



DIVISION OF  
CORPORATION FINANCE

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

March 1, 2024

Kathleen M. LaVoy  
Sidley Austin LLP

Re: Aflac Incorporated (the "Company")  
Incoming letter dated February 29, 2024

Dear Kathleen M. LaVoy:

This letter is in regard to your correspondence concerning the shareholder proposal (the "Proposal") submitted to the Company by Chris Mueller (the "Proponent") for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders. Your letter indicates that Chris Mueller has withdrawn the Proposal and that the Company therefore withdraws its February 27, 2024 request for a no-action letter from the Division. Because the matter is now moot, we will have no further comment.

Copies of all of the correspondence related to this matter 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: Chris Mueller



SIDLEY AUSTIN LLP  
ONE SOUTH DEARBORN STREET  
CHICAGO, IL 60603  
+1 312 853 7000  
+1 312 853 7036 FAX

AMERICA • ASIA PACIFIC • EUROPE

February 27, 2024

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

Re: Aflac Incorporated - Shareholder Proposal Submitted by Chris Mueller

Dear Ladies and Gentlemen:

On behalf of Aflac Incorporated (“Aflac” or the “Company”) and pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended, we hereby request confirmation that the staff (the “Staff”) of the Securities and Exchange Commission (the “Commission” or the “SEC”) will not recommend enforcement action if, in reliance on Rule 14a-8 under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), Aflac excludes a shareholder proposal dated February 5, 2024, postmarked February 6, 2024 and received at Aflac’s principal executive offices on February 12, 2024 (together with the supporting statement, the “Proposal”) by Chris Mueller (the “Proponent”) from the proxy materials for Aflac’s 2024 annual shareholders’ meeting (the “2024 Proxy Materials”), which Aflac expects to file in definitive form with the SEC on or about March 21, 2024.

Pursuant to Rule 14a-8(j):

- a copy of the Proposal and all relevant correspondence exchanged with the Proponent with respect to the Proposal is attached hereto as Exhibit A;
- a copy of this letter and its attachments are being sent to notify the Proponent of Aflac’s intention to omit the Proposal from the 2024 Proxy Materials; and
- although not filed within eighty (80) calendar days before Aflac intended to file its definitive 2024 Proxy materials with the SEC, Aflac had “good cause” for the inability to do so, as the Company did not receive the Proposal until February 12, 2024, thirty-eight (38) days before the Company’s expected definitive filing date.

The Proposal is unclear as to whether the Proponent intended to submit the Proposal under Rule 14a-8. To the extent that the Proposal was submitted under Rule 14a-8, the Company requests that the Staff concur that, consistent with the precedent described below, the Company can exclude

# SIDLEY

Page 2

the Proposal from the 2024 Proxy Materials under Rule 14a-8(e)(2), as the Proposal was received by the Company at its principal executive offices after the applicable deadline.

In accordance with relevant Staff guidance, we are submitting this letter and its attachments to the Staff through the Staff's online Shareholder Proposal Form. Additionally, Rule 14a-8(k) provides that shareholder proponents are required to send companies a copy of any correspondence that the shareholder proponents elect to submit to the Commission or the Staff. Accordingly, we are taking this opportunity to remind the Proponent that if the Proponent submits correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should concurrently be furnished to Aflac.

## THE PROPOSAL

The Proposal states:

My proposal: Aflac Inc. should disclose registered shareholder share totals in 10-Q and 10-K reports. Registered share totals should include the total number of shares held by investors in DRS form (excluding Cede & Co.). In addition, Aflac Inc. should include the total number of registered holders as well.

## BASIS FOR EXCLUSION

Aflac respectfully requests that the Staff concur in its view that the Proposal may be excluded from the 2024 Proxy Materials pursuant to Exchange Act Rule 14a-8(e)(2) on the basis that the Proposal was received by the Company at its principal executive offices after the deadline for submitting shareholder proposals for inclusion in the 2024 Proxy Materials.<sup>1</sup>

Rule 14a-8(e)(2) provides that a stockholder proposal submitted with respect to a company's regularly scheduled annual meeting "must be received at the company's principal executive offices not less than 120 calendar days before the date of the company's proxy statement released to shareholders in connection with the previous year's annual meeting." As required by Rule 14a-5(e), the Company included in its 2023 proxy statement the deadline for receiving stockholder proposals submitted for inclusion in the 2024 Proxy Materials, calculated in the manner described in Rule 14a-8(e), as well as the address for submitting those proposals. Specifically, page 83 of the Company's 2023 proxy statement stated:

SEC rules permit shareholders to submit proposals to be included in our materials if the shareholder and the proposal satisfy the requirements specified in Rule 14a-8 under the Securities Exchange Act of 1934. For a shareholder proposal to be

---

<sup>1</sup> In addition, we further note that the Proposal was not received timely as notice of a submission of an item of business to be brought before the 2024 annual meeting that is not intended to be included in our proxy materials. Notice of such proposals must be received at the appropriate address between January 2, 2024 and February 1, 2024.

considered for inclusion in our proxy materials for the 2024 Annual Meeting of Shareholders, the proposal must be received at the address provided below on or before November 17, 2023.

...All shareholder nominations of individuals for election as Directors or proposals of other items of business to be considered by shareholders at the 2024 Annual Meeting of Shareholders (whether or not intended for inclusion in our proxy materials) must be submitted in writing to our Corporate Secretary at Aflac Incorporated, 1932 Wynnton Road, Columbus, Georgia 31999.

The Company may exclude the Proposal under Rule 14a-8(e)(2) of the Exchange Act because the Company did not receive the Proposal at its principal executive offices before the deadline had passed for submitting shareholder proposals to the Company. Rule 14a-8(e) provides that a proposal submitted with respect to a company's regularly scheduled annual meeting "must be received at the company's principal executive offices not less than 120 calendar days before the date of the company's proxy statement released to shareholders in connection with the previous year's annual meeting." Rule 14a-8(f) permits a company to exclude a shareholder proposal that does not comply with the rule's procedural requirements, including if a proponent fails to submit a proposal by a company's properly determined deadline.

The proxy statement for the Company's 2023 annual meeting was released to shareholders on March 16, 2023. In accordance with the 120-calendar day rule, the deadline for submitting shareholder proposals for inclusion in the 2024 proxy materials was determined to be November 17, 2023, and that date was specified in the proxy statement for the Company's 2023 annual meeting. The Proposal was received at the Company's principal executive offices on February 12, 2024, which is 87 days after the deadline.

The exception to Rule 14-8(e)(2) for meetings that have been changed by more than 30 days from the date of the prior year's meeting does not apply in this instance. The Company's 2023 annual meeting of shareholders was held on May 1, 2023, and the 2024 annual meeting is scheduled for May 6, 2024. Because the 2024 annual meeting has not been changed by more than 30 days from the date of the 2023 annual meeting, the November 17, 2023 deadline for shareholder proposals set forth in the Company's 2023 proxy statement remains effective.

The Staff has repeatedly concurred that a proposal may be excluded in its entirety under Rule 14a-8(e)(2) when it is received after the applicable deadline for submitting a shareholder proposal. See, e.g., The PNC Financial Services Group, Inc. (Feb. 20, 2024); Hewlett Packard Enterprise Company (Jan. 4, 2024); The Kroger Co. (The Sisters of the Presentation of the Blessed Virgin Mary of Aberdeen, South Dakota) (Apr. 25, 2023). Consistent with this precedent, we believe the Proposal may properly be excluded as untimely pursuant to Rule 14a-8(e)(2).

In accordance with Rule 14a-8(f)(1), the Company has not provided the Proponent with notice of the Proposal's procedural deficiency because this deficiency cannot be remedied. As stated in Rule 14a-8(f)(1), "[a] company need not provide you such notice of a deficiency if the deficiency cannot be remedied, such as if you fail to submit a proposal by the company's properly determined deadline". Accordingly, the Company is not required to provide notice under Rule 14a-8(f)(1) in order for the Proposal to be excluded under Rule 14a-8(e)(2).

The Company therefore requests that the Staff concur that the Proposal may properly be excluded from the 2024 Proxy Materials because it was not received at the Company's principal executive offices within the timeframe required by Rule 14a-8(e)(2).

## **REQUEST FOR WAIVER UNDER RULE 14A-8(J)(1)**

The Company further requests that the Staff waive the 80-day filing requirement set forth in Rule 14a-8(j) for good cause. Rule 14a-8(j)(1) requires that, if a company "intends to exclude a proposal from its proxy materials, it must file its reasons with the Commission no later than 80 calendar days before it files its definitive proxy statement and form of proxy with the Commission." However, Rule 14a-8(j)(1) allows the Staff, in its discretion, to permit a company to make its submission later than 80 days before the filing of its definitive proxy statement if the company demonstrates good cause for missing the deadline.

The Company plans to file its definitive proxy statement on or about March 21, 2024, which would result in a deadline of January 1, 2024 to submit its reasons for excluding the Proposal. As stated above, the Proposal was dated February 5, 2024, postmarked February 6, 2024 and received at Aflac's corporate offices on February 12, 2024. The Staff has consistently found good cause to waive the 80-day requirement where the untimely submission of a proposal prevents a company from satisfying the 80-day provision. *See* Staff Legal Bulletin No. 14B (Sept. 15, 2004) (indicating that the "most common basis for the company's showing of good cause is that the proposal was not submitted timely and the company did not receive the proposal until after the 80-day deadline had passed").

Given the foregoing, the Company respectfully submits that it has good cause for its inability to meet the 80-day requirement, and the Company respectfully requests that the Staff waive the 80-day requirement with respect to this letter.

\* \* \*

## CONCLUSION

The Company believes the Proposal may be omitted in its entirety from the Company's 2024 Proxy Materials pursuant to Rule 14a-8(e)(2) because the Proponent failed to timely submit the Proposal. Accordingly, the Company respectfully requests the concurrence of the Staff that it will not recommend enforcement action against the Company if the Company excludes the Proposal in its entirety from its 2024 Proxy Materials.

If you have any questions with respect to this matter, please contact me at (312) 853-7808 or email me at [klavoy@sidley.com](mailto:klavoy@sidley.com).

Sincerely,



Kathleen M LaVoy

Enclosures

cc: Chris Mueller

# SIDLEY

Page 6

**EXHIBIT A**

**COPY OF THE PROPOSAL**

See attached.

February 5, 2024

Aflac Inc.  
1932 Wynnton Road  
Columbus, Georgia 31999

Members of the board.

My name is Chris Mueller, and I would like to submit a shareholder proposal for the 2024 annual shareholder meeting. I am an individual investor with a directly registered ownership position in our company. I intend to hold my position through the date of the 2024 annual shareholder meeting. I would be happy to meet with the board to discuss my proposal at any time.

**My proposal: Aflac Inc. should disclose registered shareholder share totals in 10-Q and 10-K reports. Registered share totals should include the total number of shares held by investors in DRS form (excluding Cede & Co.). In addition, Aflac Inc. should include the total number of registered holders as well.**

Several issuers already disclose registered share totals with a couple sentences on each 10-Q or 10-K report. Registered holders are passionate and loyal investors who disclose their personal information to and desire a direct and close relationship with the company they invest with. Registered holder information is of material interest to investors who want to track distribution and commitment of an investor base.

According to our last 10-K, we had 84,297 record holders of our company's common stock. Quarterly disclosures of record holders and share totals may inspire more passionate long-term holders like myself.

Thank you for your time,



Chris Mueller

PII

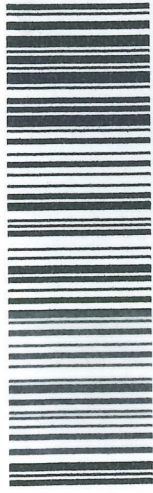




Chris Mueller

PII

62 T920 4T9T 0225 0T20 6856



**CERTIFIED MAIL**

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS. FOLD TO FOLLOW.

62 T920 4T9T 0225 0T20 6856

TAMPA FL 335

FEB 2024 PM 6  
FIRST-CLASS

2/12/2024 11:16:46 AM e05642

To: Sanabria, Raquel E

Building: Mail Out

Carrier: Certified Incoming

Sender: None

Department: Corporate Secretary

Supervisor: Loudermilk, Joseph

Mailstop: Mail Out

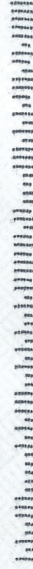
External



9589071052701614076129

Corporate Secretary  
Aflac Inc.  
1932 Wynnton Road  
Columbus, Georgia 31999

31999



BOWES

080

2024

# SIDLEY

SIDLEY AUSTIN LLP  
ONE SOUTH DEARBORN STREET  
CHICAGO, IL 60603  
+1 312 853 7000  
+1 312 853 7036 FAX

AMERICA • ASIA PACIFIC • EUROPE

February 29, 2024

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

Re: Aflac Incorporated - Shareholder Proposal Submitted by Chris Mueller

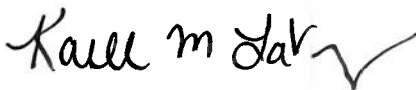
Dear Ladies and Gentlemen:

On February 27, 2024, we, on behalf of Aflac Incorporated (“Aflac” or the “Company”), submitted a no-action request to the staff (the “Staff”) of the Securities and Exchange Commission requesting that the Staff concur with the Company’s view that a shareholder proposal (together with the supporting statement, the “Proposal”) submitted to the Company by Chris Mueller (the “Proponent”) may properly be excluded from the proxy materials for Aflac’s 2024 annual shareholders’ meeting pursuant to Rule 14a-8 and in accordance with the Staff’s guidance regarding the procedural bases for the exclusion of shareholder proposals.

On February 28, 2024, the Company received notification from the Proponent that the Proponent would like to withdraw the Proposal (the “Notice of Withdrawal”). The Notice of Withdrawal is attached as Exhibit A. In reliance on the Notice of Withdrawal, the Company is hereby withdrawing its no-action request. A copy of this letter is being provided to the Proponent.

If you have any questions with respect to this matter, please contact me at (312) 853-7808 or email me at [klavoy@sidley.com](mailto:klavoy@sidley.com).

Sincerely,



Kathleen M LaVoy

Enclosures

cc: Chris Mueller

**SIDLEY**

Page 2

**EXHIBIT A**

**NOTICE OF WITHDRAWAL**

See attached.

**From:** [Chris Mueller](#)  
**To:** [LaVoy, Katie](#)  
**Subject:** Re: Aflac No-Action Letter  
**Date:** Wednesday, February 28, 2024 6:27:33 AM

---

**EXTERNAL EMAIL - Use caution with links and attachments.**

Hi Katie,

I would like to withdraw my shareholder proposal. This is my official notice that I would like to have it withdrawn. If there is anything else that you need from me please let me know.

Chris

On Tue, Feb 27, 2024 at 11:05 PM LaVoy, Katie <[klavoy@sidley.com](mailto:klavoy@sidley.com)> wrote:

Mr. Mueller,

Thank you for your reply. If you would provide your written agreement that the proposal is withdrawn, then we would be able to withdraw the no-action request to the SEC.

We appreciate your consideration.

Best regards,

**KATIE LAVOY**

**SIDLEY AUSTIN LLP**  
+1 312 853 7808  
[klavoy@sidley.com](mailto:klavoy@sidley.com)

---

**From:** Chris Mueller <[REDACTED] PII >  
**Sent:** Tuesday, February 27, 2024 11:28 AM  
**To:** LaVoy, Katie <[klavoy@sidley.com](mailto:klavoy@sidley.com)>  
**Subject:** Re: Aflac No-Action Letter

Hi Katie,

Thank you. If you need me to withdraw my proposal, please let me know.

Chris

On Tue, Feb 27, 2024 at 11:12 AM LaVoy, Katie <[klavoy@sidley.com](mailto:klavoy@sidley.com)> wrote:

Mr. Mueller,

Attached please find a Rule 14a-8 no-action request letter submitted to the SEC today on behalf of Aflac Inc. Please be advised that it is also the Company's position that the proposal does not comply with the procedures prescribed in the Bylaws for shareholders who wish to propose items of business that are not intended to be included in the Company's proxy materials. Notice of such proposals must have been received by the Company between January 2, 2024, and February 1, 2024.

**KATIE LAVOY**

**SIDLEY AUSTIN LLP**

One South Dearborn  
Chicago, IL 60603  
+1 312 853 7808

Pronouns: she/her/hers

[klavoy@sidley.com](mailto:klavoy@sidley.com)

[www.sidley.com](http://www.sidley.com)

Talent. Teamwork. Results.



\*\*\*\*\*  
\*\*\*\*\*

This e-mail is sent by a law firm and may contain information that is privileged or confidential.  
If you are not the intended recipient, please delete the e-mail and any attachments and notify us

immediately.

\*\*\*\*\*  
\*\*\*\*\*