



DIVISION OF  
CORPORATION FINANCE

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

April 22, 2024

Alan T. Rosselot  
Delta Air Lines, Inc.

Re: Delta Air Lines, Inc. (the "Company")  
Incoming letter dated February 9, 2024

Dear Alan T. Rosselot:

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

The Proposal requests that the Company ensure that all in-flight special meals are free of common allergens and meet the needs of people seeking gluten-free, vegan, lactose-free, and other diet options.

There appears to be some basis for your view that the Company may exclude the Proposal under Rule 14a-8(i)(7). In our view, the Proposal relates to ordinary business matters. Accordingly, we will not recommend enforcement action to the Commission if the Company omits the Proposal from its proxy materials in reliance on Rule 14a-8(i)(7). In reaching this position, we have not found it necessary to address the alternative basis for omission upon which the Company relies.

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

Sincerely,

Rule 14a-8 Review Team

cc: Mark Kennedy  
Physicians Committee for Responsible Medicine



**Alan T. Rosselot**  
Associate General Counsel

**Delta Air Lines, Inc.**  
Law Department  
P.O. Box 20574  
Atlanta, GA 30320-2574  
T. 404 715 4704  
F. 404 715 2233

February 9, 2024

**VIA ONLINE SHAREHOLDER PROPOSAL PORTAL**

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

Re: *Delta Air Lines, Inc.*  
*Shareholder Proposal of Physicians Committee for Responsible Medicine*  
*Securities Exchange Act of 1934—Rule 14a-8*

Ladies and Gentlemen:

This letter is to inform you that Delta Air Lines, Inc. (“Delta” or the “Company”) intends to omit from its proxy statement and form of proxy for its 2024 Annual Meeting of Shareholders (collectively, the “Proxy Materials”) a shareholder proposal (the “Proposal”) and statement in support thereof (the “Supporting Statement”) received from the Physicians Committee for Responsible Medicine (the “Proponent”), by letter dated December 21, 2023.

Pursuant to Rule 14a-8(j) promulgated under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), 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 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 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:

To make air travel more sustainable, achieve significant revenue savings, enhance customer satisfaction, prevent complaints, reduce staff burnout, and bolster its image as a customer service leader Delta Air Lines, Inc. will ensure that all in-flight special meals meet the needs of people seeking gluten-free, vegan, lactose-free, allergen-free, and other diet options.

A copy of the Proposal and the Supporting Statement is attached to this letter as Exhibit A.

## BASES FOR EXCLUSION

We hereby respectfully request that the Staff concur in our view that the Proposal may be excluded from the Proxy Materials pursuant to:

- Exchange Act Rule 14a-8(i)(7), on the basis that the Proposal relates to, and does not transcend, the Company's ordinary business operations, and
- Exchange Act Rule 14a-8(i)(10), on the basis that the Company has substantially implemented the Proposal.

In reliance on the announcement by the Staff, we have omitted all correspondence that is not directly relevant to this no-action request. *See* Announcement Regarding Personally Identifiable and Other Sensitive Information in Rule 14a-8 Submissions and Related Materials, *available at* <https://www.sec.gov/corpfin/announcement/announcement-14a-8-submissions-pii-20211217> (last updated Dec. 17, 2021).

## BACKGROUND

Delta currently serves 204 domestic and 75 international destinations and served over 190,000 passengers in 2023 on over 4,000 daily flights. Delta has relationships with 17 primary airline catering providers in the United States and around the world, working closely with Delta to prepare over 200,000 individual meals and snacks fresh daily.

Delta currently has eleven special meal options to meet special dietary requirements on most flights that have scheduled meal service. Special meals are offered on Delta's international flights and most domestic routes on flights 900 miles or greater where meals are offered. Due to the complexities of Delta's global operations, advanced notice is required for special meals and

not all special meals are available in all markets. In addition to vegetarian and vegan meals in Delta's regular meal offerings, the special meal options currently provided are:

- Children (kid-friendly foods for children over the age of two);
- Asian Vegetarian (a non-strict vegetarian meal, typically prepared Indian style, with limited use of dairy products and excluding meat, seafood and eggs);
- Vegan Vegetarian (typically cooked Western style, excluding meat, seafood, eggs and dairy products);
- LACTO Vegetarian (a non-strict vegetarian meal, which can include dairy products and eliminates all meats and seafood);
- Hindu (a vegetarian meal, typically prepared Indian style, with limited use of dairy products and meat free);
- Halal (Halal certified excluding pork, by-products of pork and alcohol);
- Kosher (prepared by Kosher caterers under rabbinical supervision and which may also incorporate fresh fruit or sealed items that meet Kosher law);
- Bland (menu items that could potentially cause gastric irritation, such as hot mustard, hot spices, pickles, fried and fatty foods, are excluded);
- Diabetic (meals suitable for those who need to manage blood sugar levels, excluding high sugar foods such as syrups, jams, cakes and chocolate);
- Gluten Intolerant (meals that exclude gluten containing foods and ingredients sourced from wheat, barley and rye), noting that the Company cannot guarantee that those meals are 100% gluten free; and
- Low Fat/Low Cholesterol/Low Calorie/Low Sodium (prepared with a reduced amount of fat, sugar, sodium and cholesterol).

Delta has a team that addresses customer concerns and dietary restrictions and works with management and the catering facilities to incorporate those comments into meals being offered. Strict safety protocols on food handling are followed utilizing Hazard Analysis and Critical Control Point guidelines in addition to compliance with local and state hygiene laws. In addition, extensive flight data analysis is required to plan precise meal quantities by aircraft. Planning, purchasing, and preparation decisions involve complex operational, business and customer preference issues requiring knowledge of flight schedules, catering facilities, weather conditions, local supply and delivery capabilities and the varying needs and desires of Delta's customers.

## ANALYSIS

### **I. 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 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 [of] providing management with flexibility in directing certain core matters involving the company's business and operations." Exchange Act Release No. 34-40018 (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."

The Commission explained that the ordinary business exclusion rests on two central considerations. The first consideration is the subject matter of the proposal: 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." The second consideration is the degree to which the proposal attempts 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.*

The Staff has historically taken the position that shareholder proposals "focusing on sufficiently significant social policy issues . . . generally would not be considered to be excludable, because the proposals would transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote." *Id.* In determining whether a proposal presents a policy issue that transcends the ordinary business of the company, the Staff noted in Staff Legal Bulletin No. 14L (Nov. 3, 2021) ("SLB 14L"), that it will focus on "the social policy significance of the issue that is the subject of the shareholder proposal. In making this determination, the [S]taff will consider whether the proposal raises issues with a broad societal impact, such that they transcend the ordinary business of the company," regardless of whether a nexus exists between the policy issue and the company.

#### ***B. The Proposal Is Excludable Because It Relates to The Ordinary Business of Delta's In-Flight Services.***

The Proposal requests the Company "ensures that all in-flight meals meet the needs of people seeking gluten-free, vegan, lactose-free, allergen-free *and other diet options.*" (emphasis added)

According to the Supporting Statement, the Company should achieve this goal by “[s]erving one meal to satisfy all special requests,” which would “streamline and simplify mealtime operations.” At its core, the Proposal directs the Company to always make available specialized meals meeting the dietary needs and desires of all customers and therefore involves the Company’s “ordinary business.” As described in the Background section of this letter, managing the operation of Delta’s catering services and the meals available to its passengers is “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.” (1998 Release)

The Staff has long allowed companies to exclude, as relating to ordinary business operations, proposals seeking to influence management’s decisions with respect to menu items and food options, because such decisions are squarely within the management function of a company and require complex analyses beyond the ability of shareholders as a group. In 2023, the Staff allowed exclusion of shareholder proposals received by three healthcare companies encouraging the boards of directors of those companies to require “plant-based food options to patients at every meal, within vending machines and in the cafeterias used by outpatients, staff and visitors,” noting in each case that the shareholder proposal “relates to, and does not transcend, ordinary business matters.” See *Elevance Health, Inc.* (avail. Mar. 6, 2023); *HCA Healthcare, Inc.* (avail. Mar. 6, 2023); *UnitedHealth Group Incorporated* (avail. Mar. 16, 2023). Similarly, in *Papa John’s International, Inc.* (avail. Feb. 13, 2015), the Staff allowed exclusion under Rule 14a-8(i)(7) of a proposal encouraging the board of directors to expand menu offerings to include vegan cheeses and vegan meats to “advance animal welfare, reduce its ecological footprint, expand its healthier options, and meet growing demand for plant-based foods.” In *McDonald’s Corp.* (avail. Mar. 24, 1992), the Staff permitted exclusion under Rule 14a-8(i)(7) of a proposal requiring the company to offer a “[low-fat] burger, switch to an all-vegetable cooking oil and offer salads . . . in keeping with enlightened medical research findings and nutritional practice both in the U.S. and abroad,” and in *McDonald’s Corp.* (avail. Mar. 9, 1990), the Staff allowed exclusion under Rule 14a-8(i)(7) of a proposal recommending that the board of directors introduce “a vegetarian entree whose means of production neither degrades the environment nor exploits other species.” In each case, the applicable company emphasized the complex decision-making process involved in selecting menu items and food options.

The Staff has also consistently allowed retailers, for example, to exclude, as relating to ordinary business operations, proposals seeking to influence management’s decisions whether to sell particular products. See, e.g., *The TJX Companies* (avail. Apr. 16, 2018) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting that the board develop an animal welfare policy applying to all of the company’s stores, merchandise and suppliers because it concerned the company’s products and services for sale); *The Home Depot, Inc.* (avail. Mar. 21, 2018) (permitting exclusion under Rule 14a-8(i)(7) of a proposal encouraging the company to end sales of glue traps because it related to the products and services offered for sale by the company); *Wal-Mart Stores, Inc.* (avail. Mar. 24, 2008) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting that the board issue a report on the viability of Wal-Mart’s U.K. cage-free egg policy); *PetSmart, Inc.* (avail. Apr. 14, 2006) (permitting exclusion of a proposal requesting

that the company's board issue a report based on the company's findings in an investigation into whether to end bird sales); *Marriott International, Inc.* (avail. Feb. 13, 2004) (permitting exclusion under Rule 14a-8(i)(7) of a proposal prohibiting the sale of sexually explicit material at Marriott-owned and managed properties); *Albertson's, Inc.* (avail. Mar. 18, 1999) (permitting exclusion under Rule 14a-8(i)(7) of a proposal mandating that the company's board take steps necessary to assure that the company no longer sells, advertises, or promotes tobacco products).

Consistent with Staff precedent, the Proposal is properly excludable under Rule 14a-8(i)(7) because specific guidelines regarding the food products and options that Delta offers is an ordinary business matter that only Delta's management can address and cannot be subject to shareholder oversight as a practical matter.

***C. The Proposal Does Not Focus on a Sufficiently Significant Social Policy Issue That Transcends the Company's Ordinary Business Operations.***

In its 1998 Release, the Commission distinguished proposals pertaining to ordinary business matters that are excludable under Rule 14a-8(i)(7) from those that "focus on" significant social policy issues. The Commission stated, "proposals relating to [ordinary business] matters but focusing on sufficiently significant social policy issues (e.g., significant discrimination matters) generally would not be considered to be excludable, because the proposals would transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote."

The Proposal requests that Delta adopt a specific policy related to special meals to "make air travel more sustainable, achieve significant revenue savings, enhance customer satisfaction, prevent complaints, reduce staff burnout, and bolster its image as a customer service leader . . ." While social policy issues are mentioned, the Proposal does not focus on any significant social policy issues that transcend Delta's ordinary business operations. The Supporting Statement suggests that the Proposal has benefits for customer loyalty, employee satisfaction and environmental sustainability, but the Proposal is really addressing an aspect of Delta's daily operations. The Staff has long distinguished between proposals that focus on a significant social policy issue and those that contain references to a significant social policy issue but are actually directed at a company's ordinary business matters. In this instance, the Supporting Statement, for example, suggests potential tangential environmental sustainability benefits of the Proposal, but those benefits are not the focus of the Proposal. The same applies with respect to other potential social policy issues that might be connected to the Proposal. See, e.g., *HCA Healthcare, Inc.* (avail. Mar. 6, 2023) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting that the company's board of directors require the company's hospitals to provide plant-based food options to patients, staff and visitors, "[g]iven the impact of nutrition on a patient's recovery process and overall health"); *Elevance Health, Inc.* (avail. Mar. 6, 2023) (same); *UnitedHealth Group Inc.* (avail. Mar. 16, 2023) (same); *Amazon, Inc.* (UAW Retiree

Medical Benefits Trust) (avail. Apr. 7, 2022) (permitting exclusion of a proposal requesting a report on risks to the company related to staffing of its business and operations despite the suggestion by the proponent that the focus was on human capital management); *Amazon.com, Inc.* (James McRitchie) (avail. Apr. 8, 2022) and *Repligen Corporation* (avail. Apr. 1, 2022) (both permitting exclusion under Rule 14a-8(i)(7) of proposals requesting reports on information about the distribution of stock-based incentives to employees, including data about EEO-1 employee classification despite declarations in the supporting statements that the intention was for the proposals to address a significant social policy issue).

Because the Proposal relates to the ordinary business matters regarding the special meals that Delta offers on its flights and does not raise an issue that transcends the Company's ordinary business operations, the Proposal is excludable under Rule 14a-8(i)(7).

***D. The Proposal Would Permit Shareholders to Micromanage the Company's Ordinary Business Operations.***

Even where the Staff concurs that a proposal addresses a significant social policy, the 1998 Release identified that such a proposal could still "probe too deeply" where "the proposal involves intricate detail, or seeks to impose specific time-frames or methods for implementing complex policies" thereby seeking to micromanage the Company. In SLB 14L, the Staff clarified that the determination of whether a proposal impermissibly micromanages the Company "will focus on the level of granularity sought in the proposal and whether it inappropriately limits the discretion of the board or management." The Staff further clarified in SLB 14L 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."

The Staff has consistently permitted exclusion of shareholder proposals that attempt to micromanage a company by substituting shareholder judgment for that of management with respect to complex day-to-day business operations that are beyond the knowledge and expertise of shareowners. See, e.g., *AT&T Inc.* (avail. Mar. 15, 2023) (permitting exclusion of a proposal requesting the board adopt a policy of obtaining shareholder approval for any future "golden coffin" arrangements); *Chubb Limited* (avail. Mar. 27, 2023) (permitting the exclusion of a proposal that would require the board to adopt and disclose a policy for the timebound phase out of underwriting risks associated with new fossil fuel exploration and development projects); *The Kroger Co.* (avail. Apr. 25, 2023) (permitting exclusion of a proposal requesting the company pilot participation in the Fair Food Program for tomato purchases in order to mitigate severe risks of forced labor and other human rights violations in the company's produce supply chain); and *Amazon.com, Inc.* (avail. Apr. 7, 2023) (Green Century Capital Management, Inc.) (permitting exclusion of a proposal requiring the company measure and disclose scope 3 greenhouse gas emissions across its full value chain and all products that it sells directly and by third party vendors micromanaged the company); *The Coca-Cola Company* (avail. Feb. 16,



2022) (permitting exclusion of a proposal because it micromanaged the company by requiring the company to submit any proposed political statement to the next shareholder meeting for approval prior to issuing the subject statement publicly).

The Proposal, like those addressed in the letters cited above, seeks to probe too deeply into matters of a complex nature, which are not appropriate for shareholder determination. Delta's catering operations have access to information about many complex factors to which Delta's shareholders do not have access. These factors include cost, demand, market availability, menu planning, staffing and the volume of meals served. In addition, decisions relating to actions to "make air travel more sustainable, achieve significant [cost] savings, enhance customer satisfaction . . . and bolster its image as a customer service leader" all relate to Delta's day-to-day operations. The Proposal would "inappropriately limit discretion of the board or management" by usurping the day-to-day decision-making process of Delta's catering operations.

The Proposal suggests an over-simplified and impractical solution to special meal service without taking into consideration Delta's existing practices, decentralized footprint and the needs of Delta's diverse passengers. For the above reasons, the Proposal attempts to micromanage the Company's ordinary business operations and may be excluded from the Proxy Materials in reliance on Rule 14a-8(i)(7).

## **II. The Proposal May Be Excluded Under Rule 14a8(i)(10) Because The Company Has Substantially Implemented the Proposal.**

### ***A. Background on the Standard.***

Rule 14a-8(i)(10) permits a company to exclude a shareholder proposal from its proxy materials if "the company has already substantially implemented the proposal." The Commission stated in 1976 that the predecessor to Rule 14a-8(i)(10) was "designed to avoid the possibility of shareholders having to consider matters which already have been favorably acted upon by the management." SEC Release No. 34-12598 (July 7, 1976). Originally, the staff narrowly interpreted this predecessor rule and granted no-action relief only when proposals were "'fully' effected" by the company. SEC Release No. 34-19135 (Oct. 14, 1982). By 1983, however, the Commission recognized that the "previous formalistic application of [the rule] defeated its purpose" because proponents were successfully convincing the Staff to deny no-action relief by submitting proposals that differed from existing company policy by only a few words. SEC Release No. 34-20091 (Aug. 16, 1983). Therefore, in 1983, the Commission adopted a revised interpretation to the rule to permit the omission of proposals that had been "substantially implemented" and subsequently codified this revised interpretation in SEC Release No. 34-40018 (May 21, 1998). Thus, when a company has already taken action to address the underlying concerns and essential objectives of a shareholder proposal, the proposal has been "substantially implemented" and may be excluded. See, e.g., *General Mills, Inc.* (avail. Aug. 6, 2021); *salesforce.com, inc.* (avail. Apr. 20, 2021); *Alphabet Inc.* (avail. Apr. 16, 2021); and *Comcast Corporation* (avail. Apr. 9, 2021).

Applying this standard, the Staff has noted that “a determination that the company has substantially implemented the proposal depends upon whether [the company’s] particular policies, practices and procedures compare favorably with the guidelines of the proposal.” *Texaco, Inc.* (avail. March 28, 1991). The Staff has concurred that, when substantially implementing a stockholder proposal, companies can address aspects of implementation in ways that may differ from the manner in which the stockholder proponent would implement the proposal.

***B. Delta Has Substantially Implemented the Proposal by Regularly Providing a Variety of Special Meals on Its Flights.***

The Proposal requests that the Company “ensure that all in-flight specialty meals meet the needs of people seeking gluten-free, vegan, lactose-free, allergen-free, and other diet options.” As described in the Background section of this letter, Delta operates over 4,000 flights daily and provides a variety of special meal options.

As described above, the Staff has interpreted substantial implementation under Rule 14a-8(i)(10) to require a company to have satisfactorily addressed both the proposal’s underlying concern and its essential objective, not implement every aspect of the shareholder proposal. Here, the Proposal’s underlying concern is the availability of meals (or presumed lack thereof) on all applicable Delta flights that address all customers special dietary needs. As acknowledged in the Supporting Statement, even the special meal envisioned would only meet the needs of “**virtually every passenger**.” (emphasis added) Delta’s current offerings already accomplish the objective of providing virtually all of its passengers with special meals meeting their needs.

The Company has satisfactorily addressed both the Proposal’s underlying concern and essential objective because, as of the date hereof, the Company currently has eleven special meal options to comply with special dietary requirements on most flights that have scheduled meal service in addition to vegetarian and vegan options in Delta’s regular meal offerings. Restricting special meals to a single option satisfying “virtually every passenger” would still result in not being able to meet the needs of some passengers, while arguably degrading the level of service and satisfaction for many other passengers with dietary constraints. Through its current approach to providing special meals, and its constant review of its catering policies and procedures, Delta has substantially implemented the Proposal, and it may be excluded from the Proxy Materials in reliance on Rule 14a-8(i)(10).

**CONCLUSION**

For the foregoing reasons, please confirm that the Staff will not recommend any enforcement action to the Commission if the Proposal is omitted from the Proxy Materials. Should the Staff disagree with our conclusions regarding the omission of the Proposal, or should any additional information be desired in support of the Company’s position, we would appreciate an

Securities and Exchange Commission

February 9, 2024

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opportunity to confer with the Staff concerning these matters prior to the issuance of the Staff's Rule 14a-8 response. If we can provide any additional correspondence to address any questions that the Staff may have with respect to this no-action request, please do not hesitate to call me at (404) 715-4704 or via email at [alan.t.rosselot@delta.com](mailto:alan.t.rosselot@delta.com).

Sincerely,

A handwritten signature in cursive script that reads "Alan T. Rosselot".

Alan T. Rosselot

Enclosures

cc: Mark Kennedy, Physicians Committee for Responsible Medicine  
Anna Herby, Physicians Committee for Responsible Medicine

**Exhibit A**  
**Proposal and Supporting Statement**

# PhysiciansCommittee

for Responsible Medicine

PCRM.ORG

5100 Wisconsin Ave. NW, Suite 400 • Washington, DC 20016 • Tel: 202-686-2210 • Fax: 202-686-2216 • pcrm@pcrm.org

December 21, 2023

Via FedEx Express

Delta Air Lines, Inc.

Department 981

1030 Delta Boulevard

Atlanta, GA 30354

Attention: Corporate Secretary

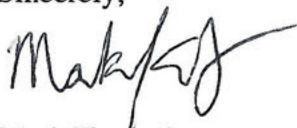
Re: Shareholder Proposal for Inclusion in the 2024 Proxy Statement

Dear Mr. Carter:

Enclosed with this letter is a shareholder proposal submitted by the Physicians Committee for Responsible Medicine (PCRM) for inclusion in the proxy statement for the 2024 annual meeting. Also enclosed is a letter from RBC Wealth Management, PCRM's brokerage firm, confirming PCRM's beneficial ownership of 1,235 common stock shares, acquired at least one year ago. PCRM has held at least \$25,000 worth of such shares continuously since acquisition and intends to hold at least this amount through and including the date of the 2024 annual meeting.

If there are any issues with this proposal being included in the proxy statement, or if you need any further information, please contact PCRM's designated representative, Anna Herby, RD, at 5100 Wisconsin Ave., NW, Suite 400, Washington, DC 20016, [REDACTED], or [REDACTED]. Ms. Herby, who will appear at the annual meeting to present this proposal, is available to meet via teleconference Mondays, Wednesdays, Thursdays, and Fridays—including during the regulatory period of "no less than 10 calendar days, nor more than 30 calendar days, after submission of the shareholder proposal"—during the hours of 12:00 p.m. through 3:00 p.m. ET.

Sincerely,



Mark Kennedy

Senior Vice President of Legal Affairs

Enclosures: Shareholder Resolution  
RBC Wealth Management letter

**RESOLVED:**

To make air travel more sustainable, achieve significant revenue savings, enhance customer satisfaction, prevent complaints, reduce staff burnout, and bolster its image as a customer service leader Delta Air Lines, Inc. will ensure that all in-flight special meals meet the needs of people seeking gluten-free, vegan, lactose-free, allergen-free, and other diet options.

**SUPPORTING STATEMENT:**

Special meal requests from passengers on long flights can be tricky. These meals are often expensive, and when passengers' requests are not satisfied due to last-minute flight changes or communication errors, complaints follow and customer loyalty is threatened. Serving one meal to satisfy all special requests would streamline and simplify mealtime operations.

Delta's current food offerings are numerous, making them complicated and costly to prepare and serve. An economy-class meal costs an airline about \$4, and a business-class meal ranges from \$25 to \$30. Special meal requests make things all the more challenging.

Leading culinary and nutrition experts have developed meal programs that are free of common allergens and meet the needs of people seeking gluten-free, vegan, lactose-free, and other diet options, and they cost less than \$2 per meal, leading to significant cost savings. Often marketed as "allergen free," "allergen-friendly" or "school-safe," such meals work for virtually *every passenger*. For flight attendants, being able to always say "yes" to all special requests prevents burnout while enhancing customer loyalty.

Such meals can be used as the default option for special meals (that is, the same meal item works for gluten-intolerant, lacto-ovo vegetarian, vegan, low-fat, and lactose-free meals) or as one of the default options for the regular meal service, as the meals appeal to those without special requests too.

Streamlining meal service in this manner supports Delta's goals of achieving carbon neutrality by 2050. The airline industry is reportedly responsible for nearly 3% of global carbon dioxide emissions. While fuel accounts for most of the carbon production associated with a flight, plant-based meals help reduce carbon footprints and are a tangible representation of Delta's dedication to sustainability that passengers can see (and taste). Given Delta's commitment to the customers, team members, shareholders, and communities it serves, providing financially conservative, climate-friendly, allergen-safe, and forward-thinking meals will advance Delta's sustainability goals.

In light of the environmental benefits, financial upside, and customer service enhancement that will follow, we urge shareholders to vote in favor of this proposal.

# PhysiciansCommittee

for Responsible Medicine

PCRM.ORG

5100 Wisconsin Ave. NW, Suite 400 • Washington, DC 20016 • Tel: 202-686-2210 • Fax: 202-686-2216 • pcrm@pcrm.org

February 21, 2024

## **VIA ONLINE SHAREHOLDER PROPOSAL FORM**

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

**Re: Reference Number 517866: No-Action Request by Delta Air Lines, Inc.**

Dear Staff:

I write on behalf of the Physicians Committee for Responsible Medicine (“Physicians Committee”) pursuant to Rule 14a-8(k) in response to a request by Delta Air Lines, Inc. (“Company”) that the Staff of the Division of Corporation Finance (“Division”) concur with its view that it may exclude the Physicians Committee’s shareholder resolution and supporting statement (collectively “Proposal”) from the proxy materials to be distributed in connection with the Company’s 2024 annual meeting of shareholders (“No-Action Request”). The Company seeks to exclude the Proposal pursuant to Rule 14a-8(i) subsections (7) and (10). For the reasons set forth below, the Physicians Committee urges the Staff to decline the Company’s No-Action Request. Pursuant to Rule 14a-8(k) and *Announcement: New Intake System for Rule 14a-8 Submissions and Related Correspondence* (Nov. 7, 2023), the Physicians Committee submits this letter electronically and is concurrently submitting a copy to the Company.

### **I. The Proposal**

The Proposal’s proposed resolution states,

#### **RESOLVED:**

To make air travel more sustainable, achieve significant revenue savings, enhance customer satisfaction, prevent complaints, reduce staff burnout, and bolster its image as a customer service leader Delta Air Lines, Inc. will ensure that all in-flight special meals meet the needs of people seeking gluten-free, vegan, lactose-free, allergen-free, and other diet options.

The Proposal’s supporting statement describes environmental benefits that the resolution would effectuate, among them that “[s]reamlining meal service in this manner supports Delta’s goals of achieving carbon neutrality by 2050. The airline industry is reportedly responsible for nearly 3% of global carbon dioxide emissions. While fuel accounts for most of the carbon production

associated with a flight, plant-based meals help reduce carbon footprints and are a tangible representation of Delta’s dedication to sustainability . . . .”

## **II. Because the Proposal Focuses on a Significant Social Policy Issue, the Company May Not Exclude the Proposal Pursuant to Rule 14a-8(i)(7)**

Rule 14a-8(i)(7) provides that a company may exclude a proposal “[i]f the proposal deals with a matter relating to the company’s ordinary business operations.” Only “business matters that are mundane in nature and do not involve any substantial policy or other considerations” may be omitted under this provision. 41 Fed. Reg. 52,994, 52,998 (Dec. 3, 1976).

A proposal relating to a company’s ordinary business operations is not excludable if the proposal focuses on “sufficiently significant social policy issues” that “transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote.” Amendments to Rules on Shareholder Proposals, Exchange Act Release No. 40018 (May 21, 1998). “In determining whether the focus of these proposals is a significant social policy issue, [Staff] consider both the proposal and the supporting statement as a whole.” Staff Legal Bulletin No. 14C, part D.2 (June 28, 2005). “In making this determination, the staff will consider whether the proposal raises issues with a broad societal impact, such that they transcend the ordinary business of the company.” Staff Legal Bulletin No. 14L, part B.2 (Nov. 3, 2021).

In Staff Legal Bulletin No. 14C, the Division considered proposals related to the environment and public health, which it had previously found to be significant policy considerations, and advised that “[t]o the extent that a proposal and supporting statement focus on the company minimizing or eliminating operations that may adversely affect the environment or the public’s health, we do not concur with the company’s view that there is a basis for it to exclude the proposal under rule 14a-8(i)(7).” Staff Legal Bulletin No. 14C, part D.2 (June 28, 2005).

The Proposal may not be excluded because it focuses on “sufficiently significant social policy issues”—environmental sustainability and climate change—that “transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote.” The resolution seeks to have the Company ensure “all in-flight special meals meet the needs of people seeking gluten-free, vegan, lactose-free, allergen-free, and other diet options.” The Proposal continues, “Such meals can be used as the default option for special meals . . . or as one of the default options for the regular meal service[.] . . . Streamlining meal service in this manner supports Delta’s goals of achieving carbon neutrality by 2050.”

The environmental benefits of vegan meals are well-established. Researchers in a report published in *The Lancet* concluded after reviewing the effects of food production that a dietary shift toward plant foods and away from animal products is vital for promoting human health and the health of the planet.<sup>1</sup> The researchers found that food production is responsible for up to 30% of total greenhouse gas emissions, with animal products accounting for the vast majority—about three-quarters—of these effects. The report stated that projections for the future show that “vegan and vegetarian diets were associated with the greatest reductions in greenhouse-gas emissions.”



Research published in the *Proceedings of the National Academy of Sciences of the United States of America* found that an immediate shift to a plant-based diet could, by 2050, reduce greenhouse gases caused by food production by 70%.<sup>2</sup> A study in the *American Journal of Clinical Nutrition* found that even modest reductions of animal product consumption could potentially provide significant environmental benefits: a vegetarian diet reduced emissions by 29%, while a semi-vegetarian diet reduced emissions by 22%, compared with nonvegetarian diets.<sup>3</sup>

A report from the United Nations Environment Programme says that “animal products, both meat and dairy, in general require more resources and cause higher emissions than plant-based alternatives.”<sup>4</sup> The World Health Organization says, “Studies show that cutting back on red meat production reduces the nitrous oxide released into the atmosphere by fertilizers and animal manure. Nitrous oxide is the third most important man-made greenhouse gas and the most important anthropogenic contributor to stratospheric ozone destruction. Reducing livestock herds would also reduce emissions of methane, which is the second largest contributor to global warming after carbon dioxide.”<sup>5</sup>

As noted in the Proposal’s supporting statement, the “airline industry is reportedly responsible for nearly 3% of global carbon dioxide emissions. While fuel accounts for most of the carbon production associated with a flight, plant-based meals help reduce carbon footprints and are a tangible representation of Delta’s dedication to sustainability[.]” Against the backdrop, and in light of the scientific consensus noted above, the resolution explicitly aims to “make air travel more sustainable” via changes to Delta’s special meals program.

The No-Action Request argues that the Staff have allowed exclusion of social policy proposals submitted to food establishments, *see McDonald’s Corp.* (Mar. 12, 2019); *Papa John’s International, Inc.* (Feb. 13, 2015), *McDonald’s Corp.* (Mar. 24, 1992); *McDonald’s Corp.* (Mar. 9, 1990), product manufacturers, *see Repligen Corporation* (Apr. 1, 2022); *The Coca-Cola Company* (Feb. 16, 2022), and retailers, *see Kroger Co.* (Apr. 25, 2023); *Amazon.com, Inc.* (Apr. 8, 2022); *Amazon.com, Inc.* (Green Century Capital Management, Inc., Apr. 7, 2023); *Amazon.com, Inc.* (UAW Retiree Medical Benefits, Apr. 7, 2022); *The TJX Companies* (Apr. 16, 2018); *The Home Depot, Inc.* (Mar. 21, 2018); *Wal-Mart Stores, Inc.* (Mar. 24, 2008); *PetSmart, Inc.* (Apr. 14, 2006); *Albertson’s, Inc.* (Mar. 18, 1999). But the Company is not a restaurant chain, manufacturer, or a superstore. Its primary business is air travel, and to the extent that it engages in the sale of and marketing of products, those activities are not integral to its operations.

The Company also cites three instances in which the Staff allowed exclusion under Rule 14a-8(i)(7) of a proposal to require company “hospitals to provide plant-based food options . . . determining that such proposal ‘relates to, and does not transcend, ordinary business matters.’” *See UnitedHealth Group Inc.* (Mar. 16, 2023); *Elevance Health, Inc.* (Mar. 6, 2023); *HCA Healthcare, Inc.* (Mar. 6, 2023). However, in all three instances, the proponent, Beyond Investing LLC, opted not to respond to the companies’ no-action requests, depriving the Staff of the opportunity to consider whether significant social policy issues were involved.

### III. Because the Company has not Substantially Implemented the Proposal, the Company May Not Exclude the Proposal Pursuant to Rule 14a-8(i)(10)

Rule 14a-8(i)(10) permits a company to exclude a shareholder proposal if “the company has already substantially implemented the proposal.” “This provision is designed to avoid the possibility of shareholders having to consider matters which already have been favorably acted upon by the management and would be applicable, for instances, whenever the management agrees prior to a meeting of security holders to implement a proponent’s proposal in its entirety.” 41 Fed. Reg. 29,982, 29,985 (July 20, 1976) (discussing the “Moot Proposals” predecessor to the current “substantially implemented” provision).

The determination whether a proposal that is not “fully effected” has been “substantially implemented” necessarily involves “subjectivity.” *See* 48 Fed. Reg. 38,218, 38,221 (Aug. 23, 1983). “In the staff’s view, a determination that the Company has substantially implemented the proposal depends upon whether its particular policies, practices and procedures compare favorably with the guidelines of the proposal.” *Texaco, Inc.* (Mar. 28, 1991). “In other words, substantial implementation under Rule 14a-8(i)(10) requires a company’s actions to have addressed the proposal’s essential objective satisfactorily.” *Intel Corporation* (Mar. 11, 2010).

The Company mischaracterize the Proposal’s essential objective as “providing virtually all of its passengers with special meals meeting their needs.” First, although the Proposal’s supporting statement uses the term “virtually” in passing, the resolution explicitly seeks to “ensure that *all* in-flight special meals” (emphasis added) “meet the needs of people” seeking special meals. The supporting statement echoes this sentiment, highlighting the benefit of “being able to *always* say ‘yes’ to *all* special requests” (emphasis added).

More importantly, the No-Action Letter fails to acknowledge that the Proposal’s essential objective is “[s]erving *one meal* to satisfy *all* special requests” (emphasis added) to thereby “streamline and simplify mealtime operations.” The Company does not achieve this objective, asserting, hypothetically, that such action would “arguably degrad[e] the level of service and satisfaction for many other passengers with dietary constraints.” As noted in the Proposal, the result is that “Delta’s current food offerings are numerous, making them complicated and costly to prepare and serve.” The Proposal seeks to improve these circumstances.

### IV. Conclusion

The Physicians Committee respectfully requests that the Staff decline to issue a no-action response and inform the Company that it may not exclude the Proposal in reliance on Rule 14a-8(i).

Sincerely,



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## **SCIENTIFIC REFERENCES**

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