



DIVISION OF  
CORPORATION FINANCE

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

April 18, 2025

Ronald O. Mueller  
Gibson, Dunn & Crutcher LLP

Re: Salesforce, Inc. (the "Company")  
Incoming letter dated February 3, 2025

Dear Ronald O. Mueller:

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

The Proposal requests that the board of directors conduct an assessment to determine if adding Bitcoin to the Company's treasury is in the best interests of shareholders.

There appears to be some basis for your view that the Company may exclude the Proposal under Rule 14a-8(i)(7). In our view, the Proposal relates to the Company's ordinary business operations. Accordingly, we will not recommend enforcement action to the Commission if the Company omits the Proposal from its proxy materials in reliance on Rule 14a-8(i)(7).

Copies of all of the correspondence on which this response is based will be made available on our website at <https://www.sec.gov/corpfin/2024-2025-shareholder-proposals-no-action>.

Sincerely,

Rule 14a-8 Review Team

cc: Stefan Padfield  
National Center for Public Policy Research

February 3, 2025

VIA ONLINE PORTAL SUBMISSION

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

Re: *Salesforce, Inc.*  
*Stockholder Proposal of the National Center for Public Policy Research*  
*Securities Exchange Act of 1934—Rule 14a-8*

Ladies and Gentlemen:

This letter is to inform you that our client, Salesforce, Inc. (the “Company”), intends to omit from its proxy statement and form of proxy for its 2025 Annual Meeting of Stockholders (collectively, the “2025 Proxy Materials”), a stockholder proposal (the “Proposal”) and statement in support thereof (the “Supporting Statement”) received from the National Center for Public Policy Research (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 2025 Proxy Materials with the Commission; and
- concurrently sent copies of this correspondence to the Proponent.

Rule 14a-8(k) and Staff Legal Bulletin No. 14D (Nov. 7, 2008) (“SLB 14D”) provide that 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 the Proposal, a copy of such correspondence should be furnished concurrently to the undersigned on behalf of the Company pursuant to Rule 14a-8(k) and SLB 14D.

## THE PROPOSAL

The Proposal states:

**Resolved:** Shareholders request that the Board conduct an assessment to determine if adding Bitcoin to the Company's treasury is in the best interests of shareholders.

A copy of the Proposal and the Supporting Statement 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 2025 Proxy Materials pursuant to Rule 14a-8(i)(7) because (1) the Proposal relates to the Company's ordinary business operations and (2) the Proposal seeks to micromanage the Company.

## ANALYSIS

### **The Proposal May Be Excluded Under Rule 14a-8(i)(7) Because The Proposal Relates 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 "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." Exchange Act Release No. 40018 (May 21, 1998) (the "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. *Id.* The first of those considerations is 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." *Id.* The Commission stated that examples of tasks that implicate the ordinary business standard include "the management of the workforce, such as the hiring, promotion, and termination of employees, decisions on production quality and quantity, and the retention of suppliers." *Id.* The second consideration concerns "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) (the "1976 Release")).

The Commission has stated that a proposal requesting the dissemination of a report is excludable under Rule 14a-8(i)(7) if the substance of the proposal is within the ordinary business of the company. See Exchange Act Release No. 20091 (Aug. 16, 1983) (“the staff will consider whether the subject matter of the special report or the committee involves a matter of ordinary business; where it does, the proposal will be excludable under Rule 14a-8(c)(7)”). Moreover, in Staff Legal Bulletin No. 14E (Oct. 27, 2009), the Staff stated that if a proposal relates to an evaluation of risks, the Staff will consider whether the underlying subject matter of the evaluation involves a matter of ordinary business in determining whether a proposal can be properly excluded pursuant to Rule 14a-8(i)(7). See, e.g., *GameStop Corp. (Sandau)* (avail. Apr. 24, 2024) (concurring with the exclusion of a proposal under Rule 14a-8(i)(7) requesting that the company “conduct an evaluation of the current relationship with the current transfer agent . . . and assess whether or not a new arrangement could be negotiated”).

*B. The Proposal Is Excludable Because It Relates To Routine Investment Strategy And Fiscal Policy Decisions.*

The Proposal requests that the Company’s Board of Directors (the “Board”) conduct an assessment to determine whether investing in Bitcoin would be in the best long-term interests of stockholders. The Supporting Statement makes a number of arguments in favor of investing “just a few percent” of the Company’s assets in Bitcoin and recommends that the Board consider making such an investment. Notwithstanding that the Proposal is phrased in terms of requests for an assessment, the underlying subject of the Proposal relates to the details of how the Company manages its balance sheet and investments. However, as the Supporting Statement demonstrates, management of the Company’s investments involves an array of complex considerations and analysis of many factors, including the stability or volatility and liquidity of the assets, risk-adjusted and inflation-adjusted rates of return of an asset compared to other assets, the Company’s working capital needs and capital commitments, the speculative nature of an investment, changing market conditions and inflation, diversification and the overall composition of the Company’s investment portfolio, and the availability of internal investment alternatives with respect to the Company’s business, among others. These complex considerations are integral and fundamental to management’s ability to run the Company on a day-to-day basis, and it is neither practical nor appropriate to seek to address such matters through a stockholder vote.

Indeed, the Staff has long concurred that the manner in which a company manages its investment strategy falls within the ordinary business operations of the company. For example, in *General Dynamics Corp.* (avail. Mar. 23, 2000), the Staff concurred with the exclusion of a proposal as relating to ordinary business matters where the proposal suggested that the company obtain precious metals without relinquishing its current cash and mineral reserves. The company argued that the proposal related to the company’s “determinations of how to manage its cash flows and invest its funds,” and that because the proposal “would have the [c]ompany abandon the investment strategy implemented by management on a regular basis,” it related to the company’s ordinary business operations. The Staff concurred that exclusion under Rule 14a-8(i)(7) was appropriate. Likewise, the staff of the Division of Investment Management

has concurred in exclusion on ordinary business grounds of a proposal seeking to direct a company's investments. *College Retirement Equities Fund (Fox)* (avail. May 10, 2013) (concurring with the exclusion of a proposal requesting that the fund "exclude health insurance companies" from a portfolio fund "in accordance with reasonable expectations for socially responsible investing").

Both the proposal in *General Dynamics* and the Proposal relate to investing in specific assets, and, in each instance, the proponents are attempting to exert influence over a company's investment strategy. Just as the proposal in *General Dynamics* suggested that the company obtain a specific asset (*i.e.*, precious metals), the Proposal requests that the Company assess the benefits of obtaining a specific asset (*i.e.*, Bitcoin). Just as the proponent in *General Dynamics* argued that obtaining precious metals could help "prevent the severity of [repercussions of mistakes by the Federal Reserve Board] on the value of company shares," the Proposal argues that the Company should consider "exchanging some – even just a few percent – of its cash and bonds for Bitcoin," asserting that "Bitcoin is the most inflation-resistant store of value in history." Accordingly, just as the proposal was deemed to be excludable in *General Dynamics*, the Proposal is excludable because it involves the Company's investment strategy.

The Staff also has consistently concurred in exclusion on the basis of ordinary business where a proposal relates to the manner in which a company manages its investment strategy. *See, e.g.*, *Sempra Energy* (avail. Feb. 7, 2000) (concurring with the exclusion under Rule 14a-8(i)(7) of a proposal requiring revenue to be invested in certain utilities because the proposal related to the company's "investment and operational decisions"); *California Real Estate Investment Trust* (avail. July 6, 1988) (concurring with the exclusion under the predecessor to Rule 14a-8(i)(7) of a proposal requesting a policy to purchase specific types of real estate and to avoid equity related loans because the proposal related to "the determination of investment strategies"); *General Motors Corp. (Wilson)* (avail. Mar. 31, 1988) (concurring with the exclusion under the predecessor to Rule 14a-8(i)(7) of a proposal directing the board to "make long-range plans to re-deploy the [c]ompany's assets into more profitable lines of endeavor" because the proposal related to "decisions regarding the investment and application of corporate assets"). The Staff has also concurred in exclusion under Rule 14a-8(i)(7) when a proposal sought to dictate how much cash a company should hold, and the company argued that "the [p]roposal, if adopted, would deprive management of its discretion in managing sources and uses of cash, substituting a stockholder directive for professional, day-to-day management of funds, which is one of the most commonplace and important responsibilities of the financial executives of every company." *IEC Electronics Corp.* (avail. Nov. 3, 2011) (concurring with the exclusion under Rule 14a-8(i)(7) of a proposal requesting that the company retain a minimum cash balance under certain circumstances, noting that the proposal "relates to the management of cash").

As in *General Dynamics*, *College Retirement Equities Fund*, and the other precedents cited above, the Proposal addresses the Company's investment strategy and fiscal policy decisions. Moreover, the Proposal does not focus upon, or even touch upon, a significant social policy.

Accordingly, the Proposal relates to ordinary business matters and is properly excludable under Rule 14a-8(i)(7).

*C. The Proposal Is Excludable Because It Seeks To Micromanage The Company.*

As explained above, the Commission stated in the 1998 Release that one of the considerations underlying the ordinary business exclusion is “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.” The 1998 Release further states that “[t]his consideration may come into play in a number of circumstances, such as where the proposal involves intricate detail, or seeks to impose specific . . . methods for implementing complex policies.” In Staff Legal Bulletin No. 14L (Nov. 3, 2021) (“SLB 14L”), the Staff stated that in considering arguments for exclusion based on micromanagement, the Staff “will focus on the level of granularity sought in the proposal and whether and to what extent it inappropriately limits discretion of the board or management.” Moreover, “granularity” is only one factor evaluated by the Staff. As is relevant here, the Staff stated in SLB 14L that it also focuses on “whether and to what extent it *inappropriately limits discretion of the board or management*” (emphasis added). The Staff stated that this approach “is consistent with the Commission’s views on the ordinary business exclusion, which is designed to preserve management’s discretion on ordinary business matters but not prevent shareholders from providing high-level direction on large strategic corporate matters.” SLB 14L.

In assessing whether a proposal micromanages by seeking to impose specific methods for implementing complex policies, the Staff evaluates not just the wording of the proposal but also the action called for by the proposal and the manner in which the action called for under a proposal would affect a company’s activities and management discretion generally. See, e.g., *Tesla, Inc. (Stephen)* (avail. Mar. 27, 2024) (concurring that a proposal requesting that the company “redesign vehicle tires to avoid pollution from harmful chemicals such as 6PPD-Q” sought to micromanage the company); and *The Home Depot, Inc. (Green Century Capital Management)* (avail. Mar. 21, 2024) (concurring that a proposal requesting a report “assessing the benefits and drawbacks of permanently committing not to sell paint containing titanium dioxide sourced from the Okefenokee” and related risks sought to micromanage the company).

The Staff has consistently concurred in exclusion of proposals that seek to micromanage a company by addressing the company’s investment activities. For example, in *Tesla, Inc.* (avail. May 6, 2022) (“*Tesla 2022*”), the proposal requested that the company adopt a policy of immediate liquidation of newly acquired cryptocurrency assets, and full divestment from existing cryptocurrency assets within one year. The company argued that “[d]etermining where, how and when a company makes investments is fundamental to management’s ability to oversee a company’s financial condition” and that the proposal was “an inappropriate limitation on the discretion of the board of directors and management of the [c]ompany in managing the financial condition of the [c]ompany.” The Staff concurred with exclusion, noting that “the [p]roposal micromanages the [c]ompany.” Similarly, in *The Goldman Sachs Group, Inc.* (avail. Mar. 12, 2019), the Staff concurred with the exclusion of a proposal requesting that the company

manage its lending and investment activities in alignment with the goals of the 2015 Paris Climate Agreement, noting that “the [p]roposal would micromanage the [c]ompany by seeking to impose specific methods for implementing complex policies in place of the ongoing judgments of management as overseen by its board of directors.”

Here, the Proposal inappropriately seeks to dictate the Company’s investment activities. While phrased as a request for an assessment, the Supporting Statement makes clear that the Proponent is recommending that the Company invest in Bitcoin. After asserting that “Bitcoin is the most inflation-resistant store of value in history,” the Supporting Statement claims that the “cash and bonds on the Company’s balance sheet is guaranteed to be a losing treasury strategy” and are “bleeding in value.” The Supporting Statement then goes on to state that the Company “should – and perhaps has a fiduciary duty to – consider replacing some, or at least some percentage, of its cash and bonds with assets that appreciate over time [(i.e., Bitcoin)]” and that “a 2% Bitcoin allocation is reasonable.” Finally, the Supporting Statement concludes by suggesting that the Company can fulfill its responsibility by “exchanging some – even just a few percent – of its cash and bonds for Bitcoin.” As such, the Proposal unduly micromanages the Company’s activities by imposing specific mandates and prescribing specific directions regarding the Company’s investment strategy. In this respect, the Proposal is comparable to *Tesla 2022*, except that the Proponent here is requesting investment into the very class of asset (i.e., cryptocurrency) from which the proponent in *Tesla 2022* requested divestment. As a result, the Proposal does not provide “*high-level direction* on large strategic corporate matters” (emphasis added) but instead takes a granular approach, imposing a specific method for implementing complex policies. The Proposal thereby micromanages the Company’s investment strategy and, accordingly, is excludable under Rule 14a-8(i)(7).

## CONCLUSION

Based upon the foregoing analysis, the Company intends to exclude the Proposal from its 2025 Proxy Materials, and we respectfully request that the Staff concur that the Proposal may be excluded under Rule 14a-8.

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](mailto:shareholderproposals@gibsondunn.com). If we can be of any further assistance in this matter, please do not hesitate to call me at (202) 955-8671.

Sincerely,



Ronald O. Mueller

Enclosures

# GIBSON DUNN

Office of Chief Counsel  
Division of Corporation Finance  
February 3, 2025  
Page 7

cc: Scott Siamas, Salesforce, Inc.  
Ethan Peck, National Center for Public Policy Research

EXHIBIT A

# Bitcoin Treasury Assessment

## Supporting Statement:

As of October 31, 2024, Salesforce's total assets amount to \$91.4 billion, \$12.8 billion of which is cash, cash equivalents and marketable securities.<sup>1</sup> Since cash is consistently being debased and bond yields are lower than the true inflation rate,<sup>2</sup> that means that 14% of Salesforce's total assets (or 60% of Salesforce's \$21.4 billion of total current assets) are bleeding in value, and therefore negatively impacting shareholder value simply by sitting on the balance sheet.

As there is no indication that the current, century-long trend of increasing the money supply won't continue for years to come, then it will continue to hold true that having a large percentage of cash and bonds on the Company's balance sheet is guaranteed to be a losing treasury strategy. Thus, Salesforce should – and perhaps has a fiduciary duty to – consider replacing some, or at least some percentage, of its cash and bonds with assets that appreciate over time, even if those assets are more volatile short-term.

Due to its verifiable fixed supply, Bitcoin is the most inflation-resistant store of value in history. This is especially true compared to other liquid assets, making Bitcoin the best option to replace at least some of the Company's cash and bonds.

As of January 16, 2025, the price of Bitcoin increased by 131% over the previous year,<sup>3</sup> outperforming bonds by roughly 126% on average.<sup>4</sup> Over the past five years, the price of Bitcoin increased by 1,018%,<sup>5</sup> outperforming bonds by roughly 1,015% on average.<sup>6</sup>

Corporate and institutional Bitcoin adoption is becoming more commonplace and is proving to be an effective strategy. For example, MicroStrategy stock has outperformed Salesforce stock by 2,324% over the past five years;<sup>7</sup> more public companies are adding Bitcoin to their treasuries

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<sup>1</sup> [https://s23.q4cdn.com/574569502/files/doc\\_financials/2025/q3/CRM-Q3-FY25-Earnings-Press-Release-w-financials.pdf](https://s23.q4cdn.com/574569502/files/doc_financials/2025/q3/CRM-Q3-FY25-Earnings-Press-Release-w-financials.pdf)

<sup>2</sup> [https://ycharts.com/indicators/5\\_year\\_treasury\\_rate](https://ycharts.com/indicators/5_year_treasury_rate); [https://ycharts.com/indicators/10\\_year\\_treasury\\_rate](https://ycharts.com/indicators/10_year_treasury_rate); [https://ycharts.com/indicators/moodys\\_seasoned\\_aaa\\_corporate\\_bond\\_yield](https://ycharts.com/indicators/moodys_seasoned_aaa_corporate_bond_yield); <https://www.marketwatch.com/story/true-inflation-may-have-peaked-in-late-2022-at-18-and-still-hovers-around-8-cc89ea6b>

<sup>3</sup> <https://www.google.com/finance/quote/BTC-USD?window=1Y>

<sup>4</sup> [https://ycharts.com/indicators/us\\_coporate\\_aaa\\_effective\\_yield](https://ycharts.com/indicators/us_coporate_aaa_effective_yield); [https://ycharts.com/indicators/moodys\\_seasoned\\_aaa\\_corporate\\_bond\\_yield](https://ycharts.com/indicators/moodys_seasoned_aaa_corporate_bond_yield); [https://ycharts.com/indicators/1\\_year\\_treasury\\_rate](https://ycharts.com/indicators/1_year_treasury_rate)

<sup>5</sup> <https://www.google.com/finance/quote/BTC-USD?window=5Y>

<sup>6</sup> [https://ycharts.com/indicators/us\\_coporate\\_aaa\\_effective\\_yield](https://ycharts.com/indicators/us_coporate_aaa_effective_yield); [https://ycharts.com/indicators/moodys\\_seasoned\\_aaa\\_corporate\\_bond\\_yield](https://ycharts.com/indicators/moodys_seasoned_aaa_corporate_bond_yield); [https://ycharts.com/indicators/5\\_year\\_treasury\\_rate](https://ycharts.com/indicators/5_year_treasury_rate)

<sup>7</sup> <https://www.google.com/finance/quote/MSTR:NASDAQ?window=5Y>; <https://www.google.com/finance/quote/CRM:NYSE?window=5Y>

regularly;<sup>8</sup> BlackRock's Bitcoin ETF is the fastest growing ETF in history;<sup>9</sup> and the US federal government and some state governments may form Bitcoin strategic reserves in 2025.<sup>10</sup>

Salesforce's second largest institutional shareholder, BlackRock, advised that a 2% Bitcoin allocation is reasonable.<sup>11</sup> The reasoning behind that recommendation holds true for Salesforce's treasury as well. Why wouldn't it?

Salesforce should evaluate the benefits of exchanging some – even just a few percent – of its cash and bonds for Bitcoin.

**Resolved:** Shareholders request that the Board conduct an assessment to determine if adding Bitcoin to the Company's treasury is in the best interests of shareholders.

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<sup>8</sup> <https://bitcointreasuries.net/>

<sup>9</sup> <https://x.com/EricBalchunas/status/1864654448858935524>

<sup>10</sup> <https://www.washingtonexaminer.com/policy/finance-and-economy/3237933/lummis-renewed-push-strategic-bitcoin-reserve/>; <https://finance.yahoo.com/news/texas-proposes-strategic-bitcoin-fight-200000765.html>; <https://cointelegraph.com/news/ohio-house-rep-introduces-bitcoin-reserve-bill>

<sup>11</sup> <https://www.bloomberg.com/news/articles/2024-12-12/blackrock-says-up-to-2-bitcoin-allocation-is-reasonable-range>



February 14, 2025

**Via Online Shareholder Proposal Form**

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

**Re: No-Action Request from Salesforce, Inc. Regarding a Shareholder Proposal by the National Center for Public Policy Research (“Proponent” or “NCPFR”)**

Ladies and Gentlemen:

This correspondence is in response to the letter of Ronald O. Mueller on behalf of Salesforce, Inc. (the “Company”) dated February 3, 2025, requesting that your office (the “Commission” or “Staff”) take no action if the Company omits Proponent’s shareholder proposal (the “Proposal”) from its 2025 proxy materials for its 2025 annual shareholder meeting. The following analysis of the Company’s arguments makes clear that no basis exists for permitting the Company to exclude the Proposal.

The Company does not make any arguments based on Staff Legal Bulletin No. 14M, and Proponent notes the “burden is on the company to demonstrate that it is entitled to exclude the proposal under operative rules.” SLB 14M. Accordingly, while the Company may file additional arguments, it would be inappropriate for the Staff to provide no-action relief on grounds not argued for by the Company. SLB 14M (“if a company wishes to raise new legal arguments in light of this bulletin, such arguments should be submitted as supplemental correspondence via the online portal”).

**I. The Proposal Does Not Impermissibly Relate to The Company’s Ordinary Business**

**A. Background on The Ordinary Business Standard.**

The relevant question to answer in connection with the ordinary business exclusion is whether it is “impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting” because the “tasks are so fundamental to management’s ability to run a company on a day-to-day basis.” 1998 Release. Here, the Company employs a straw man argument by essentially

advancing the proposition that the Proposal is about when and how to invest in Bitcoin. However, the Proposal is in fact simply about whether the Company should consider adding Bitcoin at all. Importantly, the Proposal could pass and the day-to-day decision-making regarding when and how to buy Bitcoin would only be implicated if the Company subsequently considers the issue (the Proposal is, after all, merely a request) and then concludes the Company should indeed invest in Bitcoin. Accordingly, the Company's day-to-day decision-making is not in any way impermissibly implicated by the Proposal, and one would have to reject core principles of shareholder democracy to conclude shareholders are incompetent to decide whether a request to consider Bitcoin should be supported.

The Company correctly notes that the Staff will not permit proponents to avoid exclusion for impermissibly interfering with ordinary business simply by framing a proposal as a risk assessment or reporting exercise. Rather, the underlying subject matter becomes the focus of the relevant analysis. However, this analytical tweak does not also turn a request into an order. In other words, the Staff should reject any attempt by the Company to frame the Proposal as if it was a bylaw amendment proposal mandating investment in Bitcoin.

For example, the Company argues:

[M]anagement of the Company's investments involves an array of complex considerations and analysis of many factors, including the stability or volatility and liquidity of the assets, risk-adjusted and inflation-adjusted rates of return of an asset compared to other assets, the Company's working capital needs and capital commitments, the speculative nature of an investment, changing market conditions and inflation, diversification and the overall composition of the Company's investment portfolio, and the availability of internal investment alternatives with respect to the Company's business, among others. These complex considerations are integral and fundamental to management's ability to run the Company on a day-to-day basis, and it is neither practical nor appropriate to seek to address such matters through a stockholder vote.

Yet the Proposal quite literally does not address a single one of these matters, and the related day-to-day ability of management to run the Company is in no way impermissibly implicated by the Proposal unless every request for a risk assessment report is to be deemed excludable. In other words, nothing in the Proposal limits in any way how the Company manages, weighs, or interprets the listed "array of complex considerations and analysis of many factors."

Properly understood in light of the foregoing, the correct conclusion is that a mere request to consider investing in Bitcoin does not impermissibly implicate the Company's day-to-day business operations, nor does it exceed the proper scope of shareholder competence and authority.

## **B. The Proposal Does Not Impermissibly Relate to Routine Investment Strategy**

The Company argues that the Staff has adopted an “investment strategy” sub-category of ordinary business warranting exclusion. However, the Company does not provide a single quote from the Staff adopting such a sub-category, and all the relevant cited no-action letters except one rely on underlying company arguments likely cherry-picked for the occasion. The only relevant letter cited by the Company that includes a relevant Staff expression is *IEC Electronics Corp.* (avail. Nov. 3, 2011), wherein the Staff expressly noted that “the proposal relates to the management of cash.” The problem with relying on this letter for a broad exclusion category is that “management of cash” – just like “investment strategy” – is far too broad of a category to workably serve exclusion purposes given that all business decisions could arguably be framed as cash management and investment decisions. The real issue, again, is whether the proposal in question impermissibly interferes with a company’s day-to-day decision-making and accordingly constitutes a matter impracticable for shareholder oversight. Seen in this light, *IEC Electronics Corp.* is best understood as impermissibly implicating ordinary business because the relevant resolved clause was impermissibly prescriptive rather than because it broadly implicated the management of cash:

RESOLVED, that on the last day of each accounting period (i.e., quarter end), the Company shall be directed to retain a cash balance under the ‘Cash’ line in ‘CURRENT ASSETS’ on the Company’s Balance Sheet totaling a minimum of 25% of “Free Cash Flow” (as defined above) for the previous twelve months, provided that Free Cash Flow is greater than zero.

### **C. The Proposal Raises a Significant Social Policy Issue That Transcends the Company’s Ordinary Business**

The Proposal expressly focuses on the social significance of Bitcoin. First, the Proposal explicitly references the fact that “the US federal government and some state governments may form Bitcoin strategic reserves in 2025.” Second, the Proposal also explicitly mentions, in defense of the Company potentially adding Bitcoin to its treasury, that: “Corporate and institutional Bitcoin adoption is becoming more commonplace.” In addition to the foregoing, the subsequent paragraphs will unpack the social significance of Bitcoin and the Proposal.

First, Bitcoin itself is a significant social issue – it is daily the subject of all forms of media coverage (and has been for years), it was a significant part of President Trump’s campaign and changes to policies related to Bitcoin are already the focus of some of his first actions as President, and over 100 million people, including 22% of Americans, own Bitcoin.<sup>1</sup>

Second, corporate Bitcoin adoption specifically or, even more specifically, this Proposal, is on its own a significant social issue. The proof of that is the fact that the same proposal, which was first submitted to Microsoft a few months ago,<sup>2</sup> was perhaps the most viral shareholder proposal in history. As just one example of this, Michael Saylor’s supporting statement generated over 3.6

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<sup>1</sup> <https://bitbo.io/how-many-users/>

<sup>2</sup> [https://view.officeapps.live.com/op/view.aspx?src=https://cdn-dynmedia-1.microsoft.com/is/content/microsoftcorp/2024\\_Proxy\\_Statement](https://view.officeapps.live.com/op/view.aspx?src=https://cdn-dynmedia-1.microsoft.com/is/content/microsoftcorp/2024_Proxy_Statement)

million views on X.<sup>3</sup> Does massive public interest, resulting in millions of views and the subject of hundreds of articles and podcasts, not constitute social significance? That mere fact by itself should be enough to completely dispel any claim that this proposal does not raise a social policy issue. Not only does the Proposal raise a significant social issue, the Proposal *is* a significant social issue.

While the argument should end there, here are a few additional reasons why Bitcoin is a significant social policy issue, and why corporate Bitcoin adoption, specifically, is too:

In the first week of his presidency, President Trump issued an Executive Order on Bitcoin, “to promote United States leadership in digital assets and financial technology while protecting economic liberty.”<sup>4</sup>

In addition to that, Senator Lummis, who introduced the BITCOIN Act “to establish a Strategic Bitcoin reserve,”<sup>5</sup> was recently named as the Chair of the Senate Banking Subcommittee on Digital Assets.<sup>6</sup> This is relevant because the Proposal explicitly makes mention of the fact that “the US federal government ... may form Bitcoin strategic reserves in 2025,” and already, in the few weeks since the Proposal was submitted, significant steps have been taken to advance that effort.

Also since the Proposal was submitted, the SEC rescinded SAB 121.<sup>7</sup> This has a significant impact on corporate Bitcoin adoption because it permits institutions to more easily custody Bitcoin for clients and will permit banks to more easily custody Bitcoin, which will drastically increase the financial integration of Bitcoin.<sup>8</sup> And this is relevant to the Proposal because the Proposal is (1) directly about corporate Bitcoin adoption and (2) explicitly mentions, in defense of the Company potentially adding Bitcoin to its treasury, that: “Corporate and institutional Bitcoin adoption is becoming more commonplace.” The repeal of SAB 121 absolutely will increase institutional and corporate Bitcoin adoption even further and moves the world closer in the direction of widespread corporate Bitcoin adoption, including, potentially, at the Company.

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<sup>3</sup> <https://x.com/saylor/status/1863323760511627565>

<sup>4</sup> <https://www.whitehouse.gov/presidential-actions/2025/01/strengthening-american-leadership-in-digital-financial-technology/>

<sup>5</sup> <https://www.lummis.senate.gov/press-releases/lummis-introduces-strategic-bitcoin-reserve-legislation/>

<sup>6</sup> <https://x.com/SenLummis/status/1882454483852255605>

<sup>7</sup> <https://www.sec.gov/rules-regulations/staff-guidance/staff-accounting-bulletins/staff-accounting-bulletin-122>; <https://bitcoinmagazine.com/business/sec-rescinds-sab-121-permitting-banks-to-custody-bitcoin>

<sup>8</sup> <https://bitcoinmagazine.com/markets/preston-pysh-explains-why-sab-121-beats-a-strategic-bitcoin-reserve>

The issues raised in the Proposal are so socially significant, that they are already more significant today – due to the policy changes made in the last few days – than they were a few weeks ago when the Proposal was submitted.

Regarding the social significance of Bitcoin itself, a very common saying among Bitcoiners is “fix the money, fix the world.” The concept is simple: when the money is broken, corrupt and can be tampered with by politicians and bureaucrats, like many people believe the US dollar is, that impacts every person who uses and saves in that money.

Bitcoin fixes that in a number of ways, but mainly, by removing the need for a trusted third-party intermediary and by operating in a completely decentralized fashion, such that Bitcoin is able to ensure that the money supply is fixed and cannot be tampered with. Bitcoin allows people to store and protect their hard-earned savings without worrying if it will lose value over time or be confiscated.

Inflation has many serious social and political ramifications. Look no further than countries whose currencies have completely collapsed, like Venezuela or Lebanon, for example. While inflation of the US dollar is not nearly as bad as some other currencies, it is still very much a serious problem that impacts each and every American, and therefore American society more broadly.

As the most inflation-resistant money in history, Bitcoin has the potential to improve all of the problems that arise from or are impacted by inflation.

There’s also the issue that fiat currency is not permissionless and censorship-resistant like Bitcoin is. Debanking, for example, is a serious and growing problem. So too is the threat of the implementation of a CCP style social credit system. Therefore, the possibility of not being able to use your own money because of your political opinion is a very real and rising concern. Bitcoin fixes that too.

There’s also the issue of government spending. When governments can just “print” money, it doesn’t require the same level of public approval in order to fund their its endeavors. And what the government funds is definitely considered a significant social policy issue. Bitcoin has the potential to completely revamp the relationship between government spending and public approval of government spending.

Because Bitcoin has the potential to address all of those problems (and many more) that are prominent in fiat currency systems, furthering Bitcoin adoption addresses many significant social policy issues at once.

And while the Proposal does not expressly tackle each one of those problems individually, what it does do is attempt to advance Bitcoin adoption (which would address all those issues) by attempting to advance Bitcoin adoption at the corporate level. Additionally, just like individuals do, corporations, including the Company, suffer or can potentially suffer from the ills of inflation and the many other problems arising from fiat currencies.

So, asking the Company to take the first step towards Bitcoin adoption – which would be to assess if the Company should buy some Bitcoin (which is exactly what the Proposal requests) – is a completely rational request, touching on many significant social policy issues.

#### **D. The Proposal Does Not Impermissibly Seek to Micromanage the Company.**

The question the Proposal presents to shareholders is whether the Company's board should be asked to "conduct an assessment to determine if adding Bitcoin to the Company's treasury is in the best long-term interests of shareholders." Given the voluminous media coverage Bitcoin receives daily, it is preposterous to suggest this basic, high-level question is too complex or intricate for shareholders. Again, the Company pretends the Proposal constitutes a directive regarding when and how to invest in Bitcoin and then proceeds to argue how that fictional proposal would micromanage the Company. The Staff should reject this straw man argument.

The Company also again tries to claim that the Staff has adopted a relevant exclusion sub-category -- "addressing the company's investment activities" -- but the only relevant quote from the Staff (as opposed to cherry picked company arguments) it can identify is from *The Goldman Sachs Group, Inc.* (avail. Mar. 12, 2019). The problem with this quotation, however, is that the *Goldman Sachs* proposal implicated "[e]very dollar banks invest in new fossil fuel infrastructure," and requested the company adopt "a policy to reduce the carbon footprint of its loan and investment portfolios in alignment with the 2015 Paris goal of maintaining global warming well below 2 degrees, and issue annual reports ... describing targets, plans, and progress under this policy." One need only read that once to immediately recognize that the *Goldman Sachs* proposal is orders of magnitude more micromanaging than a request to consider investing in Bitcoin.

The Company claims the Proposal "inappropriately seeks to dictate the Company's investment activities," yet it does no such thing. Where is the part of the Proposal that dictates anything? The Proposal constitutes a request that the Company can decline even if the Proposal passes, and leaves to the Company's determination whether to invest in Bitcoin at all even if the Company chooses to implement the Proposal. (As an aside, one could argue it would constitute a breach of duty if the Company utterly failed to consider investing in Bitcoin in the face of all the red flags signaling that Bitcoin constitutes an important hedge against inflation.) As opposed to the Company's imaginary proposal, the Proposal clearly does provide "high-level direction on large strategic corporate matters" well within the proper ambit of shareholder voice.

Finally, it is worth noting that the SEC's current exclusion/exception hierarchy whereby the micromanagement exclusion trumps considerations of social policy, thereby elevating the Company's authority to manage its daily business above a shareholder's right to have a vote on matters of social importance may well have a questionable statutory basis. Cf. *All. for Fair Bd. Recruitment v. Sec. & Exch. Comm'n*, No. 21-60626, 2024 WL 5078034, at \*16 (5th Cir. Dec. 11, 2024) (noting that because the SEC "has no inherent or implied authority, its powers to make major decisions must come only from unequivocal statutory text" and concluding the SEC exceeded its authority in approving Nasdaq's diversity rule). At the very least, that should weigh in Proponent's favor in case of any close calls on the micromanagement issue.

#### **II. Conclusion**

In conclusion, the arguments presented by the Company for excluding the Proposal are not convincing. The Proposal should accordingly be included in the proxy materials for the 2025 annual meeting.

A copy of this correspondence has been timely provided to the Company. If I can provide additional materials to address any queries the Commission may have with respect to this letter, please do not hesitate to call me at (202) 507-6398 or email me at spadfield@nationalcenter.org.

Rule 14a-8(k) and Section E of Staff Legal Bulletin No. 14D (Nov. 7, 2008) provide that companies are required to send proponents a copy of any correspondence that they elect to submit to the Commission or the Staff. Accordingly, we remind the Company that if it were to submit correspondence to the Commission or the Staff or individual members thereof with respect to our Proposal or this proceeding, a copy of that correspondence should concurrently be furnished to us.

Sincerely,

A handwritten signature in black ink, appearing to read 'SPADFIELD', with a stylized, looping flourish at the end.

Stefan Padfield  
Executive Director  
Free Enterprise Project  
National Center for Public Policy Research

cc: Ronald O. Mueller