



DIVISION OF
CORPORATION FINANCE

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

March 5, 2025

Lori Zyskowski
Gibson, Dunn & Crutcher LLP

Re: Wells Fargo & Company (the "Company")
Incoming letter dated December 26, 2024

Dear Lori Zyskowski:

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

The Proposal requests a special risk report analyzing the Company's legal and financial exposure from its business relationships with foreign nationals present in the U.S. illegally.

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: Luke Perlot
National Legal and Policy Center

December 26, 2024

VIA ONLINE SUBMISSION

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

Re: *Wells Fargo & Company*
Shareholder Proposal of National Legal and Policy Center
Securities Exchange Act of 1934—Rule 14a-8

Ladies and Gentlemen:

This letter is to inform you that our client, Wells Fargo & Company (the “Company”), intends to omit from its proxy statement and form of proxy for its 2025 Annual Meeting of Shareholders (collectively, the “2025 Proxy Materials”) a shareholder proposal (the “Proposal”) and statements in support thereof (the “Supporting Statement”) received from National Legal and Policy Center (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 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 shareholder proponents are required to send companies a copy of any correspondence that the proponents elect to submit to the Commission or the staff of the Division of Corporation Finance (the “Staff”). Accordingly, we are taking this opportunity to inform the Proponent that if the Proponent elects to submit additional correspondence to the Commission or the Staff with respect to this Proposal, a copy of that correspondence should be furnished concurrently to the undersigned on behalf of the Company pursuant to Rule 14a-8(k) and SLB 14D.

THE PROPOSAL

The Proposal states:

Resolved: Shareholders request a special risk report analyzing the Company's legal and financial exposure from its business relationships with foreign nationals present in the U.S. illegally, given the very real potential for losses that may be incurred. No proprietary or privileged or legal strategy information shall be disclosed in the report.

The Supporting Statement elaborates on the subject of the Proposal by asking, "To what degree does Wells Fargo provide credit for these customers? Further, how does Wells Fargo expect these customers to repay their loans if they are removed from the country or have no income?"

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 the Proposal relates to the Company's ordinary business operations and seeks to micromanage the Company.

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 And Seeks To Micromanage The Company.

The Proposal seeks a public report on the legal and financial risks of providing the Company's products and services to illegal immigrants, including the Company's business relationships with this particular class of customers. The Company's decisions regarding its product and service offerings involve legal, compliance, regulatory, operational and financial considerations that are so fundamental to the Company's day-to-day operations that they cannot, as a practical matter, be subject to shareholder oversight. As discussed below, the Proposal may be excluded under Rule 14a-8(i)(7) because it relates to the Company's ordinary business activities, namely, credit decisions regarding the provision of products and services to particular customers, related customer relationships and the handling of customer accounts, and general legal compliance, and does not focus on a significant policy issue that transcends the Company's ordinary business. Moreover, the Proposal seeks to micromanage the Company's operations by probing too deeply into complex matters upon which shareholders as a group would not be in a position to make an informed judgment. As a result, the Proposal is precisely the type that companies are permitted to exclude under Rule 14a-8(i)(7).

A. *Background On The Ordinary Business Standard.*

Rule 14a-8(i)(7) permits a company to omit from its proxy materials a shareholder 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." 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 shareholder 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 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 shareholder 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 shareholders 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 “risk report analyzing the Company’s legal and financial exposure from its business relationships with foreign nationals present in the U.S. illegally, given the very real potential for losses that may be incurred.” In the Supporting Statement, the Proponent claims that “illegal immigrants [are] especially risky customers,” and questions the Company’s assessment of the creditworthiness of such customers, and support of programs that “provide financial services to ‘refugees,’ ‘immigrants,’ and other ‘diverse low-income populations,’” including by “provid[ing] access to certain financial products, including a credit building ladder loan to help new citizens build their credit for the first time.”¹ Decisions about the financial products and services that the Company offers to customers and the communities it serves, including how the Company evaluates and manages risk—from financial risks (such as interest rate, credit, liquidity, and market risks), to non-financial risks (such as operational, which includes compliance and model risks, as well as strategic and reputation risks)—are essential to the

¹ Quoting the Company’s 2022 *Sustainability & Governance Report* (July 2023), available at <https://www.wellsfargo.com/assets/pdf/about/corporate/2022-sustainability-and-governance-report.pdf>.

Company's ordinary business as a highly regulated financial services company. In alignment with the Company's risk management framework, which sets forth its core principles for managing and governing these risks, one of the day-to-day responsibilities of management involves designing, maintaining, and continually evolving the credit policies and diligence procedures that guide the Company's administration of its product and service offerings and any related risks. The Proposal is thus directly focused on specific products and services that the Company offers its customers, as well as the policies and procedures the Company has in place to evaluate such product and service offerings. The Company's policies and procedures governing the products and services that it offers, including those related to its credit and compliance decisions about which customers are eligible for its products and services and how it handles its customer accounts and customer relations, implicate routine management decisions encompassing credit and compliance considerations, among others.

For example, the Proposal's subject matter focuses directly on the credit risk posed by certain customers, asking "[t]o what degree does Wells Fargo provide credit for these customers?" For the Company – a highly regulated, leading financial services company that offers a diversified set of banking, investment, and mortgage products and services – policies and procedures for assessing creditworthiness, and related legal and financial exposure, associated with the offering of specific financial products and services are among the most integral and routine aspects of its ordinary business. Moreover, as a financial institution organized under the laws of the United States and operating with heightened regulation and supervision as a global systemically important bank ("G-SIB"), the Company is subject to significant federal, state, and local laws and regulations that govern its business, including, among other things, requirements around the factors that may and may not be used to evaluate whether or not certain financial products and services may be provided to customers in a particular market. As a result, the Company has developed policies and procedures, driven by these complex business and legal considerations, to encompass the types of products and services offered, on what terms, and to whom. The Proposal thus impermissibly seeks to override the Company's ordinary business decisions related to credit and compliance and inappropriately substitute shareholders' (or at least, the Proponent's) views for management's judgment in matters that constitute the Company's core ordinary business operations.

The Staff has consistently determined that proposals relating to the products and services that financial services companies offer to their customers can be excluded pursuant to Rule 14a-8(i)(7) as relating to the company's ordinary business operations. For example, in *Bank of America Corp.* (avail. Jan. 6, 2010), the Staff concurred 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." The Staff noted that "[p]roposals concerning customer relations or the sale of particular services are generally excludable under [R]ule 14a-8(i)(7)." The Staff also recently concurred with the exclusion under Rule 14a-8(i)(7) of a proposal requesting that the Company prepare a

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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 [p]roposal relates to, and does not transcend, ordinary business matters." *Wells Fargo & Co.* (avail. Mar. 2, 2023). In two other notable 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 policies and practices 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 *The Charles Schwab Corp. (James McRitchie)* (avail. Mar. 27, 2024) (concurring with the exclusion of a proposal regarding "reputational and financial risks to the [c]ompany of misalignments between proxy votes it casts on behalf of clients and its clients' values and preferences," where the supporting statement focused on the proponent's belief that the company should "offer voting choices" through the use of "[n]ew technologies [that] can tailor proxy voting . . . to the unique preferences of each investor"); *JPMorgan Chase & Co.* (avail. Mar. 16, 2010) (concurring 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)"); *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 *Bank of America Corp. (National Center for Public Policy Research)* (avail. Feb. 29, 2024) ("*Bank of America 2024*"), the proposal requested a review and report on "whether and to what extent Bank of America requested that [c]ompany clients deny their products or services to certain customers or categories of customers, or has demanded such restrictions as a condition of [the] [c]ompany's continuing to do business with said clients." The company argued that the proposal related to the terms upon which the company offered its product and services to clients and the company's customer relations,

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and the Staff concurred with exclusion under Rule 14a-8(i)(7). Similarly, 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 determination in *TD Ameritrade Holding Corp.* (avail. Nov. 20, 2017), where the proposal requested that the board of directors “take action” to give the company’s shareholders the right to be clients of the company, because the proposal related to the company’s ordinary business operations, with the Staff noting that “the [p]roposal relates to the [c]ompany’s policies and procedures for opening and maintaining customer accounts.” See also *Zions Bancorporation* (avail. Feb. 11, 2008, *recon. denied* Feb. 29, 2008) (concurring with the exclusion of a proposal requesting that the company implement a mandatory adjudication process prior to the termination of certain customer accounts as relating 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 *Bank of America Corp.* (avail. Feb. 27, 2008) (“*Bank of America 2008*”), the Staff concurred with the exclusion of a proposal requesting the preparation of a report detailing the company’s policies and practices regarding the issuance of credit cards and lending of mortgage funds to individuals without Social Security numbers, the opening of accounts by persons using matricula consular cards as a form of identification, and the company’s efforts to prevent use of one of the company’s programs to facilitate money laundering or other criminal activities. The Staff concurred with exclusion of the proposal under Rule 14a-8(i)(7) because it related to the company’s “credit policies, loan underwriting and customer relations.” Similarly, in *Wells Fargo & Co. (Harrington Investments, Inc.)* (avail. Feb. 27, 2019), the Staff concurred with the exclusion of a proposal requesting that the board commission an independent study and then report to shareholders on “options for the board . . . to amend [the] Company’s governance documents to enhance fiduciary oversight of matters relating to customer service and satisfaction” because the proposal “relate[d] to decisions concerning the Company’s customer relations.” See also *Prudential Financial, Inc.* (avail. Jan. 10, 2013) (concurring with the exclusion of 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 participants with the Staff noting that it “concern[ed] customer relations” and “account information provided to customers”); *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

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company's] ordinary business operations (i.e., marketing and consumer 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).

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 with the Company's ordinary business operations because it seeks a report evaluating the legal and credit risks associated with certain customers, matters which directly implicate the Company's credit policies, the provision of particular products and services, and how the Company handles its customer accounts and customer relations.

Like the proposals at issue in *Bank of America 2024*, *Bank of America 2008*, *TD Ameritrade*, and the other precedents cited above, the Proposal is an attempt to influence and override the Company's policies and procedures as they relate to the Company's product and service offerings and the handling of certain customer accounts and customer relationships. In particular, the Proposal's requested report centers on "[the Company's] business relationships with foreign nationals present in the U.S. illegally." The Proposal cites concerns about "financial exposure" associated with these customers because of "the very real potential for losses that may be incurred." The Supporting Statement claims that "illegal immigrants [are] especially risky customers" and questions how the Company "expect[s] these customers to repay their loans." The Supporting Statement also questions the Company's support of programs that provide "access to certain financial products" to "refugees,' 'immigrants,' and other 'diverse low-income populations.'" Thus, the Proposal is focused on the particular products and services the Company offers, the policies and procedures the Company has in place around the provision of such products and services, and the Company's customer relations. Notably, the Proposal's subject matter focuses on decisions about assessing the creditworthiness of certain customers. As a highly regulated financial institution, the Company has developed policies and procedures governing credit and compliance decisions, which are integral to its business of providing a diversified set of banking, investment and mortgage products and services. Such credit and compliance decisions are, therefore, a fundamental responsibility of management, requiring consideration of a number of factors, such as cost, expected profits or losses, and legal and regulatory impacts. 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 oversight." By attempting to interfere with the Company's routine management decisions about creditworthiness and compliance, including those related to its product and service offerings, how it handles its customer accounts and relations, the Proposal 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 Is Excludable Because It Relates To The Company's General Legal Compliance.

The Proposal requests that the Company prepare a “risk report analyzing the Company’s legal and financial exposure from its business relationships with foreign nationals present in the U.S. illegally, given the very real potential for losses that may be incurred.” The Supporting Statement raises concerns that “[i]llegal immigration . . . is subject to frequently shifting policy and legal treatment,” including that “the Consumer Financial Protection Bureau and the Justice Department threatened enforcement against financial institutions that reject credit applications based on immigration status.” In fact, it is for this very reason that the Proposal’s subject matter, which directly implicates the Company’s complex legal compliance program and related diligence procedures, cannot be subject to direct shareholder oversight. The Supporting Statement itself questions whether the Company is engaged in illegal activity: “Does Wells Fargo aid and abet illegal activity?” This statement makes clear that the Proposal relates to the Company’s compliance with laws and regulations governing immigration and the provision of financial products and services to certain customers—issues that are core components of the Company’s ordinary business operations as a highly regulated financial institution.

The Staff has consistently concurred with the exclusion of proposals concerning a company’s legal compliance program as relating to matters of ordinary business pursuant to Rule 14a-8(i)(7). For example, in *Yahoo! Inc.* (avail. Apr. 3, 2012), the proposal requested that the company perform due diligence to minimize damaging results and prevent future abuses resulting from transactions involving the Yahoo! Human Rights Fund that the supporting statement described as “unethical and potentially unlawful activities” involving the “valuable corporate assets in Alibaba” that could subject the company to “legal actions and financial penalties, and place the reputation, assets and stock values of the [c]ompany at risk.” The Staff concurred with the exclusion of the proposal because “[p]roposals that concern a company’s legal compliance program are generally excludable under [R]ule 14a-8(i)(7).” Similarly, in *Yum! Brands, Inc.* (avail. Mar. 5, 2010), the Staff concurred with the exclusion of a proposal requesting that the company “verify the employment legitimacy of all future [company] workers by both Social Security and Homeland Security E-Verify systems” and, when permitted by Congress, “verify all current workers and immediately terminate any employees not in compliance.” The Staff noted that the proposal “relates to the specific procedures Yum! Brands must use to verify the employment eligibility of its employees” and that “[p]roposals that concern a company’s legal compliance program are generally excludable under [R]ule 14a-8(i)(7).” See also *Navient Corp.* (avail. Mar. 26, 2015, *recon. denied* Apr. 8, 2015) (concurring with the exclusion of a proposal requesting “a report on the company’s internal controls over student loan servicing operations, including a discussion of the actions taken to ensure compliance with applicable federal and state laws” as “concern[ing] a company’s legal compliance program”); *Raytheon Co.* (avail. Mar. 25, 2013) (concurring with the exclusion of a proposal requesting a report on “the board’s oversight of the company’s efforts to implement the provisions of the Americans with Disabilities Act, the Fair Labor Standards Act, and the Age Discrimination in Employment Act” with the Staff

noting that proposals concerning a company's legal compliance program are generally excludable under Rule 14a-8(i)(7)); *Sprint Nextel Corp.* (avail. Mar. 16, 2010, *recon. denied* Apr. 20, 2010) (concurring with the exclusion of a proposal requesting that the board explain why it has failed to adopt an ethics code designed to, among other things, promote securities law compliance since proposals relating to "adherence to ethical business practices and the conduct of legal compliance programs are generally excludable under [R]ule 14a-8(i)(7)"); *The AES Corp.* (avail. Mar. 13, 2008) (concurring with the exclusion of a proposal seeking "an independent investigation of management's involvement in the falsification of environmental reports" as relating to the company's "general conduct of a legal compliance program"); *The Coca-Cola Co.* (avail. Jan. 9, 2008) (concurring with the exclusion of a proposal seeking an annual report comparing independent laboratory tests of the company's product quality against applicable national laws and the company's global quality standards because the proposal related to the ordinary business matter of the "general conduct of a legal compliance program"); *Halliburton Co.* (avail. Mar. 10, 2006) (concurring with the exclusion of a proposal requesting a report on policies and procedures to reduce or eliminate the reoccurrence of certain violations and investigations as relating to ordinary business operations "(i.e., general conduct of a legal compliance program)").

Here, the Proposal requests a report on how the Company, a G-SIB operating with heightened regulation and supervision, is managing a particular aspect of its legal compliance program with respect to the products and services it offers to a certain category of customers. As demonstrated by the Proposal's concern with "the Company's legal . . . exposure from its business relationships with foreign nationals present in the U.S. illegally," as well as claims in the Supporting Statement that question whether the Company "aid[s] and abet[s] illegal activity" and reference government enforcement actions "against financial institutions that reject credit applications based on immigration status," the Proposal is overtly concerned with the Company's compliance with laws and regulations governing the provision of financial products and services to illegal immigrants. The Company is a highly regulated, leading financial services company, and determinations regarding its legal compliance and business practices require complex analysis, extensive knowledge and understanding of the relevant laws and regulations in multiple jurisdictions, and judgments as to the practices of tailoring financial services offerings to different individuals. For example, as a financial institution organized under the laws of the United States, the Company is subject to significant federal, state, and local laws and regulations that govern its business, including, among other things, the Equal Credit Opportunity Act, under which the Company may consider an applicant's immigration status when necessary to ascertain the creditor's rights regarding repayment, but which expressly forbids discrimination on the basis of certain protected characteristics, including race and national origin. As the Proposal itself alludes to, the Consumer Financial Protection Bureau and Department of Justice have stated that immigration status may broadly overlap with or, in certain circumstances, serve

as a proxy for these protected characteristics.² In addition, certain state laws, such as California's Unruh Civil Rights Act, expressly prohibit discrimination on the basis of ancestry, citizenship, or immigration status, among other protected characteristics. As part of its ordinary business operations, the Company must continually evaluate its legal compliance programs and diligence procedures to promote compliance with such legal and regulatory directives. Put another way, the Company's credit and compliance decisions about what factors to consider when evaluating customers' eligibility for financial product and service offerings are subject to complex legal and regulatory frameworks. The Company is obligated to consider certain factors from a business, legal, and regulatory perspective and is prohibited by laws and regulations from considering others, and tailoring the Company's legal compliance programs to guide its business operations appropriately in light of this complex set of requirements is one of management's core responsibilities. By seeking to subject these considerations to direct oversight by shareholders, the Proposal thus impermissibly attempts to interfere with the ordinary business matter of the Company's general legal compliance programs.

Furthermore, the Company is involved from time to time in judicial, regulatory, governmental, arbitration, and other proceedings and investigations concerning matters arising from such laws, regulations, and related guidance, and management must continually evolve the Company's legal compliance program in light of these matters. As the Supporting Statement acknowledges, the Company is subject to evolving legal requirements in this area, and management, rather than shareholders, is in the best position to monitor its legal compliance programs to confirm that the Company's business operations are in alignment with its various legal and regulatory obligations while still being responsive to the competitive environment. Overseeing these activities is a routine function of management, involving day-to-day business experience and technical expertise, and as such, it cannot, as a practical matter, be subject to shareholder oversight. These matters are multifaceted, subject to evolving legal and policy considerations, and based on factors that are not appropriate for shareholder voting or reporting to shareholders, reflecting the varied legal jurisdictions and competitive landscapes in which the Company operates. Thus, a report on the Company's legal exposure "from its business relationships with foreign nationals present in the U.S. illegally" is squarely within the Company's ordinary business operations because it directly involves the Company's legal compliance programs and, therefore, is properly excludable under Rule 14a-8(i)(7).

² See *Joint Statement on Fair Lending and Credit Opportunities for Noncitizen Borrowers under the Equal Credit Opportunity Act* (Oct. 12, 2023), available at https://www.justice.gov/d9/2023-10/joint_statement_on_fair_lending_and_credit_opportunities_for_noncitizen_borrowers_final_pdf.

D. 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 shareholder 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).”

The Staff consistently has concurred in the exclusion of proposals that reference or arise in the context of a significant policy matter but that address or focus on ordinary business matters. For example, the proposal in *PetSmart, Inc.* (avail. Mar. 24, 2011) requested that the board require its suppliers to certify that they had not violated “the Animal Welfare Act, the Lacey Act, or any state law equivalents” that related to preventing animal cruelty. The Staff granted no-action relief under Rule 14a-8(i)(7) because the proposal addressed but did not focus on a significant policy issue, stating “[a]lthough the humane treatment of animals is a significant policy issue, we note your view that the scope of the laws covered by the proposal is ‘fairly broad in nature from serious violations such as animal abuse to violations of administrative matters such as record keeping.’” More recently, in *The Coca-Cola Co.* (avail. Mar. 6, 2024), the Staff concurred with the exclusion under Rule 14a-8(i)(7) of a proposal requesting that the company “move toward more healthy products”

because the proposal was not focused on addressing public health concerns and instead questioned the manner in which the company was pursuing its goals for healthy products, with the proponent asserting that the company “ha[d] addressed this topic until now solely by focusing on sugar and calorie reduction,” which the proponent viewed as “insufficient.” Similarly, in *Shake Shack Inc.* (avail. Apr. 23, 2024), the Staff concurred in the exclusion of a proposal requesting details about the company’s claims that its chicken products were hormone-free. The company argued that the proposal was not focused on animal health and instead focused on the company’s marketing and advertising of its chicken products, which related to the company’s ordinary business.

The Staff also has repeatedly concurred with the exclusion of proposals relating to immigration issues under Rule 14a-8(i)(7) as relating to a company’s ordinary business operations. For example, in *Bank of America 2008*, the proponent argued in its response letter that “[i]llegal immigration is clearly an issue of overriding social interest and concern,” as evidenced by the fact that “public opinion polls show that behind the Iraq war and the economy, immigration is the most important issue for presidential primary voters.” The proponent claimed that the proposal was “aimed at the broader policy question of whether [the company] is abetting illegal immigration” and that the company’s “plan to issue credit cards to persons with no Social Security number prompted extensive media coverage and a firestorm of criticism.” However, the Staff concurred with the proposal’s exclusion, agreeing that the company’s policies and practices related to the products and services that it offered to illegal immigrants did not raise a significant policy issue that transcended ordinary business operations. See also *Starwood Hotels & Resorts Worldwide, Inc.* (avail. Feb. 14, 2012) (concurring with the exclusion under Rule 14a-8(i)(7) of a proposal that requested “management require verified US Citizenship for all workers in the USA” and that “US Citizenship documentation should be completed by June 30, 2012” and “[r]equired training for foreign workers in the US should be minimized” where the supporting statement focused on concerns about foreign workers and employment of “non-US citizens”); *Johnson & Johnson* (avail. Feb. 22, 2010) (concurring with the exclusion under Rule 14a-8(i)(7) of a proposal requesting that the company “verify the employment legitimacy of all future [company] workers by both Social Security and Homeland Security E-Verify systems” where the supporting statement focused on concerns about “illegal aliens” and the proponent argued that events involving Immigration and Customs Enforcement removing employees “tend to be highly reported on both TV/radio news and print media leading to a loss of faith in the company involved”); *The Western Union Co. (John Harrington)* (avail. Mar. 6, 2009) (concurring with the exclusion under Rule 14a-8(i)(7) of a proposal requesting that the company amend its bylaws to establish a board committee on public affairs, including a duty to review the company’s positions on “public policies relating to consumer privacy and to delivery of our company’s services to lower-wage and/or immigrant workers and other classes of valued customers”); *Bank of America Corp.* (avail. Jan. 22, 2009, recon. denied Mar. 10, 2009) (concurring with the exclusion under Rule 14a-8(i)(7) of a proposal titled “No Banking Services for Illegal Aliens” requesting that the company stop accepting matricula consular cards for identification when providing banking services where the supporting statement raised concerns that the company “encourages illegal immigrants to use its

services” and that the “acceptance of matricula consular cards violates both federal law . . . and Department of the Treasury regulations”); *The Western Union Co.* (avail. Mar. 7, 2007) (concurring with the exclusion under Rule 14a-8(i)(7) of a proposal requesting a report on “the effect of the company’s remittance practices on the communities served” and a comparison of “fees, exchange rates, and pricing structures with other companies in the industry” where the supporting statement raised concerns about the effect of these practices on low-wage immigrant workers and low-income immigrant families and the proponent argued that “[r]emittances [are] part of the larger immigration debate” and “a major issue of public policy”); *Pacific Telesis Group* (avail. Jan. 22, 1997) (concurring with the exclusion of a proposal requesting a report on charitable contributions whose overall purpose is inconsistent with the intent of the company’s “Corporate Community Development Program” where the supporting statement raised concerns about one organization’s promotion of “laws to allow increased legal and illegal immigration”).

As with the proposals in *Bank of America 2008* and the other precedent cited above, the Proposal does not properly raise an issue with a broad societal impact simply by referring to public opinion about illegal immigration. Rather, as discussed above, the underlying subject matter of the Proposal’s requested report is narrowly focused on the Company’s product and service offerings, the Company’s management of its customer relations and customer accounts, and the Company’s related legal compliance programs. Specifically, the Proposal focuses on the Company’s “legal and financial exposure from its business relationships with foreign nationals present in the U.S. illegally,” including any “potential for losses that may be incurred,” and the Supporting Statement focuses on the Company’s provision of its products and services to immigrants and the potential that “illegal immigrants [are] especially risky customers.” As discussed above, evaluating the credit risk posed by certain customers and related legal and financial exposure is a core function of the Company’s business as a leading financial services company. The Proposal’s subject matter thus concerns nothing other than the ordinary business of the Company. As such, even if the Proposal’s references to “illegal immigration” tangentially address a topic with broad societal implications, that is not the focus of the Proposal. It focuses instead on how the Company manages legal and financial exposure in connection with the provision of its products and services and the creditworthiness of certain of the Company’s customers. The Proposal therefore can be properly excluded under Rule 14a-8(i)(7) because, just like the proposal in *Bank of America 2008*, its thrust and focus relate to the Company’s product and service offerings and the financial implications of one of the Company’s core business decisions as a financial services institution—matters of ordinary business—not on broad societal issues that transcend the Company’s ordinary business operations.

E. 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 ‘micromanage’ 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 micromanagement “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 SLB 14L, the Staff clarified that not all “proposals seeking detail or seeking to promote timeframes” constitute micromanagement, and that going forward 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.” To that end, 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 (emphasis added).

In assessing whether a proposal seeks to micromanage a company’s ordinary business operations, 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. For example, in *Delta Air Lines, Inc.* (avail. Apr. 24, 2024), the Staff concurred with the exclusion of a proposal as seeking to micromanage the company where the proposal asked the company to report on “expenditures that are intended or could be viewed as intended to dissuade employees from joining or supporting unions” and the company pointed out that the proposal would have required it to dig into granular detail to evaluate the costs of numerous routine management actions related to management of its workforce. Similarly, in *Deere & Co.* (avail. Jan. 3, 2022) and *The Coca-Cola Co.* (avail. Feb. 16, 2022), each involved a broadly phrased request but required detailed and intrusive actions to implement, and the Staff concurred that each proposal sought to micromanage the respective company. Moreover, “granularity” is only one factor evaluated by the Staff.

The Proposal is more than a request for a report, as revealed by the Supporting Statement’s claims that “illegal immigrants [are] especially risky customers,” and the Proposal’s focus on “financial exposure . . . given the very real potential for losses that may be incurred,” and the Company’s collaboration with an organization that supports immigrants and refugees newly settled in the U.S. as they navigate the banking system. Thus, the Proposal ultimately seeks to micromanage the Company by directing credit and compliance decisions and actions that involve a host of complex matters relating to the Company’s choices of products and services offered, the diligence and approval process for new accounts, relationships with customers and potential customers, and the legal compliance programs related to each of these matters. The Proposal is therefore similar to the shareholder proposal in *Deere*, where the Staff concurred with the exclusion of a proposal requesting that the company’s board publish “the written and oral content of any employee-training materials offered to any subset of the company’s employees.” The supporting statement focused on the company’s diversity, equity, and inclusion efforts, and the company argued that the proposal “intend[ed] for shareholders to step into the shoes of management and oversee the ‘reputational, legal and financial’ risks to the [c]ompany,” thereby not “affording management sufficient flexibility or discretion to address and

implement its policy regarding the complex matter of diversity, equality, and inclusion.” Likewise, in *The Home Depot, Inc. (Green Century)* (avail. Mar. 21, 2024), the Staff concurred with the exclusion of a proposal that requested a report “assessing the benefits and drawbacks of permanently committing not to sell paint containing titanium dioxide sourced from the Okefenokee, and assessing risks to the company associated with same.” The company argued that the supporting statement made clear that the proponent supported a “commitment to avoid sourcing titanium dioxide from the Okefenokee,” which ultimately sought to micromanage the company by “directing decisions and actions that involve a host of complex matters relating to the [c]ompany’s choices of products to be sold, selection of suppliers around the world, and the relationships with those suppliers.”

Like the proposals in *Deere* and *Home Depot*, the Proposal “seeks to impose specific . . . methods for implementing complex policies”—namely, by overriding management’s discretion with regard to the products and services the Company offers and the policies and procedures governing their provision to certain customers. Furthermore, just like the proposal in *Home Depot*, the Supporting Statement makes the Proponent’s position clear (in this case, support for deportation of illegal immigrants and strict immigration enforcement), and the requested report appears to be designed to signal the Proponent’s opposition to the Company offering its products and services to certain customers that the Proponent deems to be “especially risky.” As described above, making determinations about the risks associated with the Company’s products and services and evaluating the creditworthiness of the Company’s customers are fundamental to the Company’s business as a financial services company. The Proposal thus intends for shareholders to step into the shoes of management and does not afford management sufficient flexibility or discretion to address and implement business decisions on complex matters involving the Company’s policies and diligence procedures around evaluating credit and compliance considerations, among others. The Company’s credit and compliance decisions regarding which products and services to sell, which customers are eligible for such products and services, how the Company should manage its customer accounts, and the Company’s related legal compliance programs are based on the day-to-day business experience and the well-developed knowledge of the Company’s management with respect to a variety of factors. Accordingly, it would be unrealistic for shareholders to direct credit and compliance decisions and actions relating to the Company’s products and services, customer relationships, or legal compliance programs at an annual meeting of shareholders. For these reasons, the Proposal may be omitted pursuant to Rule 14a-8(i)(7) because it seeks to micromanage the Company by probing too deeply into complex matters upon which shareholders as a group would not be in a position to make an informed judgment.

GIBSON DUNN

Office of Chief Counsel
Division of Corporation Finance
December 26, 2024
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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 2025 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) 351-2309 or Amanda Simmons, Senior Counsel, Wells Fargo Legal Department, at (212) 214-7701.

Sincerely,



Lori Zyskowski

Enclosures

cc: Emma Bailey, Corporate Secretary, Wells Fargo Legal Department
Janet McGinness, Associate General Counsel, Wells Fargo Legal Department
Amanda Simmons, Senior Counsel, Wells Fargo Legal Department
Luke Perlot, National Legal and Policy Center

GIBSON DUNN

EXHIBIT A



September 20, 2024

Ms. Emma Bailey
Deputy General Counsel & Corporate Secretary
Wells Fargo & Company
MAC# J0193-610
30 Hudson Yards
New York, NY 10001

VIA UPS & EMAIL: [REDACTED]

Dear Ms. Bailey/Corporate Secretary:

I hereby submit the enclosed shareholder proposal (“Proposal”) for inclusion in Wells Fargo & Company’s (“Company”) proxy statement to be circulated to Company shareholders in conjunction with the next annual meeting of shareholders. The Proposal is submitted under Rule 14(a)-8 (Proposals of Security Holders) of the U.S. Securities and Exchange Commission’s proxy regulations.

National Legal and Policy Center (NLPC) is the beneficial owner of 101 shares of the Company’s common stock with a value exceeding \$2,000, which shares have been held continuously for more than three years prior to this date of submission. NLPC intends to hold the shares through the date of the Company’s next annual meeting of shareholders. A proof of ownership letter is forthcoming and will be delivered to the Company.

The Proposal is submitted to promote shareholder value by requesting the Board of Directors to provide a special report on its business relationships with illegal immigrants. Either an NLPC representative or I will present the Proposal for consideration at the annual meeting of shareholders.

I and/or an NLPC representative can meet with the Company via teleconference to discuss the proposal on October 1 at 11 a.m. or October 3 at 11 a.m., in the Eastern Time Zone (U.S.). While we can potentially accommodate other dates and times that would align with Company representatives’ schedules, NLPC will *not* be able to meet with the Company outside the time window of 10 to 30 days from the date of the Proposal’s submission, as specified by SEC guidelines. I can be reached at [REDACTED] or at [REDACTED].

[REDACTED]

[REDACTED]

If you have any questions, please contact me at the above phone number. Copies of correspondence or a request for a “no-action” letter should be forwarded to me via email or sent to my attention at [REDACTED].

Sincerely,

A handwritten signature in black ink, appearing to read "L Perlot". The signature is fluid and cursive, with the first name "L" being particularly prominent.

Luke Perlot
Associate Director
Corporate Integrity Project

Enclosure: “Risk Report on Business Relationships
with Illegal Immigrants” proposal

Risk Report on Business Relationships with Illegal Immigrants

Whereas: Illegal immigration is one of the most contentious issues in the United States and is subject to frequently shifting policy and legal treatment. Companies must be vigilant about how business related to undocumented migrants affects their operations and financial sustainability.

Mass deportation of illegal immigrants holds majority support among the American public.¹ Further, stricter immigration enforcement – including completion of the wall along the U.S. border with Mexico – has become the standard political position on both sides of the aisle.^{2 3}

Supporting Statement: In 2017, former employees of Wells Fargo & Company (“Company”) alleged they were instructed to pursue undocumented migrants as customers for checking and savings accounts.⁴ Former CEO Timothy Sloan claimed the allegations made no sense because “you can’t do business with undocumented immigrants by federal law, right?”

Quite the opposite. In 2023, the Consumer Financial Protection Bureau and the Justice Department threatened enforcement against financial institutions that reject credit applications based on immigration status.^{5 6} In response, Ohio Senator J.D. Vance warned that “financial institutions are right to be concerned that they may never see a return on loans issued to illegal immigrants.”

This is not the Company’s first immigration-related controversy. In 2019, a Wells Fargo personal banker pleaded guilty to laundering millions of dollars for Mexican drug cartels.⁷

Wells Fargo closely partners with the International Rescue Committee. The Company supports several IRC programs, including its “Pathways to Financial Wellness with Routes to Expanded Reach”⁸ and its “Financial Capability for New Americans,”⁹ which provide financial services to “refugees,”¹⁰ “immigrants,”¹¹ and other “diverse low-income populations.”¹²

According to Wells Fargo’s 2023 Sustainability & Governance report:¹³

¹ <https://www.axios.com/2024/04/25/trump-biden-americans-illegal-immigration-poll>

² https://www.wsj.com/politics/elections/trump-musk-gear-up-for-x-interview-tonight-98c5e9f9?mod=hp_lead_pos1

³ <https://www.axios.com/2024/08/27/kamala-harris-flip-flops-border-wall>

⁴ <https://www.latimes.com/business/la-fi-wells-fargo-lawsuits-20170505-story.html>

⁵ https://files.consumerfinance.gov/f/documents/cfpb-joint-statement-on-fair-lending-and-credit-opportunities-for-noncitizen-b_jA2oRDf.pdf

⁶ <https://www.consumerfinance.gov/about-us/newsroom/cfpb-and-justice-department-issue-joint-statement-cautioning-that-financial-institutions-may-not-use-immigration-status-to-illegally-discriminate-against-credit-applicants/>

⁷ <https://www.justice.gov/usao-sdca/pr/wells-fargo-personal-banker-pleads-guilty-money-laundering-charges>

⁸ <https://www.rescue.org/announcement/international-rescue-committee-and-wellsfargo-partner-improve-financial-capabilities>

⁹ <https://www.rescue.org/announcement/program-spotlight-financial-capability-new-americans>

¹⁰ Ibid.

¹¹ Ibid.

¹² <https://www.rescue.org/announcement/international-rescue-committee-and-wellsfargo-partner-improve-financial-capabilities>

¹³ https://www.responsibilityreports.com/HostedData/ResponsibilityReports/PDF/NYSE_WFC_2022.pdf

In collaboration with the International Rescue Committee, or IRC, Wells Fargo supports immigrants and refugees newly settled in the U.S. as they navigate the U.S. banking system...The organization also provides access to certain financial products, including a credit building ladder loan to help new citizens build their credit for the first time.

IRC's activities related to immigration are legally dubious. Video captured by investigative journalists showed IRC "busing thousands of migrant 'refugees' every hour on the hour to Phoenix Sky Harbor airport." Migrants told the journalists they crossed the border illegally.¹⁴ Does Wells Fargo aid and abet illegal activity?

Further, changing sentiment regarding illegal immigration makes illegal immigrants especially risky customers – they could be deported, or simply denied work or welfare. To what degree does Wells Fargo provide credit for these customers? Further, how does Wells Fargo expect these customers to repay their loans if they are removed from the country or have no income?

Resolved: Shareholders request a special risk report analyzing the Company's legal and financial exposure from its business relationships with foreign nationals present in the U.S. illegally, given the very real potential for losses that may be incurred. No proprietary or privileged or legal strategy information shall be disclosed in the report.

¹⁴ <https://x.com/JamesOKeefeIII/status/1742650719596093856>