customer preferences.

As such, because the Proposal relates to the Company’s customer relations and its choices of product and service offerings and does not raise significant policy issues that transcend a company’s ordinary business, it is excludable under Rule 14a-8(7).

ANALYSIS

The Proposal May Be Excluded Pursuant To Rule 14a-8(i)(7) Because It Involves Matters Related To The Company’s Ordinary Business Operations.

A. Background On The Ordinary Business Standard.

Rule 14a-8(i)(7) permits a company to omit from its proxy materials a stockholder proposal that relates to the company’s “ordinary business” operations. According to the Commission’s release accompanying the 1998 amendments to Rule 14a-8, the term

⁵ See <https://pressroom.aboutschwab.com/press-releases/press-release/2022/Schwab-Asset-Management-Pilots-New-Proxy-Polling-Solution-to-Gain-Insight-Into-Shareholder-Preferences/default.aspx#:~:text=The%20new%20solution%20allows%20Schwab,Asset%20Management%20takes%20very%20seriously.>

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“ordinary business” “refers to matters that are not necessarily ‘ordinary’ in the common meaning of the word,” but instead the term “is rooted in the corporate law concept providing management with flexibility in directing certain core matters involving the company’s business and operations.” 1998 Release. In the 1998 Release, the Commission stated that the underlying policy of the ordinary business exclusion is “to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting,” and identified two central considerations that underlie this policy. The first was 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.” Examples of the tasks cited by the Commission include “management of the workforce, such as the hiring, promotion, and termination of employees, *decisions on production quality and quantity*, and *the retention of suppliers*.” 1998 Release (emphasis added). The second consideration is related to “the degree to which the proposal seeks to ‘micro-manage’ the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment.” *Id.* (citing Exchange Act Release No. 12999 (Nov. 22, 1976) (“November 1976 Release”)).

A stockholder proposal being framed 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 1983 Release; *Johnson Controls, Inc.* (avail. Oct. 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.* (avail. Mar. 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).

Also relevant to the Proposal is the discussion in Staff Legal Bulletin No. 14E (Oct. 27, 2009) (“SLB 14E”) where the Staff explained how it evaluates proposals relating to risk:

[R]ather than focusing on whether a proposal and supporting statement relate to the company engaging in an evaluation of risk, we will instead focus on the subject matter to which the risk pertains or that gives rise to the risk
[S]imilar to the way in which we analyze proposals asking for the preparation of a report, the formation of a committee or the inclusion of disclosure in a Commission-prescribed document—where we look to the underlying subject matter of the report, committee or disclosure to determine whether the proposal relates to ordinary business—we will consider whether the

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underlying subject matter of the risk evaluation involves a matter of ordinary business to the company.

Consistent with its positions in SLB 14E, the Staff has repeatedly concurred with the exclusion under Rule 14a-8(i)(7) of stockholder proposals seeking risk assessments when the subject matter concerns ordinary business operations. *See, e.g., JPMorgan Chase & Co. (National Center for Public Policy Research)* (avail. Mar. 21, 2023, *recon. denied* Apr. 3, 2023) (concurring with the exclusion of a proposal requesting a report on risks created by “business practices that prioritize non-pecuniary factors when it comes to establishing, rejecting, or failing to continue client relationships”); *McDonald’s Corp.* (avail. Mar. 22, 2019) (concurring with the exclusion of a proposal asking the company to “disclose the economic risks” it faced from “campaigns targeting the [c]ompany over concerns about cruelty to chickens” because it “focuse[d] primarily on matters relating to the [c]ompany’s ordinary business operations”); *Exxon Mobil Corp.* (avail. Mar. 6, 2012) (concurring with the exclusion of a proposal asking the board to prepare a report on “environmental, social, and economic challenges associated with the oil sands,” which involved ordinary business matters); *The TJX Companies, Inc.* (avail. Mar. 29, 2011) (concurring with the exclusion of a proposal requesting an annual assessment of the risks created by the actions the company takes to avoid or minimize U.S. federal, state, and local taxes and provide a report to stockholders on the assessment).

B. The Proposal May Be Excluded Because Its Subject Matter Relates To The Products And Services That The Company Offers, Including How The Company Handles Its Customer Relations.

The Proposal requests that the Company prepare a report on “the reputational and financial risks to the Company of misalignment between proxy votes it casts on behalf of clients and its client’s values and preferences, as well as strategies for addressing such misalignments on important issues.” In the Supporting Statement, the Proponent contrasts certain aspects of the proxy voting products and services the Company offers with alternative “[n]ew technologies” related to proxy voting intended to address “the unique preferences of each investor” and laments that “[f]inancial services companies that fail to engage clients on important voting preferences will be subject to ever-increasing legal and reputational jeopardy.” As such, the Proposal is directly focused on specific products and services that the Company offers its clients with respect to proxy voting, as well the policies and procedures the Company has in place to evaluate such product and service offerings. The Company’s decisions in terms of the policies and procedures for the products and services that it offers, including those related to its customers’ individual portfolios and how it handles its customer relations, implicate routine management decisions encompassing legal, regulatory, operational and financial considerations, among others. For example, as a global financial institution, the Company is subject to significant federal, state and local laws and

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regulations that govern its investment advisory businesses, including, among other things, requirements on the procedures for managing customers' wealth management portfolios. As a result, the Company and its affiliates, including CSIM and CSIA, have developed policies and procedures encompassing a customer's use of its wealth management products and services. These policies and procedures guide decisions regarding the investment management services offered to clients, including the development and implementation of CSIM's Proxy Voting Policy and the proxy voting policies of our other affiliated asset managers, which is driven by a number of complex business considerations, such as demonstrated client interest in a particular type of proxy voting guideline and the operational and technology changes and related costs involved to support any additional proxy voting processes or guidelines. The Proposal impermissibly seeks to override the Company's ordinary business decisions in this respect and inappropriately substitute stockholders' (or at least, the Proponent's) views for management's judgment of what services are best offered to clients.

The Staff has consistently determined that proposals relating to the products and services that a company offers to its customers can be excluded pursuant to Rule 14a-8(i)(7) as relating to the company's ordinary business operations. For example, the Staff recently concurred with the exclusion under Rule 14a-8(i)(7) of a proposal requesting that a financial services company prepare a report specifying the company's policy "in responding to requests to close, or in issuing warnings of imminent closure about, customer accounts by any agency or entity operating under the authority of the executive branch of the United States Government." The company sought exclusion of the proposal under Rule 14a-8(i)(7) and contended that the proposal addressed issues that were ordinary business matters for the company by attempting to dictate the disclosure of the company's policies surrounding the offering of its products and services and the management of the company's customer accounts and customer relations. The Staff concurred with the exclusion of the proposal under Rule 14a-8(i)(7), noting that "the Proposal relates to, and does not transcend, ordinary business matters." *Wells Fargo & Co.* (avail. Mar. 2, 2023) ("*Wells Fargo 2023*"). In two other recent instances, the Staff also concurred with the exclusion under Rule 14a-8(i)(7) of proposals requesting that the boards of financial services companies complete a report evaluating each company's consumer deposit account policies and practices and the impacts those have on customers. In each case, the proposal raised concerns that certain deposit account fees allegedly impacted certain customers more than others and that the provision of such services exposed the companies to increased litigation and reputational risks. The Staff, however, concurred with exclusion under Rule 14a-8(i)(7) as the proposals related to "ordinary business operations," and specifically, "the products and services offered for sale" by those companies. *See Bank of America Corp. (Worcester County Food Bank and Plymouth Congregational Church of Seattle)* (avail. Feb. 21, 2019); *JPMorgan Chase & Co.* (avail. Feb. 21, 2019); *see also JPMorgan Chase & Co.* (avail. Mar. 16, 2010) (concurring

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with the exclusion of a proposal regarding the company's decision to issue refund anticipation loans to customers, noting that "proposals concerning the sale of particular services are generally excludable under Rule 14a-8(i)(7)"; *Bank of America Corp.* (avail. Jan. 6, 2010) (concurring with the exclusion of a proposal requiring the company to stop accepting matricula consular cards as a form of identification, which effectively sought "to limit the banking services the [company could] provide to individuals the [p]roponent believe[d] [we]re illegal immigrants," because the proposal sought to control the company's "customer relations or the sale of particular services"); *Banc One Corp.* (avail. Feb. 25, 1993) (concurring with the exclusion of a proposal requesting that the corporation publish "a report reviewing the [c]ompany's lending practices" as they pertained to specifically identified groups of people, noting that the proposal involved "a description of special technical assistance and advertising programs[,] lending strategies and data collection procedures").

The Staff also has consistently concurred with the exclusion of proposals relating to how a company handles its customer accounts and any associated policies and procedures. For instance, in *PayPal Holdings, Inc. (James A. Heagy)* (avail. Apr. 2, 2021), the proposal requested that the company ensure "that [the company's] users do not have accounts frozen or the use of [company] services terminated without giving specific, good and substantial reasons to the user for so doing." The company argued that the proposal "attempt[ed] to dictate the [c]ompany's management of its customer accounts, including the design and administration of [c]ompany policies and procedures" and related to communications with customers and the company's processes related to customer accounts, which are both fundamental to day-to-day operations and matters of ordinary business operations. The Staff concurred with the proposal's exclusion under Rule 14a-8(i)(7). This was also the Staff's conclusion in *Zions Bancorporation* (avail. Feb. 11, 2008, *recon. denied* Feb. 29, 2008), where the proposal requested that the company implement a mandatory adjudication process prior to the termination of certain customer accounts. The Staff concurred that the proposal related to "ordinary business operations (i.e., procedures for handling customers' accounts)."

Similarly, the Staff also has consistently concurred with the exclusion of proposals relating to customer relations. For instance, in *Wells Fargo & Co. (Harrington Investments, Inc.)* (avail. Feb. 27, 2019) ("*Wells Fargo 2019*"), the Staff concurred with the exclusion of a proposal requesting that the board commission an independent study and then report to stockholders on "options for the board . . . to amend [the] [c]ompany's governance documents to enhance fiduciary oversight of matters relating to customer service and satisfaction" because the proposal "relate[d] to decisions concerning the [c]ompany's customer relations." Similarly, in *Prudential Financial, Inc.* (avail. Jan. 10, 2013), the Staff concurred that a proposal directing the company to state "the fees and charges and the investment performance" in the quarterly statements provided to the company's annuity

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participants was excludable because it “concern[ed] customer relations” and “account information provided to customers.” *See also The Coca-Cola Co.* (avail. Jan. 21, 2009, *recon. denied* Apr. 21, 2009) (concurring with the exclusion of a proposal concerned about the “company’s reputation with consumers” requesting that the company prepare a report evaluating new or expanded policy options to further enhance transparency of information to consumers of bottled beverages produced by the company with the Staff noting that it “relat[ed] to [the company’s] ordinary business operations (i.e., marketing and consumer relations)”); *Bank of America Corp.* (avail. Feb. 27, 2008) (concurring with the exclusion of a proposal requesting the preparation of a report detailing, in part, the company’s policies and practices regarding the issuance of credit cards and lending of mortgage funds to individuals without Social Security numbers as relating to the company’s “credit policies, loan underwriting and customer relations”); *Wells Fargo & Co. (The Community Reinvestment Assoc. of North Carolina, et al.)* (avail. Feb. 16, 2006) (concurring with the exclusion of a proposal requesting that the company not provide its services to payday lenders as concerning “customer relations”); *Bank of America Corp. (The Community Reinvestment Assoc. of North Carolina)* (avail. Mar. 7, 2005) (same).

As well, the Staff has repeatedly concurred that “[p]roposals that concern a company’s choice of technologies for use in its operations are generally excludable under rule 14a-8(i)(7)” as relating to ordinary business matters. *FirstEnergy Corp.* (avail. Mar. 8, 2013). *See also AT&T Inc.* (avail. Jan. 4, 2017) (concurring with exclusion under Rule 14a-8(i)(7) of a proposal requesting a report on the company’s progress toward providing Internet service and products for low-income customers); *PG&E Corp.* (avail. Mar. 10, 2014) (concurring with the exclusion under Rule 14a-8(i)(7) of a proposal advocating that the company make analog electrical meters available instead of “smart” meters); *AT&T Inc.* (avail. Feb. 13, 2012) (concurring with exclusion under Rule 14a-8(i)(7) of a proposal requesting a report on financial and reputational risks posed by continuing to use technology that inefficiently consumed electricity); *CSX Corp.* (avail. Jan. 24, 2011) (concurring with the exclusion of a proposal requesting that the company develop a kit to convert its fleet to fuel cell power, noting that “[p]roposals that concern a company’s choice of technologies for use in its operations are generally excludable under rule 14a-8(i)(7)”).

In addition, the Staff has been clear in expressing its view that the retention of suppliers of goods and services, as well as the standards and considerations used to select suppliers generally, is considered part of the ordinary business of a company. As noted above, the 1998 Release specifically provides that “retention of suppliers” is an example of a task “fundamental to management’s ability to run a company on a day-to-day basis.” In *International Business Machines Corp.* (avail. Dec. 29, 2006), the Staff concurred that the company could exclude a proposal requesting that it update its competitive evaluation process to only accept late quotes from a supplier if the supplier provides documented proof

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of a situation that only the late supplier experienced and that the situation was unforeseen and not preventable as relating to the company's ordinary business operations ("i.e., decisions relating to supplier relationships"). Similarly, in *Wal-Mart Stores Inc.* (avail. Apr. 10, 1991), the Staff concurred that a proposal recommending that the board establish a program to provide information on the company's equal employment opportunity and affirmative action efforts to its stockholders and suppliers was excludable because it, in part, involved "the [c]ompany's practices and policies for selecting suppliers of goods and services."

In accordance with SLB 14E, discussed above, in analyzing the Proposal under Rule 14a-8(i)(7) it is necessary to examine whether "the underlying subject matter of the risk evaluation involves a matter of ordinary business to the company." Here, the Proposal is directly concerned the Company's ordinary business operations because it seeks a report relating to risks involving the Company's policies, practices and procedures related to decisions with respect to the choices of product and service offerings it provides and its customer relations. Like the policies, practices and procedures at issue in *Wells Fargo 2023*, *PayPal*, *Zions Bancorporation*, *International Business Machines* and the other precedent cited above, the Proposal is an attempt to influence and override the Company's determinations of what proxy voting and proxy advisory products and services the Company offers its clients, including the Company's procedures for handling its customers' wealth management portfolios and customer relations, and what suppliers and vendors it selects to supply such products and services, and to urge the Company to adopt "[n]ew technologies." In particular, the Proposal's requested report centers solely on the "proxy votes [the Company] casts on behalf of clients and its client's values and preferences." The Supporting Statement asserts that the Company "can only execute votes in clients' best interests (and avoid controversy) by first soliciting their preferences," that the Company "does not offer voting choices" for commingled funds, and that "[r]eliance on traditional proxy advisors invites further criticism" while "[n]ew technologies can tailor proxy voting . . . to the unique preferences of each investor." Thus, the Proposal is focused on what products and services the Company offers its clients with respect to voting preferences for securities held in the clients' portfolios, the policies and procedures the Company has in place to assess such products and services and its customer relations. Decisions regarding the policies around services and products the Company offers and on what terms, as well as the suppliers (here, proxy advisory firms and other third parties) engaged in connection with such services and products and what technology to employ in offering such services, are a fundamental responsibility of management, requiring consideration of a number of factors such as cost, integration with existing client account technology and services, client preferences and regulatory compliance. Balancing such considerations is a complex matter and is, in the words of the 1998 Release, "so fundamental to management's ability to run a company on a day-to-day basis that [it] could not, as a practical matter, be subject to direct shareholder

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oversight.” Consistent with Staff precedent, the Proposal, by attempting to direct the Company’s product and service offerings, the management of the Company’s CSIM customer wealth management portfolios and customer relations, the Company’s vendors and suppliers, and the Company’s choice of technology, addresses issues that are ordinary business matters for the Company. Accordingly, the Proposal is properly excludable under Rule 14a-8(i)(7).

C. The Proposal Does Not Focus On Any Significant Policy Issue That Transcends The Company’s Ordinary Business Operations.

The well-established precedent set forth above demonstrates that the Proposal squarely addresses ordinary business matters and, therefore, is excludable under Rule 14a-8(i)(7). The 1998 Release distinguishes proposals pertaining to ordinary business matters from those involving “significant social policy issues.” *Id.* (citing the November 1976 Release). While “proposals . . . focusing on sufficiently significant social policy issues (*e.g.*, significant discrimination matters) generally would not be considered to be excludable,” the Staff has indicated that proposals relating to both ordinary business matters and significant social policy issues may be excludable in their entirety in reliance on Rule 14a-8(i)(7) if they do not “transcend the day-to-day business matters” discussed in the proposals. 1998 Release. In this regard, when assessing proposals under Rule 14a-8(i)(7), the Staff considers “both the proposal and the supporting statement as a whole.” Staff Legal Bulletin No. 14C, part D.2 (June 28, 2005). Moreover, as Staff precedent has established, merely referencing topics in passing that might raise significant policy issues in other contexts, but which do not define the scope of actions addressed in a proposal and which have only tangential implications for the issues that constitute the central focus of a proposal, does not transform an otherwise ordinary business proposal into one that transcends ordinary business.

In Staff Legal Bulletin No. 14L (Nov. 3, 2021) (“SLB 14L”), the Staff stated that it “will realign its approach for determining whether a proposal relates to ‘ordinary business’ with the standard the Commission initially articulated in [the November 1976 Release], which provided an exception for certain proposals that raise significant social policy issues, and which the Commission subsequently reaffirmed in the 1998 Release.” As such, the Staff stated that it will focus on the issue that is the subject of the stockholder proposal and determine whether it has “a broad societal impact, such that [it] transcend[s] the ordinary business of the company,” and noted that proposals “previously viewed as excludable because they did not appear to raise a policy issue of significance for the company may no longer be viewed as excludable under Rule 14a-8(i)(7).”

Here, the Proposal does not transcend the Company’s ordinary business operations. Rather, as discussed above, the underlying subject matter of the Proposal’s requested report is focused on the Company’s product and service offerings, the Company’s management of

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its associated customer relations, the Company's selection of vendors and suppliers, and the Company's choice of technology. Specifically, the Proposal focuses on the manner in which the Company offers proxy voting control to clients of voting decisions for securities held in their accounts, the Company's policies in exercising proxy voting authority on behalf of clients, and whether the Company should employ "[n]ew technologies" to tailor proxy voting to the individual preferences of each investor. While the Supporting Statement provides passing references to "ESG principles" and "important issues such as climate change, diversity, executive pay, and political expenditures," the central focus of the Proposal is on the Company's policies and procedures for voting proxies on behalf of clients, including the specific products it offers and the technologies it deploys as part of its proxy voting service. Thus, the Proposal does not implicate any significant policy issue.

Because the Proposal does not implicate any significant policy issue, it is readily distinguished from proposals related to proxy voting policies where the proposal focused on a significant policy issue. For example, in *T. Rowe Price Group, Inc.* (avail. Mar. 13, 2020), the Staff did not concur with the exclusion of a proposal requesting that the company "initiate a review and issue a report on the proxy voting policies and practices of its subsidiaries related to climate change . . . including an assessment of any incongruities between the [c]ompany's public statements and pledges regarding climate change . . . and the voting policies and practices of its subsidiaries." In arguing that the proposal related to ordinary business matters, the company contended that "voting proxies solely in the best interest of Clients is unquestionably part of the core investment process and business operations." In rejecting the company's argument, the Staff stated that because the proposal's focus on the congruity of "public statements and pledges regarding climate change and the voting policies and practices of [the company's] subsidiaries . . . regarding climate change," the proposal transcended the company's ordinary business operations. *See also Franklin Resources, Inc.* (avail. Nov. 24, 2015) ("*Franklin 2015*") (denying the exclusion under Rule 14a-8(i)(7) of a proposal requesting "a climate change report to shareholders assessing any incongruities between the proxy voting practices of the company and its subsidiaries within the last year, and any of the company's policy positions regarding climate change" because the proposal "focuses on the significant policy issue of climate change").

The Proposal is similarly distinguishable from proposals related to climate risk in investment options. For example, in *Amazon.com, Inc. (Sackner)* (avail. Apr. 3, 2023) ("*Amazon 2023*") and *Comcast Corp.* (avail. Apr. 10, 2023), the proposals requested a report "disclosing how the [c]ompany is protecting [p]lan beneficiaries with a longer investment time horizon from climate risk in the [c]ompany's default retirement options." In arguing that the proposal related to ordinary business matters, the company contended that the proposal was focused on default investment options under the retirement plans and whether

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those default options were in the best interests of employees, rather than addressing any business risks associated with climate change. In *Comcast Corp.*, the proponent argued that the proposal's "exclusive focus is on the climate impact of the [p]lan's default retirement option, and the resultant risks to employees, the [c]ompany, and the planet." The Staff disagreed with exclusion, noting that in its view, "the [p]roposal transcends ordinary business matters." Here, the Proposal is distinguishable, because it is focused on the alignment of Company proxy voting policies with its client's values and preferences generally. The Proposal does not focus on climate change or climate risk in investment options, and references in the Supporting Statement to "tailor[ing] proxy voting on important issues such as climate change, diversity, executive pay, and political expenditures to the unique preferences of each investor" serve only as examples of the myriad of issues encompassed by the Company's proxy voting policies.

As stated above, SPP and SIP clients can elect to retain voting authority and vote their proxies in accordance with any voting strategy they desire to address particular topics or concerns. Alternatively, they, like other clients advised by CSIM, CSIA and our other affiliated asset managers, such as mutual funds and ETFs, delegate their voting authority to the applicable asset manager (CSIM, in the case of SPP and SIP clients) to vote the proxies in accordance with its proxy voting policies. Unlike the proposals in *T. Rowe Price Group* and *Franklin 2015*, the Proposal does not focus on climate change or on the congruity of Company statements with how the Company is voting clients' securities on issues relating to climate change, and unlike the proposals in *Amazon 2023* and *Comcast Corp.*, the Proposal does not focus on climate risk in investment options. Here, the text of the Proposal is focused on alignment of Company proxy voting policies with its clients' values and preferences generally and is therefore focused on the Company's ordinary business operations (specifically, the services and products offered by the Company, its customer relations, its vendors and its choice of technologies). In this way, the Proposal is more akin to the proposals in *Franklin Resources, Inc.* (avail. Dec. 1, 2014) and *State Street Corp.* (avail. Feb. 24, 2009). There, the proposals requested a review of each company's proxy voting policies, "taking into account [the company's] own corporate responsibility and environmental positions and the fiduciary and economic case for the shareholder resolutions presented" and the supporting statements addressed concerns about "social, environmental and climate change matters." In both instances, the Staff concurred with exclusion under Rule 14a-8(i)(7) as relating to the company's ordinary business operations. As such, the Proposal does not transcend the Company's ordinary business operations and, similar to the

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proposals in the precedent discussed above, the Proposal may be excluded under Rule 14a-8(i)(7).

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 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 (212) 351-2354 or Kristopher Tate, the Company's Managing Director and Assistant Corporate Secretary, at (469) 278-2912.

Sincerely,



Julia Lapitskaya

Enclosures

cc: Kristopher Tate, The Charles Schwab Corporation
James McRitchie
John Chevedden

EXHIBIT A

Corporate Governance

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

The Charles Schwab Corporation
Attn: Office of the Corporate Secretary
3000 Schwab Way
Building DFW-1
Westlake, Texas 76262
SchwabCorporateSecretary@Schwab.com

Dear Mr. Morgan or current Corporate Secretary:

I am submitting the attached shareholder proposal, which I support, for a vote at the next annual shareholder meeting requesting Charles Schwab Corp (Company) **Ascertain Client Voting Preferences**. I pledge to continue to hold the required amount of stock until after the date of that meeting.

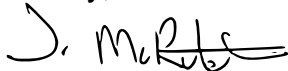
I will meet Rule 14a-8 requirements, including the continuous ownership of the required stock value until after the date of the next shareholder meeting. My submitted format, with the shareholder-supplied emphasis, is intended to be used for definitive proxy publication. I am available to meet with the Company representative via phone on December 12, at 1:00 pm or 1:30 pm 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 (PH: [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]. 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 27, 2023

Date



Proposal [4*] - Ascertain Client Voting Preferences

Resolved: Charles Schwab (“SCHWAB,” or “Company”) shareholders request our Company prepare a report on the reputational and financial risks to the Company of misalignment between proxy votes it casts on behalf of clients and its client’s values and preferences, as well as strategies for addressing such misalignments on important issues. The requested report shall be available to stockholders and investors by October 1, 2024, prepared at reasonable cost and omitting proprietary information.

Supporting Statement:

Controversy over proxy voting - especially over environmental, social, and governance (“ESG”) proposals - is regularly reported on, debated, and enshrined in state law.¹

Much debate centers on intermediaries, such as SCHWAB, and their role in casting votes for clients and beneficial owners. Every vote opens SCHWAB to controversy, either for failing to adhere to ESG principles or being too “woke.”

The divergence between the interests of asset managers like SCHWAB and their investors and clients is an issue that has been taken up at the highest levels of government. A proposed bill would require asset managers like SCHWAB to pass votes through to investors under certain conditions.² President Biden’s first veto was about consideration of ESG factors in retirement plans.³

The landscape has shifted: SCHWAB can only execute votes in clients’ best interests (and avoid controversy) by first soliciting their preferences⁴ on ESG topics.

Votes are now filed in machine-readable format, which makes it easier for clients to identify votes misaligned with their preferences.⁵ Reliance on traditional proxy advisors invites further criticism, as their conflicts of interest are scrutinized.⁶

¹ <https://corpgov.law.harvard.edu/2023/03/11/esg-battlegrounds-how-the-states-are-shaping-the-regulatory-landscape-in-the-u-s/>

² <https://www.sullivan.senate.gov/newsroom/press-releases/sullivan-introduces-index-act-to-empower-investors-and-neutralize-wall-streets-biggest-investment-firms>

³ <https://www.nbcnews.com/politics/white-house/biden-issues-first-veto-congress-blocks-new-investment-rule-rca72997>

⁴ <https://ssrn.com/abstract=4360428>

⁵ <https://www.sec.gov/news/press-release/2022-198>

⁶

<https://www.texasattorneygeneral.gov/sites/default/files/images/press/Utah%20%26%20Texas%20Letter%20to>

SCHWAB offers extensive portfolio customization through Schwab Intelligent Portfolios⁷ and Personalized Indexing,⁸ but not for proxy voting, a core advisor responsibility subject to fiduciary duties.⁹ In its commingled funds, SCHWAB does not offer voting choices.

Criticism of BlackRock, Vanguard, and State Street¹⁰ led them to provide voting choices. However, these programs are denounced as limited false choices, over-relying on traditional proxy advisors.¹¹ In October 2022, SCHWAB announced piloting a proxy polling solution for three funds.¹² However, prospectus materials omit mention of using investor preferences,¹³ instead describing general policies deferring to management's recommendations and utilizing traditional proxy advisors ISS and Glass Lewis. New technologies can tailor proxy voting on important issues such as climate change, diversity, executive pay, and political expenditures to the unique preferences of each investor.¹⁴

Investors want a voice. Approximately 83% of investors, irrespective of age, life stage, or ideological bent, want managers to consider their preferences when voting on environmental issues.¹⁵

Financial services companies that fail to engage clients on important voting preferences will be subject to ever-increasing legal and reputational jeopardy.

Vote FOR Ascertain Client Voting Preferences - Proposal [4*]

[This line and any below it 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 above graphic are intended to be published with the rule 14a-8 proposal. The graphics would be the same size as the largest management graphics (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.

⁷ https://www.wsj.com/articles/blackrocks-false-voting-choice-proxy-esg-ballots-iss-glass-lewis-66652357?mod=opinion_lead_pos1, and <https://www.wsj.com/articles/proxy-advisers-errors-accf-study-glass-lewis-iss-sec-gary-gensler-431939c5>

⁸ <https://advisorservices.schwab.com/intelligent-advisor/how-to-build-and-manage-your-customized-portfolios>

⁹ See 14 CFR 275.206(4)-6 and accompanying staff bulletins.

¹⁰ <https://ssrn.com/abstract=4580206>

¹¹ <https://www.wsj.com/articles/blackrocks-false-voting-choice-proxy-esg-ballots-iss-glass-lewis-66652357>

¹² <https://www.schwabassetmanagement.com/resource/schwab-asset-management-pilots-new-proxy-polling-solution-to-gain-insight-into-shareholder>. The poll asked investors, for example, if they'd rather support independent directors or reduction of "fur production," a difficult comparison.

¹³ <https://connect.rightprospectus.com/Schwab/TADF/808517106/SP?site=Funds> and <https://connect.rightprospectus.com/Schwab/TADF/808524664/SP?site=Funds>

¹⁴ <https://ssrn.com/abstract=4360428>

¹⁵ <https://www.qsb.stanford.edu/sites/default/files/publication/pdfs/survey-investors-retirement-savings-esg.pdf>

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

Reference: SEC Staff Legal Bulletin No. [14L](#) (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 (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.

Corporate Governance

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

Submission via Online Submission Form

February 11, 2024

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549
cc: shareholderproposals@gibsondunn.com, JLapitskaya@gibsondunn.com

SEC Reference Number:

Re: Shareholder Proposal Submitted by James McRitchie (Proponent)

To Whom It May Concern:

This letter is in response to a January 12, 2024, letter by Julia Lapitskaya on behalf of The Charles Schwab Corporation (the "Company" or "Schwab"). In that letter, the Company contends that the Proposal may be excluded from the Company's 2024 proxy statement. We have redacted personal information consistent with the Staff's guidance. A copy of this letter is being emailed concurrently to Julia Lapitskaya.

SUMMARY

The Proposal requests that the Company report on the reputational and financial risks to the Company of misalignment between proxy votes it casts on behalf of clients and its client's values and preferences, as well as strategies for addressing such misalignments on important issues.

The Company argues in its no action challenge that the Proposal implicates ordinary business issues because it relates to the Company's products and services and client relations. However, the Proposal transcends ordinary business because it addresses the significant social policy issue of the misalignment of company proxy voting and the interests of clients.

ANALYSIS

The Proposal is not excludable for Ordinary Business Concerns

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

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

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

1. The Proposal concerns a significant social policy issue which transcends ordinary business.

This Proposal deals with a highly debated, significant social policy issue: the misalignment of company proxy voting and the values and interests of clients.

Staff Legal Bulletin 14A (July 12, 2002) noted that public debate indicated the presence of a significant policy issue: “The Division has noted many times that the presence of widespread public debate regarding an issue is among the factors to be considered in determining whether proposals concerning that issue ‘transcend the day-to-day business matters.’”

In a June 30, 2016, stakeholder meeting, the Staff affirmed this position and indicated that matters of widespread public debate include legislative and executive attention and press attention. Significant policy issues may evolve.

There are many examples of the SEC finding that an issue that is widely debated is a significant social policy issue that transcends a company's ordinary business. For example, in *CVS Health Corporation* (March 15, 2022) and *State Street Corporation* (April 1, 2022), the SEC found a transcendent significant social policy issue where the proponent argued that shareholder primacy and cost externalization is an issue that “has become a central feature of the policy landscape in the United States and beyond” and pointed to examples such as Delaware court decisions, proposed legislation, and an Executive Order by the President to suspend Final Rules promulgated by the Department of Labor.

As in *CVS* and *State Street*, the Proposal at hand also implicates an issue that is widely publicly debated, through legislative and executive action, as well as press attention. The background section of the Proposal gives an overview of the public debate and controversy surrounding the misalignment of proxy voting and the values and interests of clients.

This issue has attracted significant legislative and executive attention. For example, the Proposal explains that voting over environmental, social, and governance (“ESG”)

proposals is a topic that is regularly reported on, debated, and enshrined in state law.¹ Some state laws restrict consideration of ESG factors in state investment and/or proxy voting strategies, while others promote consideration of ESG factors.² As the Proposal also notes, the divergence between the interests of asset managers like Schwab and their clients is an issue that has been taken up at the highest levels of government. A proposed bill would require asset managers like Schwab to pass votes through to investors under certain conditions.³ Last year, a bill was passed to block a Labor Department rule allowing for certain retirement plans to weigh environmental, social and corporate governance factors when selecting investments.⁴ The bill resulted in President Biden's first veto.

Much of this public debate around proxy voting centers on intermediaries such as Schwab. Each vote that Schwab casts on behalf of its clients open the Company up to criticisms from both sides, with one side arguing that Schwab is failing to adhere to ESG principles, and the other side arguing that its voting choices are too "woke."

Public criticism of asset managers such as BlackRock, Vanguard, and State Street, has continued to proliferate from both ends of the ESG debate. On one end of the debate, the state of Tennessee filed suit against BlackRock alleging the company breached consumer protection laws by making "misleading" statements that downplayed its actual consideration of ESG in its investment strategies.⁵ On the other end, BlackRock is making headlines for its significant decline in support for ESG shareholder proposals in the last proxy season.⁶

In part to address possible misalignments between proxy votes cast on behalf of clients and client's values and preferences, State Street, Vanguard and BlackRock now offer several voting options to clients.⁷ Other firms offer new services such pass-through voting instructions or the ability to vote using proxy voting policies chosen by investors that can be utilized by funds and/or retail investors.⁸

Because of the significant press attention and legislative and executive action surrounding proxy voting and how it aligns with the interest and values of clients, this

¹ <https://corpgov.law.harvard.edu/2023/03/11/esg-battlegrounds-how-the-states-are-shaping-the-regulatory-landscape-in-the-u-s/>

² Id.

³ <https://www.sullivan.senate.gov/newsroom/press-releases/sullivan-introduces-index-act-to-empower-investors-and-neutralize-wall-streets-biggest-investment-firms>

⁴ <https://www.nbcnews.com/politics/white-house/biden-issues-first-veto-congress-blocks-new-investment-rule-rcna72997>

⁵ <https://www.reuters.com/legal/tennessee-sues-blackrock-citing-misleading-esg-strategy-bloomberg-news-2023-12-18/>

⁶ <https://www.pionline.com/esg/blackrock-voted-against-record-91-shareholder-proposals-2023-proxy-season>

⁷ <https://www.ssga.com/us/en/intermediary/etfs/about-us/what-we-do/asset-stewardship/proxy-voting-choice>, <https://corporate.vanguard.com/content/corporatesite/us/en/corp/articles/expanding-proxy-voting-choice.html>, <https://www.blackrock.com/corporate/about-us/investment-stewardship/blackrock-voting-choice>, <https://www.morningstar.com/funds/new-proxy-voting-options-ivv-other-index-funds-blackrock-state-street-vanguard>

⁸ <https://www.broadridge.com/financial-services/asset-management/institutional-investors/enhance-and-simplify-portfolio-management/pass-through-voting-insights>, <https://www.asyousow.org/as-you-vote>, <https://www.iconikapp.com>, <https://www.tumelo.com>

Proposal implicates a significant social policy issue that is the subject of widespread debate and transcends ordinary business matters.

2. The SEC has determined that proposals focused on significant social policy issues transcend the company's ordinary business even where the subject matter relates to products and services that a company offers.

The Company argues that the Proposal is excludable for ordinary business concerns either because its subject matter relates to the Company's products and services, including how it handles its customer relations. The Company does not argue that this proposal micromanages the Company.

However, the Company's argument related to products and services and the precedent cited to support it is inapplicable because each of the cited cases did not focus on a significant social policy issue. In contrast, this Proposal focuses on a significant social policy issue that transcends the Company's ordinary business.

Contrary to the Company's assertion, the Staff has made it clear in legal bulletins and in precedents that proposals directed to "nitty-gritty" aspects of the Company's business, including a focus that impacts the selection of clients, products or services offered, are not excludable to the extent they are focused on significant policy issues and do not attempt to micromanage business relationships.

Although decisions regarding clients served may be "nitty-gritty" for the company, where the focus of the Proposal is entirely on a significant policy issue, the fact that it may touch on issues related to products and services offered does not cause it to be excludable. Staff Legal Bulletin 14H, October 22, 2015, made this clear: [T]he Commission has stated that proposals focusing on a significant policy issue are not excludable under the ordinary business exception "because the proposals would transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote." [Release No. 34-40018]. Thus, a proposal may transcend a company's ordinary business operations even if the significant policy issue relates to the "nitty-gritty of its core business."

It is well-established that a proposal is not excludable merely because it deals with the sale of a company's products or services where significant social policy issues are implicated—as they are here. Instead, many different social policy issues have been found to transcend the company's ordinary business related to its products and services. See, *i.e.*, *Morgan Stanley* (March 25, 2022) (climate change issue transcends focus on lending and underwriting); *The Travelers Companies, Inc.* (April 1, 2022) (racial justice issue transcends focus on insurance offerings); *Johnson & Johnson* (March 2, 2023) ("the role IP protections play in access to medicines" transcends the focus on company decision making regarding applying for patents); *Mastercard Incorporated* (April 25, 2023) ("the twin epidemics of mass shootings and the diversion of legally purchased firearms into illegal markets" transcends focus on establishing a merchant category code for standalone gun and ammunition stores); *Amazon.com, Inc.* (April 3, 2023) ("impact of climate change on employees' retirement accounts" transcends focus on company's default retirement options).

Significantly, the focus of a proposal on a policy level rather than directing the Company's relations with particular suppliers or customers is sufficient to avoid the products and services exclusion. For example, in *TJX Companies* (April 9, 2020), the proposal requested that the board commission an independent analysis of any material risks of continuing operations without a company-wide animal welfare policy or restrictions on animal-sourced products associated with animal cruelty. The company objected that the proposal was excludable as relating to sales of particular products, but the proponent effectively argued that the policy focus of the proposal on a clear, significant policy issue for the company caused the proposal to transcend ordinary business.

Similarly, here, the Proposal does not direct the Company to use any particular vendor. Instead, it requests a report on the risks of misalignment between Company proxy votes it casts on behalf of clients compared to its client's values and preferences, and strategies to address such misalignments on important issues. The Proposal does not direct the Company to use any specific technology, and merely references new technologies available that allow for tailored proxy voting on important issues in the background statement. The Proposal focuses on a strategic policy level and does not direct the Company to engage with any particular vendor or supplier or technology.

The Staff has specifically rejected exclusion of proposals relating to company's proxy voting policies where the proposal focused on a significant social policy issue. For example, in *T. Rowe Price* (March 13, 2020), the Staff denied exclusion where the proposal requested that the board report on the company's proxy voting practices and policies related to climate change, including an analysis of any incongruities between the company's public statements regarding climate change and the voting policies and practices of its subsidiaries. The Staff found that the proposal transcends the company's ordinary business operations and specified that "the Proposal is focused on possible differences between T. Rowe Price Group's public statements and pledges regarding climate change and the voting policies and practices of its subsidiaries, including any subsidiaries which are investment advisers." Similarly, in *Franklin Resources, Inc.* (November 24, 2015), the Staff denied exclusion of a proposal that requested that the board issue a climate change report which assesses "any incongruities between the proxy voting practices of the company and its subsidiaries within the last year, and any of the company's policy positions regarding climate change" because "the proposal focuses on the significant policy issue of climate change."

This Proposal is also similar to *BlackRock, Inc.* (April 4, 2022), where the Staff did not allow exclusion for ordinary business, finding instead that the Proposal "transcends ordinary business matters and does not seek to micromanage the Company." The proposal requested that the Company "adopt stewardship practices designed to curtail corporate activities that externalize social and environmental costs that are likely to decrease the returns of portfolios that are diversified in accordance with portfolio theory, even if such curtailment could decrease returns at the externalizing company."

Like Schwab, BlackRock also argued that the proposal was excludable as ordinary business because it related to the products and services offered for sale by a company and the methods of distribution of those products and services. The Company argued that the proposal "focuses primarily on BlackRock's stewardship practices." Further, the

Company alleged that the Proposal was excludable because it micromanaged the Company. The SEC disagreed with both arguments. The Staff found that the proposal did not micromanage and agreed that it focused on a significant social policy issue: “the question of how corporations account for the systemic and other costs they impose on other companies when they prioritize shareholder returns and ignore the costs they externalize.”

CONCLUSION

In permitting the exclusion of proposals, Rule 14a-8(g) imposes the burden of proof on companies. Companies seeking to establish the availability of exclusion under Rule 14a-8, therefore, have the burden of showing ineligibility. As argued above, the Company has failed to meet that burden. Accordingly, Staff must deny the no-action request.

We would appreciate any opportunity to answer any questions Staff may have concerning this matter before the final determination. Additionally, we would be pleased to negotiate with Schwab on mutually agreeable terms for withdrawing the Proposal.

Sincerely,


James McRitchie

February 29, 2024

VIA ONLINE SUBMISSION

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

Re: *The Charles Schwab Corporation*
Supplemental Letter Regarding Stockholder Proposal of James McRitchie
Securities Exchange Act of 1934—Rule 14a-8

Ladies and Gentlemen:

On January 12, 2024, we submitted a letter (the “No-Action Request”) on behalf of our client, The Charles Schwab Corporation (the “Company”), to inform the staff of the Division of Corporation Finance (the “Staff”) of the Securities and Exchange Commission (the “Commission”) that 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”). The No-Action Request sets forth the basis for our view that the Proposal properly may be excluded from the 2024 Proxy Materials pursuant to Rule 14a-8(i)(7) because the Proposal relates to the Company’s ordinary business operations.

This supplemental letter responds to a letter received from the Proponent in response to the No-Action Request dated February 11, 2024 (the “Response Letter”).

As discussed in the No-Action Request, the Proposal directly relates to the Company’s ordinary business operations because it seeks a report relating to risks involving the Company’s policies, practices and procedures related to decisions with respect to the choices of product and service offerings it provides and its customer relations—specifically, risks related to alleged misalignment between the proxy voting products and services the Company offers and the Company’s “client’s values and preferences.” While proxy voting is an integral part of the Company’s relationships with its clients whose investments are managed by certain of the Company’s affiliated entities and is therefore a significant aspect of the Company’s day-to-day business operations, the Company’s general policies, practices and procedures related to proxy voting are not a significant policy issue with broad societal impacts.

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Importantly, the Proposal does not specify or limit the subject matter of the “proxy votes [the Company] casts on behalf of clients” that are the subject of the Proposal’s requested report on alleged misalignment with client “values and preferences.” Similarly, while one aspect of the Proposal covers the Company’s “strategies” to address alleged misalignment on “important issues” (a term that the Proposal does not explain or define), those “important issues,” and the Company’s policies, practices and programs related to those issues, are not the focus of the Proposal. Instead, the Proposal’s requested report broadly covers proxy voting generally on any topic subject to stockholder voting irrespective of the potential significance or impact of such topics.

Because the Proposal is not limited to the Company’s policies, programs and procedures for proxy voting on topics that implicate significant policy issues, the Proposal does not transcend the Company’s ordinary business operations and is therefore readily distinguishable from each of the precedent cited in the Response Letter. For example, in the *State Street Corp.* (avail. Apr. 1, 2022) precedent cited in the Response Letter, the Proponent’s proposal was focused squarely on issues that directly implicated significant policy issues—specifically, “[c]ompany polices that account for the *effect of social and environmental issues* on portfolio companies’ financial performance, but not for the effect that portfolio company activities have on overall stock-market performance through *their impacts on social and environmental systems*” (emphases added). In *BlackRock, Inc. (McRitchie)* (avail. April 4, 2022), the Proponent’s proposal requested that the company “adopt stewardship practices designed to *curtail corporate activities that externalize social and environmental costs* that are likely to decrease the returns of portfolios that are diversified in accordance with portfolio theory” (emphases added). Similarly, in *CVS Health Corp.* (avail. Mar. 15, 2022), the proposal was focused on “the link between the *public-health costs* created by the Company’s food, beverage, and candy business and its prioritization of financial returns over its healthcare purpose” and in *Morgan Stanley* (avail. Mar. 25, 2022), the proposal requested that the company “adopt a policy . . . committing to proactive measures to ensure that the company’s lending and underwriting do not contribute to *new fossil fuel development*” (emphases added). In each of these precedent cited in the Response Letter, the proposal focused on whether an aspect of the company’s operations or policies impacted topics with broad societal implications, such as public-health costs, climate change and social and environmental issues. By contrast, the Proposal is not focused on the impact of the Company’s proxy voting on any specific topic (let alone a topic with broad societal implications) but on potential “misalignments” on *any* topic for which the Company’s clients may have specific preferences.

The Proposal is similarly distinguishable from the other line of precedent cited in the Response Letter that, unlike the Proposal, are more directly related to proxy voting on specific topics that may be considered significant policy issues with broad societal impact, such as topics related to climate change. As explained in the No-Action Request, the Proposal is readily distinguished from the proposals in *T. Rowe Price Group, Inc.* (avail. Mar. 13, 2020) and

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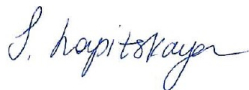
Franklin Resources, Inc. (avail. Nov. 24, 2015), both cited in the Response Letter, where the proposals focused solely on proxy voting policies and practices related to climate change and the congruity of the companies' proxy voting practices in comparison to their publicly-stated policy positions on the issue of climate change. Relatedly, in *Amazon.com, Inc. (Sackner)* (avail. Apr. 3, 2023), also cited in the Response Letter, the proposal requested a report on the company's policies and procedures to protect beneficiaries "from climate risk in the [c]ompany's default retirement options." Unlike the proposals in *T. Rowe Price, Franklin Resources* and *Amazon.com*, the Proposal does not focus on climate change or climate risk in investment options. Instead, as demonstrated by the Supporting Statement's laundry list of topics that proxy voting may address, the Proposal is focused broadly on all issues encompassed by the Company's proxy voting policies.

As discussed in the No-Action Request, the text of the Proposal is focused squarely on alignment of Company proxy voting policies with its clients' values and preferences generally, and the Proposal is therefore focused on the Company's ordinary business operations (specifically, the services and products offered by the Company, its customer relations, its vendors and its choice of technologies). Neither the Response Letter nor the Proposal itself identifies a significant policy issue implicated by the Proposal. As such, the Proposal does not transcend the Company's ordinary business operations and the Proposal may be excluded under Rule 14a-8(i)(7).

CONCLUSION

Based upon the foregoing and the No-Action Request, we respectfully request that the Staff concur that it will take no action if the Company excludes the Proposal from its 2024 Proxy Materials. 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 (212) 351-2354 or Kristopher Tate, the Company's Managing Director and Assistant Corporate Secretary, at (469) 278-2912.

Sincerely,



Julia Lapitskaya

Enclosures

cc: Kristopher Tate, The Charles Schwab Corporation
James McRitchie
John Chevedden