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

DIVISION OF
CORPORATION FINANCE

April 4, 2025

Ronald O. Mueller
Gibson, Dunn & Crutcher LLP

Re: Amazon.com, Inc. (the "Company")
Incoming letter dated January 20, 2025

Dear Ronald O. Mueller:

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

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

There appears to be some basis for your view that the Company may exclude the Proposal under Rule 14a-8(i)(7). In our view, the Proposal relates to the Company's ordinary business operations. Accordingly, we will not recommend enforcement action to the Commission if the Company omits the Proposal from its proxy materials in reliance on Rule 14a-8(i)(7). 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/2024-2025-shareholder-proposals-no-action.

Sincerely,

Rule 14a-8 Review Team

cc: Ethan Peck
National Center for Public Policy Research

GIBSON DUNN

Ronald O. Mueller
Partner
T: +1 202.955.8671
rmueller@gibsondunn.com

January 20, 2025

VIA ONLINE PORTAL SUBMISSION

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

Re: *Amazon.com, Inc.*
Shareholder Proposals of Franklin Romine and the National Center for Public Policy Research
Securities Exchange Act of 1934—Rule 14a-8

Ladies and Gentlemen:

This letter is to inform you that our client, Amazon.com, Inc. (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"), (i) a shareholder proposal (the "Romine Proposal") and statement in support thereof (the "Romine Supporting Statement") received from Franklin Romine and (ii) a shareholder proposal (the "NCPPR Proposal" and, together with the Romine Proposal, the "Proposals") and statement in support thereof (the "NCPPR Supporting Statement" and, together with the Romine Supporting Statement, the "Supporting Statements") received from the National Center for Public Policy Research ("NCPPR," and together with Mr. Romine, the "Proponents").

Pursuant to Rule 14a-8(j), we have:

- filed this letter with the Securities and Exchange Commission (the "Commission") no later than eighty (80) calendar days before the Company intends to file its definitive 2025 Proxy Materials with the Commission; and

- concurrently sent copies of this correspondence to the Proponents.

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 Proponents that if the Proponents elect 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 PROPOSALS

The Romine Proposal states:

> **Resolved:** Shareholders request that the Board conduct an assessment to determine whether diversifying the Company's balance sheet by including Bitcoin is in the best long-term interests of shareholders.

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

The NCPPR Proposal states:

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

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

BASES FOR EXCLUSION

We hereby respectfully request that the Staff concur in our view that the Proposals may be excluded from the 2025 Proxy Materials pursuant to Rule 14a-8(i)(7) because (1) the Proposals relate to the Company's ordinary business operations and (2) the Proposals seek to micromanage the Company.

Alternatively, if the Staff does not concur that the Proposals may be excluded on the basis of Rule 14a-8(i)(7), we believe that the NCPPR Proposal may be excluded pursuant to Rule 14a-8(i)(11) because (i) the NCPPR Proposal substantially duplicates the Romine Proposal; (ii) the Romine Proposal was both submitted and received before the NCPPR Proposal; and (iii) the Company would expect to include the Romine Proposal in the 2025 Proxy Materials.

ANALYSIS

I. The Proposal May Be Excluded Under Rule 14a-8(i)(7) Because The Proposals Relate To The Company's Ordinary Business Operations.

A. Background On The Ordinary Business Standard.

Rule 14a-8(i)(7) permits a company to omit from its proxy materials a 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." Exchange Act Release No. 40018 (May 21, 1998) (the "1998 Release"). In the 1998 Release, the Commission stated that the underlying policy of the ordinary business exclusion is "to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting," and identified two central considerations that underlie this policy. *Id.* The first of those considerations is that "[c]ertain tasks are so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight." *Id.* The Commission stated that examples of tasks that implicate the ordinary business standard include "the management of the workforce, such as the hiring, promotion, and termination of employees, decisions on production quality and quantity, and the retention of suppliers." *Id.* The second consideration concerns "the degree to which the proposal seeks to 'micro-manage' the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment." *Id.*, *citing* Exchange Act Release No. 12999 (Nov. 22, 1976) (the "1976 Release").

The Commission has stated that a proposal requesting the dissemination of a report is excludable under Rule 14a-8(i)(7) if the substance of the proposal is within the ordinary business of the company. *See* Exchange Act Release No. 34-20091 (Aug. 16, 1983) ("the staff will consider whether the subject matter of the special report or the committee involves a matter of ordinary business; where it does, the proposal will be excludable under Rule 14a-8(c)(7)"). Moreover, in Staff Legal Bulletin 14E (Oct. 27, 2009), the Staff stated that that if a proposal relates to an evaluation of risks, the Staff will consider whether the underlying subject matter of the evaluation involves a matter of ordinary business determining whether a proposal can be properly excluded pursuant to Rule 14a-8(i)(7). *See, e.g., Gamestop Corp. (Sandau)* (avail. Apr. 24, 2024) (concurring with the exclusion of a proposal under Rule 14a-8(i)(7) requesting that the company "conduct an evaluation of the current relationship with the current transfer agent . . . and assess whether or not a new arrangement could be negotiated").

B. The Proposals Are Excludable Because They Relate To Routine Investment Strategy And Fiscal Policy Decisions.

The Proposals request that the Company's board of directors conduct an assessment to determine whether investing in Bitcoin would be in the best long-term interests of shareholders. Both Supporting Statements make a number of arguments in favor of investing at least a small percentage of the Company's assets in Bitcoin and recommend that the Board consider making such an investment. Notwithstanding that the Proposals are phrased in terms of requests for an assessment, the underlying subject of the Proposals relates to the details of how the Company manages its balance sheet and investments. However, as the Proposals' Supporting Statements demonstrate, management of the Company's investments involves an array of complex considerations and analysis of many factors, including the stability or volatility and liquidity of the assets, risk-adjusted and inflation-adjusted rates of return of an asset compared

to other assets, the Company's working capital needs and capital commitments, the speculative nature of an investment, changing market conditions and inflation, diversification and the overall composition of the Company's investment portfolio, and the availability of internal investment alternatives into existing or new businesses, among others. These complex considerations are integral and fundamental to management's ability to run the Company on a day-to-day basis, and it is neither practical nor appropriate to seek to address such matters through a shareholder vote.

Indeed, the Staff has long concurred that the manner in which a company manages its investment strategy falls within the ordinary business operations of the company. For example, in *General Dynamics Corp.* (avail. Mar. 23, 2000) the Staff concurred with the exclusion of a proposal as relating to ordinary business matters where the proposal suggested that the company obtain precious metals without relinquishing its current cash and mineral reserves. The company argued that this related to the company's "determinations of how to manage its cash flows and invest its fund," and that because the proposal "would have the [c]ompany abandon the investment strategy implemented by management on a regular basis" that it related to the company's ordinary business operations. The Staff concurred that exclusion under Rule 14a-8(i)(7) was appropriate. Likewise, the staff of the Division of Investment Management has concurred in exclusion on ordinary business grounds of a proposal seeking to direct a company's investments. *College Retirement Equities Fund (Fox)* (avail. May 10, 2013) (concurring with the exclusion of a proposal requesting that the fund "exclude health insurance companies" from a portfolio fund "in accordance with reasonable expectations for socially responsible investing").

The Proposals and the proposal in *General Dynamics* relate to investing in specific assets and in each instance, the proponents are attempting to exert influence over a company's investment strategy. Just as the proposal in *General Dynamics* suggested that the company obtain a specific asset (*i.e.*, precious metals), the Proposals request that the Company assess obtaining a specific asset (*i.e.*, Bitcoin). Just as the proponent in *General Dynamics* argued that obtaining precious metals could help "prevent the severity of [repercussions of mistakes by the Federal Reserve Board] on the value of company shares," Mr. Romine argues that "a small allocation [of Bitcoin]—just 1% or less—could serve as an inflation hedge without jeopardizing the [C]ompany's overall financial stability," and NCPPR asserts that the Company should consider "holding some, even just 5%, of its assets in Bitcoin." Accordingly, just as the proposal was deemed to be excludable in *General Dynamics*, the Proposals are excludable because each involves the Company's investment strategy.

The Staff also has consistently concurred in exclusion on the basis of ordinary business where a proposal relates to the manner in which a company manages its investment strategy. *See, e.g.*, *Sempra Energy* (avail. Feb. 7, 2000) (concurring with the exclusion under Rule 14a-8(i)(7) of a proposal requiring revenue to be invested in certain utilities because the proposal related to the company's "investment and operational decisions"); *California Real Estate Investment Trust* (avail. July 6, 1988) (concurring with the exclusion under the predecessor to Rule 14a-8(i)(7) of a proposal requesting a policy to purchase specific types of real estate and to avoid equity

related loans because the proposal related to "the determination of investment strategies"); *General Motors Corp. (Wilson)* (avail. Mar. 31, 1988) (concurring with the exclusion under the predecessor to Rule 14a-8(i)(7) of a proposal directing the board to "make long-range plans to re-deploy the [c]ompany's assets into more profitable lines of endeavor" because the proposal related to "decisions regarding the investment and application of corporate assets"). The Staff has also concurred in exclusion under Rule 14a-8(i)(7) when a proposal sought to dictate how much cash a company should hold and the company argued that "the [p]roposal, if adopted, would deprive management of its discretion in managing sources and uses of cash, substituting a stockholder directive for professional, day-to-day management of funds, which is one of the most commonplace and important responsibilities of the financial executives of every company." *IEC Electronics Corp.* (avail. Nov. 3, 2011) (concurring with the exclusion under Rule 14a-8(i)(7) of a proposal requesting the company to retain a minimum cash balance under certain circumstances, noting that the proposal "relates to the management of cash").

As in *General Dynamics*, *College Retirement Equities Fund,* and the other precedents cited above, the Proposals address the Company's investment strategy and fiscal policy decisions. Moreover, the Proposals do not focus upon, or even touch upon, a significant social policy. Accordingly, the Proposals relate to ordinary business matters and are properly excludable under Rule 14a-8(i)(7).

C. The Proposals Are Excludable Because They Seek To Micromanage The Company.

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

In assessing whether a proposal micromanages by seeking to impose specific methods for implementing complex policies, the Staff evaluates not just the wording of the proposal but also the action called for by the proposal and the manner in which the action called for under a proposal would affect a company's activities and management discretion generally. *See, e.g.,*

Tesla, Inc. (Stephen) (avail. Mar. 27, 2024) (concurring that a proposal requesting that the company "redesign vehicle tires to avoid pollution from harmful chemicals such as 6PPD-Q" sought to micromanage the company); and *The Home Depot, Inc. (Green Century Capital Management)* (avail. Mar. 21, 2024) (concurring that a proposal requesting a report "assessing the benefits and drawbacks of permanently committing not to sell paint containing titanium dioxide sourced from the Okefenokee" and related risks sought to micromanage the company).

The Staff has consistently concurred in exclusion of proposals that seek to micromanage a company by addressing the company's investment activities. For example, in *Tesla, Inc.* (avail. May 6, 2022) ("*Tesla 2022*"), the proposal requested that the company adopt a policy of immediate liquidation of newly acquired cryptocurrency assets, and full divestment from existing cryptocurrency assets within one year. The company argued that "[d]etermining where, how and when a company makes investments is fundamental to management's ability to oversee a company's financial condition" and that the proposal was "an inappropriate limitation on the discretion of the board of directors and management of the [c]ompany in managing the financial condition of the [c]ompany." The Staff concurred with exclusion, noting that "the [p]roposal micromanages the [c]ompany." Similarly, in *The Goldman Sachs Group, Inc.* (avail. Mar. 12, 2019), the Staff concurred with the exclusion of a proposal requesting the company to manage its lending and investment activities in alignment with the goals of the 2015 Paris Climate Agreement, noting that "the [p]roposal would micromanage the [c]ompany by seeking to impose specific methods for implementing complex policies in place of the ongoing judgments of management as overseen by its board of directors."

Here, the Proposals inappropriately seek to dictate the Company's investment activities. While phrased as a request for an assessment, the Proposals' Supporting Statements make clear that the proponents are recommending that the Company invest in Bitcoin. After asserting that Bitcoin has a "strong track record as a hedge against inflation," the Romine Supporting Statement states that "companies should not dismiss [Bitcoin] entirely" and essentially requests that the Company invest into "[a] small allocation" of "just 1% or less" of Bitcoin to "serve as an inflation hedge." Similarly, the NCPPR Supporting Statement states that "corporations have a responsibility to maximize shareholder value over the long-term as well as the short-term," asserting that the Company's current asset allocation "isn't adequately protecting billions of dollars of shareholder value" and suggesting that "[d]iversifying the balance sheet by including *some* Bitcoin solves this problem." The NCPPR Supporting Statement then strongly suggests that the Company can fulfill its responsibility by "holding some, even just 5%, of its assets in Bitcoin." As such, the Proposals unduly micromanage the Company's activities by imposing specific mandates and prescribing specific directions regarding the Company's investment strategy. In this respect, the Proposals are comparable to *Tesla 2022*, except that the Proponents here are requesting investments into the very class of asset (*i.e.*, cryptocurrency) from which the proponent in *Tesla 2022* requested divestment. As a result, the Proposals do not provide "*high-level direction* on large strategic corporate matters" (emphasis added) but instead take a granular approach, imposing a specific method for implementing complex policies. The Proposals thereby micromanage the Company's investment strategy, and accordingly are excludable under Rule 14a-8(i)(7).

II. Alternatively, The NCPPR Proposal May Be Excluded Under Rule 14a-8(i)(11) Because It Substantially Duplicates The Romine Proposal, Which Was Both Submitted And Received First.

A. Background.

The NCPPR Proposal was submitted via email on December 6, 2024, which is after the date on which the Romine Proposal was submitted via USPS First Class Mail on December 3, 2024.[1] If the Staff does not concur that the Proposals may be excluded on the basis of Rule 14a-8(i)(7), then the Company would expect to include the Romine Proposal in the 2025 Proxy Materials and exclude the NCPPR Proposal pursuant to Rule 14a-8(i)(11).

B. Overview of Rule 14a-8(i)(11).

Rule 14a-8(i)(11) provides that a shareholder proposal may be excluded if it "substantially duplicates another proposal previously submitted to the company by another proponent that will be included in the company's proxy materials for the same meeting." In the 1976 Release, the Commission stated that "the purpose of [Rule 14a-8(i)(11)] is to eliminate the possibility of shareholders having to consider two or more substantially identical proposals submitted to an issuer by proponents acting independently of each other." When two substantially duplicative proposals are submitted to a company, the Staff has indicated that the company must include the first of the proposals that was submitted, unless that proposal otherwise may be excluded. *See, e.g.*, *Great Lakes Chemical Corp.* (avail. Mar. 2, 1998); *Pacific Gas and Electric Co.* (avail. Jan. 6, 1994).

A proposal may be excluded as substantially duplicative of another proposal despite differences in terms or scope and even if the proposals request different actions. *See, e.g.*, *Amazon.com, Inc.* (avail. Apr. 6, 2022) (concurring that a proposal requesting the board commission an independent third-party audit on workplace health and safety, evaluating productivity quotas, surveillance practices, and the effects of these practices on injury rates and turnover was substantially duplicative of a proposal requesting the board commission an independent audit and report of the working conditions and treatment that warehouse workers face); *Exxon Mobil Corp.* (avail. Mar. 13, 2020) (concurring with the exclusion of a proposal as substantially duplicative where the Staff explained that "the two proposals share a concern for seeking additional transparency from the [c]ompany about its lobbying activities and how these activities align with the [c]ompany's expressed policy positions" despite the proposals requesting different actions); *Exxon Mobil Corp.* (avail. Mar. 9, 2017) (concurring with the exclusion of a proposal requesting a report on the company's political expenditures as substantially duplicative of a proposal requesting a report on lobbying expenditures).

[1] The Company received the NCPPR Proposal at 2:14 Pacific time on December 6, 2024, which is after the time at which the Company had already received the Romine Proposal earlier that same day.

C. Analysis.

The core concern and principal focus of the Proposals is same: a request for the board to conduct an assessment evaluating whether an investment into Bitcoin is in the best long-term interests of shareholders. In addition, the Proposals' Resolved clauses are nearly identical and their Supporting Statements are substantially similar. This duplication is demonstrated by the following chart:

Romine Proposal	***NCPPR Proposal***
The Resolved clause of each Proposal requests an assessment regarding investments into Bitcoin and are nearly identical.	
"**Resolved:** Shareholders request that the Board conduct an assessment to determine whether diversifying the Company's balance sheet by including Bitcoin is in the best long-term interests of shareholders."	"**Resolved:** Shareholders request that the Board conduct an assessment to determine if adding Bitcoin to the Company's treasury is in the best long-term interests of shareholders."
Both Supporting Statements address preservation of value/profits in the response to inflation.	
"In periods of sustained inflation, a company's financial stability is influenced not only by its operational success but also by how effectively it manages its assets to preserve their value."	"In periods of consistent, and often rampant, inflation, a company's value is measured not only by how profitable its primary business is, but also by how well it stores the profits from that business."
Both Supporting Statements express concern with assets that may not outpace inflation.	
"Traditional investment vehicles, such as government securities and corporate bonds, may no longer outpace inflation." "Bitcoin, as a decentralized digital asset, has demonstrated a strong track record as a hedge against inflation."	"[C]ash is consistently being debased and bond yields are lower than the true inflation rate." "[A] corporation's assets have needed to appreciate at those rates just to break even."
Both Supporting Statements express the opinion that the Company's current asset allocation is inadequate.	
"As of [most recent quarter/year] [*sic*], Amazon.com Inc. holds a significant portion of its assets in traditional securities, which may be underperforming relative to inflation."	"As of September 30, 2024, Amazon has $585 billion in total assets, $88 billion of which is cash, cash equivalents and marketable securities, including US government bonds, foreign government bonds and corporate

Romine Proposal	***NCPPR Proposal***
	bonds. Since cash is consistently being debased and bond yields are lower than the true inflation rate, [the Company] isn't adequately protecting billions of dollars of shareholder value simply by holding these assets."
Both Supporting Statements assert that Bitcoin has outperformed other assets such as corporate bonds, with both providing data points on a one- and five-year basis.	
"As of November 25, 2024, Bitcoin has increased by 151.57% YTD, significantly outperforming traditional asset classes such as corporate bonds. Over the past five years, Bitcoin has surged by 1,144.57%, outperforming many traditional investments and highlighting its potential as an asset class for diversification."	"As of December 6, 2024, the price of Bitcoin increased by 131% over the previous year, outperforming corporate bonds by 126% on average. Over the past five years, the price of Bitcoin increased by 1,246%, outperforming corporate bonds by 1,242% on average."
Both Supporting Statements cite to MicroStrategy's Bitcoin investments and stock performance.	
"[C]ompanies like MicroStrategy, which has incorporated Bitcoin into their balance sheet, have seen their stock outperform peers."	"MicroStrategy – which holds Bitcoin on its balance sheet – has had its stock outperform Amazon stock by 537% in the previous year."
Both Supporting Statements refer to institutional investors' acceptance of Bitcoin, cite to BlackRock as an example, and mention Bitcoin-based ETFs.	
"The increasing institutional adoption of Bitcoin, including major firms like BlackRock, which offers a Bitcoin ETF, further demonstrates the potential benefits of Bitcoin as an asset class for corporations."	"Institutional and corporate Bitcoin adoption is becoming more commonplace . . . [the Company]'s second and fourth largest institutional shareholders – BlackRock and Fidelity, respectively – offer their clients a Bitcoin ETF."

Romine Proposal	***NCPPR Proposal***
Both Supporting Statements acknowledge Bitcoin's volatility but express that this volatility should not discourage investment into Bitcoin.	
"While Bitcoin is more volatile than traditional assets, companies should not dismiss it entirely."	"[The Company] should – and perhaps has a fiduciary duty to – consider adding assets to its treasury that appreciate more than bonds, even if those assets are more volatile short-term." "Though Bitcoin is currently a volatile asset . . . corporations have a responsibility to maximize shareholder value over the long-term as well as the short-term."
Both Supporting Statements recommend diversification through Bitcoin investments.	
"[I]t is prudent for companies to explore and consider diversifying their balance sheets with inflation-hedging assets such as Bitcoin."	"Diversifying the balance sheet by including some Bitcoin solves this problem without taking on too much volatility."
Both Supporting Statements recommend a small allocation of Bitcoin.	
"A small allocation—just 1% or less—could serve as an inflation hedge without jeopardizing the company's overall financial stability."	"At minimum, Amazon should evaluate the benefits of holding some, even just 5%, of its assets in Bitcoin."

The Staff has frequently concurred with the exclusion of a proposal that was substantially similar to a prior proposal. For example, in *The Walt Disney Co.* (avail Jan. 31, 2024), the company received a proposal requesting that the board of directors "consider listing on the [c]ompany's website any recipient of $10,000 or more of direct contributions, excluding employee matching gifts." The Resolved clause of an earlier submitted proposal requested that "the [c]ompany list the recipients of corporate charitable contributions of $5,000 or more on the [c]ompany's website, along with the amount contributed and any material limitations or monitoring of the contributions." Despite substantial differences in the supporting statements of the proposal in *Walt Disney*, the Staff concurred in exclusion under Rule 14a-8(i)(11) of the second proposal as substantially duplicative of the earlier submitted proposal. *See also McDonald's Corp. (John Chevedden)* (avail. Apr. 3, 2023) (concurring with the exclusion under Rule 14a-8(i)(11) of a later proposal when both proposals seek the preparation of a report regarding the company's lobbying policy, procedures, payments and oversight processes); *Pfizer Inc.* (*Tara Health Foundation*) (avail. Feb. 22, 2022) (concurring with the exclusion of a later proposal when both

proposals seek an analysis of the congruency of the company's political and electioneering expenditures during the preceding year against the company's publicly stated values and policies).

Here, notwithstanding some minor differences in Supporting Statements, the Proposals have the same principal thrust and focus and nearly identical requests: that the Company's board of directors conduct an assessment evaluating whether an investment into Bitcoin is in the best long-term interests of shareholders. Both of the Proposals address concerns regarding value preservation in response to inflation, the performance and acceptance of Bitcoin (including specific references to MicroStrategy, BlackRock, and Bitcoin ETFs), Bitcoin's volatility, and diversification through investments in Bitcoin. Indeed, the Proposals deviate only slightly from one another and are even more similar than the ones considered in *Walt Disney* and the precedents above.

As noted above, the purpose of Rule 14a-8(i)(11) "is to eliminate the possibility of shareholders having to consider two or more substantially identical proposals submitted to an issuer by proponents acting independently of each other." 1976 Release. Accordingly, if the Staff does not concur that the Romine Proposal may be excluded pursuant to Rule 14a-8(i)(7), the NCPPR Proposal is substantially duplicative of the Romine Proposal and is properly excludable under Rule 14a-(i)(11).

CONCLUSION

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

We would be happy to provide you with any additional information and answer any questions that you may have regarding this subject. Correspondence regarding this letter should be sent to shareholderproposals@gibsondunn.com. If we can be of any further assistance in this matter, please do not hesitate to call me at (202) 955-8671, or Mark Hoffman, the Company's Vice President, Associate General Counsel, and Corporate Secretary, at (206) 266-2132.

Sincerely,

Ronald O. Mueller

Enclosures

cc: Mark Hoffman, Amazon.com, Inc.
Franklin Romine
Ethan Peck, National Center for Public Policy Research

EXHIBIT A

Franklin Romine
[redacted]

December 2, 2024

Board of Directors
Amazon.com Inc.
410 Terry Avenue North
Seattle, WA 98109

Subject: Shareholder Proposal for Assessment of Investing in Bitcoin

Dear Members of the Board,

I am a shareholder of Amazon.com Inc. and am writing to submit the following shareholder proposal for consideration at the upcoming Annual General Meeting.

Proposal: Assessment of Investing in Bitcoin

Proposal Request:

I propose that Amazon.com Inc.'s Board of Directors conduct an assessment to determine if diversifying the Company's balance sheet by including Bitcoin is in the best long-term interests of shareholders.

Supporting Statement:
In periods of sustained inflation, a company's financial stability is influenced not only by its operational success but also by how effectively it manages its assets to preserve their value. Traditional investment vehicles, such as government securities and corporate bonds, may no longer outpace inflation. Therefore, it is prudent for companies to explore and consider diversifying their balance sheets with inflation-hedging assets such as Bitcoin.

As of [most recent quarter/year], Amazon.com Inc. holds a significant portion of its assets in traditional securities, which may be underperforming relative to inflation. Bitcoin, as a decentralized digital asset, has demonstrated a strong track record as a hedge against inflation. As of November 25, 2024, Bitcoin has increased by 151.57% YTD, significantly outperforming traditional asset classes such as corporate bonds. Over the past five years, Bitcoin has surged by 1,144.57%, outperforming many traditional investments and highlighting its potential as an asset class for diversification.

For instance, companies like MicroStrategy, which has incorporated Bitcoin into their balance sheet, have seen their stock outperform peers. The increasing institutional adoption of Bitcoin, including major firms like BlackRock, which offers a Bitcoin ETF, further demonstrates the potential benefits of Bitcoin as an asset class for corporations.

While Bitcoin is more volatile than traditional assets, companies should not dismiss it entirely. A small allocation—just 1% or less—could serve as an inflation hedge without jeopardizing the company's overall financial stability.

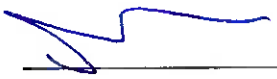
Resolved:
Shareholders request that the Board conduct an assessment to determine whether diversifying the Company's balance sheet by including Bitcoin is in the best long-term interests of shareholders.

Thank you for considering this proposal. I believe that it offers a forward-thinking approach to managing corporate assets, and I look forward to hearing your thoughts.

References:

1. US Inflation Calculator, https://www.usinflationcalculator.com/inflation/annual-averages-for-rate-of-inflation
2. MarketWatch, https://www.marketwatch.com/story/true-inflation-may-have-peaked-in-late-2022-at-18-and-still-hovers-around-8-cc89ea6b
3. Bitcoin Market Data, https://coinmarketcap.com/currencies/bitcoin/
4. Corporate Bond Yields, https://ycharts.com/indicators/us_coporate_aaa_effective_yield
5. MicroStrategy vs. Amazon.com Inc. Stock Comparison, https://www.google.com/finance/quote/MSTR:NASDAQ

Sincerely,



Franklin Romine

12/2/24

Date

Shareholder of Amazon.com Inc.

ROMINE GROUP

[redacted]

SANTA CLARITA CA 913
3 DEC 2024 PM 6 L

Board of Directors
AMAZON
410 Terry Ave. North
Seattle, WA 98109

RA
DEC 6 - 2024

98109-521010

GIBSON DUNN

EXHIBIT B

From: Ethan Peck [redacted]
Sent: Friday, December 6, 2024 2:14 PM
To: corporate-secretary <corporate-secretary@amazon.com>; Hoffman (Legal), Mark [redacted]
Subject: 2025 Shareholder Proposal from NCPPR

Hi Mark,

This is Ethan Peck from NCPPR, a shareholder of Amazon. Attached please find a shareholder proposal for inclusion in the company's 2025 proxy statement.

Please confirm receipt.

Thanks,

Ethan

Bitcoin Treasury Assessment

Supporting Statement:

In periods of consistent, and often rampant, inflation, a company's value is measured not only by how profitable its primary business is, but also by how well it stores the profits from that business.

Corporations that invest their assets wisely can – and often do – increase shareholder value more than more profitable businesses that don't. Therefore, during inflationary times, corporations have a fiduciary duty to maximize shareholder value not only by working to increase profits, but also by working to protect those profits from debasement.

The average inflation rate in the US over the last four years according to the CPI – a remarkably poor measure of inflation – is 4.95%,[1] peaking at 9.1% in June, 2022. In reality, the true inflation rate is significantly higher, with some studies estimating it to be nearly double the CPI at times.[2] So a corporation's assets have needed to appreciate at *those* rates just to break even.

As of September 30, 2024, Amazon has $585 billion in total assets, $88 billion of which is cash, cash equivalents and marketable securities, including US government bonds, foreign government bonds and corporate bonds.[3] Since cash is consistently being debased and bond yields are lower than the true inflation rate, Amazon isn't adequately protecting billions of dollars of shareholder value simply by holding these assets.

Amazon should – and perhaps has a fiduciary duty to – consider adding assets to its treasury that appreciate more than bonds, even if those assets are more volatile short-term.

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[1] https://www.usinflationcalculator.com/inflation/annual-averages-for-rate-of-inflation

[2] https://www.marketwatch.com/story/true-inflation-may-have-peaked-in-late-2022-at-18-and-still-hovers-around-8-cc89ea6b

[3] https://s2.q4cdn.com/299287126/files/doc_financials/2024/q3/76ba648c-eba4-4ec1-b571-4f5993feed2e.pdf

As of December 6, 2024, the price of Bitcoin increased by 131% over the previous year,[4] outperforming corporate bonds by 126% on average.[5] Over the past five years, the price of Bitcoin increased by 1,246%,[6] outperforming corporate bonds by 1,242% on average.[7]

MicroStrategy – which holds Bitcoin on its balance sheet – has had its stock outperform Amazon stock by 537% in the previous year.[8] And they're not alone. Institutional and corporate Bitcoin adoption is becoming more commonplace: more public companies such as Tesla and Block have added Bitcoin to their balance sheets;[9] Amazon's second and fourth largest institutional shareholders – BlackRock and Fidelity, respectively – offer their clients a Bitcoin ETF; and the US government may form a Bitcoin strategic reserve in 2025.[10]

Though Bitcoin is currently a volatile asset – as Amazon stock has been at times throughout its history – corporations have a responsibility to maximize shareholder value over the long-term as well as the short-term. Diversifying the balance sheet by including *some* Bitcoin solves this problem without taking on too much volatility. At minimum, Amazon should evaluate the benefits of holding some, even just 5%, of its assets in Bitcoin.

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

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[4] https://www.google.com/finance/quote/BTC-USD?window=1Y

[5] https://ycharts.com/indicators/us_coporate_aaa_effective_yield; https://ycharts.com/indicators/moodys_seasoned_aaa_corporate_bond_yield

[6] https://www.google.com/finance/quote/BTC-USD?window=5Y

[7] https://ycharts.com/indicators/us_coporate_aaa_effective_yield; https://ycharts.com/indicators/moodys_seasoned_aaa_corporate_bond_yield

[8] https://www.google.com/finance/quote/MSTR:NASDAQ?window=1Y; https://www.google.com/finance/quote/AMZN:NASDAQ?window=1Y

[9] https://x.com/HODL15Capital/status/1864785674362069024

[10] https://www.washingtonexaminer.com/policy/finance-and-economy/3237933/lummis-renewed-push-strategic-bitcoin-reserve/

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

DIVISION OF
CORPORATION FINANCE

April 4, 2025

Ronald O. Mueller
Gibson, Dunn & Crutcher LLP

Re: Amazon.com, Inc. (the "Company")
Incoming letter dated January 29, 2025

Dear Ronald O. Mueller:

This letter is in regard to your correspondence concerning the shareholder proposal (the "Proposal") submitted to the Company by Franklin Romine (the "Proponent") for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders. Your letter indicates that the Proponent has withdrawn the Proposal and that the Company therefore withdraws its January 20, 2025 request relating to the Proposal for a no-action letter from the Division. Because the matter is now moot, we will have no further comment.

Copies of all of the correspondence related to this matter will be made available on our website at https://www.sec.gov/corpfin/2024-2025-shareholder-proposals-no-action.

Sincerely,

Rule 14a-8 Review Team

cc: Franklin Romine

GIBSON DUNN

Ronald O. Mueller
Partner
T: +1 202.955.8671
rmueller@gibsondunn.com

January 29, 2025

VIA ONLINE PORTAL SUBMISSION

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

Re: *Amazon.com, Inc.*
Shareholder Proposal of Franklin Romine
Securities Exchange Act of 1934—Rule 14a-8

Ladies and Gentlemen:

In a letter dated January 20, 2025 (the "No-Action Request"), we requested that the staff of the Division of Corporation Finance concur that our client, Amazon.com, Inc. (the "Company"), could exclude from its proxy statement and form of proxy for its 2025 Annual Meeting of Shareholders two shareholder proposals and statements in support thereof submitted by Franklin Romine (the "Romine Proposal") and the National Center for Public Policy Research. Enclosed as Exhibit A is correspondence from Mr. Romine, dated January 29, 2025, withdrawing the Romine Proposal. In reliance thereon, we hereby withdraw our no-action request as it relates to or is based on the Romine Proposal, including the argument for exclusion pursuant to Rule 14a-8(i)(11) set forth in Part II of the No-Action Request.

Please do not hesitate to call me at (202) 955-8671 or Mark Hoffman, the Company's Vice President, Associate General Counsel, and Assistant Secretary, at (206) 266-2132 if you have any questions.

Sincerely,

Ronald O. Mueller

Enclosure

cc: Mark Hoffman, Amazon.com, Inc.
Franklin Romine
Ethan Peck, National Center for Public Policy Research

EXHIBIT A

From: Franklin Romine [redacted]
Sent: Wednesday, January 29, 2025 10:36 AM
To: Twu, Victor <VTwu@gibsondunn.com>
Cc: Mueller, Ronald O. <RMueller@gibsondunn.com>
Subject: Re: Amazon.com, Inc. SEC Submission

I'm withdrawing my proposal due to me not having sufficient ownership to submit. Please withdraw and confirm receipt.

Thanks,

Frank
[redacted]

February 4, 2025

Via Online Shareholder Proposal Form

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

Re: No-Action Request from Amazon.com, Inc. Regarding a Shareholder Proposal by the National Center for Public Policy Research ("Proponent" or "NCPPR")

Ladies and Gentlemen:

This correspondence is in response to the letter of Ronald O. Mueller on behalf of Amazon.com, Inc. (the "Company") dated January 20, 2025, requesting that your office (the "Commission" or "Staff") take no action if the Company omits Proponent's shareholder proposal (the "Proposal") from its 2025 proxy materials for its 2025 annual shareholder meeting. The following analysis of the Company's arguments makes clear that no basis exists for permitting the Company to exclude the Proposal.

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

A. Background on The Ordinary Business Standard.

The relevant question to answer in connection with the ordinary business exclusion is whether it is "impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting" because the "tasks are so fundamental to management's ability to run a company on a day-to-day basis." 1998 Release. Here, the Company employs a straw man argument by essentially advancing the proposition that the Proposal is about when and how to invest in Bitcoin. However, the Proposal is in fact simply about whether the Company should consider adding Bitcoin at all. Importantly, the Proposal could pass and the day-to-day decision-making regarding when and how to buy Bitcoin would only be implicated if the Company subsequently considers the issue (the Proposal is, after all, merely a request) and then concludes the Company should indeed invest in Bitcoin. Accordingly, the Company's day-to-day decision-making is not in any way impermissibly implicated by the Proposal, and one would have to reject core principles of shareholder democracy

to conclude shareholders are incompetent to decide whether a request to consider Bitcoin should be supported.

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

For example, the Company argues:

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

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

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

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

The Company argues that the Staff has adopted an "investment strategy" sub-category of ordinary business warranting exclusion. However, the Company does not provide a single quote from the Staff adopting such a sub-category, and all the relevant cited no-action letters except one rely on underlying company arguments likely cherry-picked for the occasion. The only relevant letter cited by the Company that includes a relevant Staff expression is *IEC Electronics Corp.* (avail. Nov. 3, 2011), wherein the Staff expressly noted that "the proposal relates to the management of cash." The problem with relying on this letter for a broad exclusion category is that "management of cash" – just like "investment strategy" – is far too broad of a category to workably serve exclusion purposes

given that all business decisions could arguably be framed as cash management and investment decisions. The real issue, again, is whether the proposal in question impermissibly interferes with a company's day-to-day decision-making and accordingly constitutes a matter impracticable for shareholder oversight. Seen in this light, *IEC Electronics Corp.* is best understood as impermissibly implicating ordinary business because the relevant resolved clause was impermissibly prescriptive rather than because it broadly implicated the management of cash:

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

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

The Proposal expressly focuses on the social significance of Bitcoin. First, the Proposal explicitly references the fact that "the US government may form a Bitcoin strategic reserve in 2025." Second, the Proposal also explicitly mentions, in defense of the Company potentially adding Bitcoin to its treasury, that "Institutional and corporate Bitcoin adoption is becoming more commonplace." In addition to the foregoing, the subsequent paragraphs will unpack the social significance of Bitcoin and the Proposal.

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

Second, corporate Bitcoin adoption specifically or, even more specifically, this Proposal, is on its own a significant social issue. The proof of that is the fact that the same proposal, which was first submitted to Microsoft a few months ago,[2] was perhaps the most viral shareholder proposal in history. As just one example of this, Michael Saylor's supporting statement generated over 3.6 million views on X.[3] Does massive public interest, resulting in millions of views and the subject of hundreds of articles and podcasts, not constitute social significance? That mere fact by itself should be enough to completely dispel any claim that this proposal does not raise a social policy issue. Not only does the Proposal raise a significant social issue, the Proposal *is* a significant social issue.

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[1] https://bitbo.io/how-many-users/

[2] https://view.officeapps.live.com/op/view.aspx?src=https://cdn-dynmedia-1.microsoft.com/is/content/microsoftcorp/2024_Proxy_Statement

[3] https://x.com/saylor/status/1863323760511627565

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

In the first week of his presidency, President Trump issued an Executive Order on Bitcoin, "to promote United States leadership in digital assets and financial technology while protecting economic liberty."[4]

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

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

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

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

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

[5] https://www.lummis.senate.gov/press-releases/lummis-introduces-strategic-bitcoin-reserve-legislation/

[6] https://x.com/SenLummis/status/1882454483852255605

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

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

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

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

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

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

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

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

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

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

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

The question the Proposal presents to shareholders is whether the Company's board should be asked to "conduct an assessment to determine if adding Bitcoin to the Company's treasury is in the best long-term interests of shareholders." Given the voluminous media coverage Bitcoin receives daily, it is preposterous to suggest this basic, high-level question is too complex or intricate for shareholders. Again, the Company pretends the Proposal constitutes a directive regarding when

and how to invest in Bitcoin and then proceeds to argue how that fictional proposal would micromanage the Company. The Staff should reject this straw man argument.

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

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

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

II. The Romine Proposal Has Been Withdrawn.

As per an email from Franklin Romine to the Company's law firm, Gibson, Dunn & Crutcher LLP, dated January 29, 2025, the Romine Proposal has been withdrawn due to Romine "not having sufficient ownership to submit." See Appendix A.

In addition to resolving the issue of duplicative proposals in favor of Proponent, the foregoing raises additional concerns.

1. Given that the email cited above was sent January 29, 2025, why has Proponent (and, presumably, the Staff) not received notice of this withdrawal from the Company or Gibson, Dunn?

2. Last proxy season, Gibson, Dunn expended significant resources (by Proponent, by the Staff, and by Gibson, Dunn's clients) filing multiple no-action requests involving Proponent in connection with

what one would be forgiven for describing as frivolous claims related to Proponent's proof of ownership. See, Letter from Proponent to SEC dated February 27, 2024 (attached as Appendix B). How is it possible that the same law firm that was so obsessed with Proponent's proof of ownership last season could not be bothered to even check Romine's ownership here? One thread that connects the two situations is that both cases work against Proponent, perhaps revealing improper anti-shareholder bias.

3. The foregoing start to arguably form a pattern of bad conduct when one adds the following allegation of misleading conduct on the part of Gibson, Dunn from Appendix B:

Staff Legal Bulletin No. 14L (Nov. 3, 2021) ("SLB 14L") provides that:

> *Some companies apply an overly technical reading of proof of ownership letters as a means to exclude a proposal. We generally do not find arguments along these lines to be persuasive.... Accordingly, companies should not seek to exclude a shareholder proposal based on drafting variances in the proof of ownership letter if the language used in such letter is clear and sufficiently evidences the requisite minimum ownership requirements.*

Despite the foregoing, the Company claims that "when a proponent's shares were transferred during the applicable holding period, a proponent must submit letters from each record holder demonstrating that there was no interruption in the proponent's chain of ownership to satisfy Rule 14a-8(b)'s requirements."

4. The foregoing was followed by the statement below in a footnote.

While this statement clearly reflects the rule the Company would like the SEC to adopt, Proponent has been provided with no citation whatsoever that sets forth this proposed rule as being currently in effect. We leave it to the Staff to decide the extent to which this statement thus constitutes a knowing misrepresentation by Gibson, Dunn & Crutcher LLP, the Company's law firm, particularly when viewed in the context in which it was previously made to Proponent. See Gibson, Dunn & Crutcher LLP email to Proponent dated January 11, 2024.

> *As stated [in our Second Deficiency Notice], Rule 14a-8(b) requires proof of ownership from the "record" holder of the proponent's shares, and "[i]f the Proponent's shares were held by more than one 'record' holder over the course of the applicable one-, two-, or three-year ownership period, then confirmation of ownership must be obtained from each record holder with respect to the time during which it held the shares on the Proponent's behalf, and those documents must collectively demonstrate the Proponent's continuous ownership of sufficient shares to satisfy at least one of the Ownership Requirements."*

Id. (emphasis added).

5. Finally, and for the purpose of creating a record of possibly improper conduct by Gibson, Dunn, Proponent adds the following, also from Appendix B.

The Company cites Johnson & Johnson (avail. Feb. 8, 2019) for the proposition that "when a proponent's shares were transferred during the applicable holding period, a proponent must submit letters from each record holder demonstrating that there was no interruption in the proponent's chain of ownership to satisfy Rule 14a-8(b)'s requirements." However, the relevant claimed

deficiency in Johnson & Johnson (avail. Feb. 8, 2019) supports no such assertion, given that the company therein only ultimately claimed as deficient "the failure to include a statement from the record holder of the Trust's shares confirming that the Trust beneficially owned the requisite number of Johnson & Johnson's shares continuously for at least the one-year period preceding, and including, November 13, 2018, the date the Proposal was submitted." Obviously, Proponent's record holder provided precisely such a statement.

III. Conclusion

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

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

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

Sincerely,

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

cc: Ronald O. Mueller

APPENDIX A

From: **Franklin Romine** <[redacted]>
Date: Wed, Jan 29, 2025 at 1:36 PM
Subject: Re: Amazon.com, Inc. SEC Submission
To: Twu, Victor <[redacted]>
Cc: Mueller, Ronald O. <[redacted]>

I'm withdrawing my proposal due to me not having sufficient ownership to submit. Please withdraw and confirm receipt.

Thanks,

Frank
[redacted]

On Mon, Jan 20, 2025 at 4:10 PM Twu, Victor <[redacted]> wrote:

Mr. Romine –

Attached please find a copy the no-action request we submitted on behalf of our client, Amazon.com, Inc., regarding the shareholder proposal you submitted. A paper copy of this letter is also being sent to you via UPS.

We would appreciate you kindly confirming receipt of this correspondence.

Best,

Victor

Victor Twu
Associate Attorney
[redacted]

GIBSON DUNN
Gibson, Dunn & Crutcher LLP
3161 Michelson Drive, Suite 1200

Irvine, CA 92612-4412

APPENDIX B

February 27, 2024

Via Online Shareholder Proposal Form

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

Re: No-Action Request for Shareholder Proposal by the National Center for Public Policy Research ("NCPPR" or "Proponent")

Ladies and Gentlemen:

This correspondence is in response to the following no-action request supplemental letters, the substance of which is essentially identical to the best knowledge of Proponent:

- letter of Ronald O. Mueller on behalf of General Electric Company dated February 14, 2024
- letter of Elizabeth A. Ising on behalf of United Parcel Service, Inc. dated February 14, 2024
- letter of Elizabeth A. Ising on behalf of PepsiCo, Inc. dated February 14, 2024
- letter of Lori Zyskowski on behalf of The Kraft Heinz Company dated February 14, 2024
- letter of Ronald O. Mueller on behalf of Intel Corporation dated February 20, 2024
- letter of Elizabeth A. Ising on behalf of Chevron Corporation dated February 26, 2024

I. Background

1. Rule 14a-8(b)(2)(A) provides that proponents may prove required share ownership by submitting "to the company a written statement from the 'record' holder … verifying that … [proponent] continuously held at least $2,000, $15,000, or $25,000 in market value of the company's securities entitled to vote on the proposal for at least three years, two years, or one year, respectively." (Emphasis added.)

2. Proponent satisfied the foregoing requirement via a letter from Wells Fargo, the record of holder of Proponent's shares, which clearly verified that "the [Proponent] holds, and has held continuously since November 20, 2020,[9] more than $2,000 of [Company] common stock."

3. Staff Legal Bulletin No. 14L (Nov. 3, 2021) ("SLB 14L") provides that:

[9] The date referenced in each of the six relevant letters differs, but that difference is immaterial to the resolution of the issue before the Staff. The specific letters are all available to the Staff as attachments to the original NAR letters.

> Some companies apply an overly technical reading of proof of ownership letters as a means to exclude a proposal. We generally do not find arguments along these lines to be persuasive…. Accordingly, companies should not seek to exclude a shareholder proposal based on drafting variances in the proof of ownership letter if the language used in such letter is clear and sufficiently evidences the requisite minimum ownership requirements.

4. Despite the foregoing, the Company[10] claims that "when a proponent's shares were transferred during the applicable holding period, a proponent must submit letters from each record holder demonstrating that there was no interruption in the proponent's chain of ownership to satisfy Rule 14a-8(b)'s requirements."[11]

5. As previously demonstrated in Proponent's Response Letter, and as will be further demonstrated below, there is no basis for such a rule in the relevant precedent, nor is there any need for the Staff to apply such a rule for the first time here. Among other things, the Company's desired rule would be utterly unworkable whenever a proponent's shares were transferred due to a breakdown of the proponent's relationship with the prior record holder.

II. Responses to the Company's Supplemental Letter

1. The Company argues that applying the rule as it is written (i.e., only requiring verification from the record holder) "would prevent a shareholder from being able to aggregate shares that it holds in two different brokers' accounts." This confuses what a proponent must do with what a proponent may do. Under the rule, proponents are only required to submit verification from the record holder. However, they may provide whatever additional proof they wish – including verifications from multiple record holders in order to aggregate share ownership. Accordingly, there is no conflict between only requiring verification from the record holder and Rule 103(c)(1) of the Rules of Practice, which permits any term in the singular to include the plural when "appropriate."

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[10] Throughout, "the Company" refers to all the companies listed at the beginning of this letter.

[11] While this statement clearly reflects the rule the Company would like the SEC to adopt, Proponent has been provided with no citation whatsoever that sets forth this proposed rule as being currently in effect. We leave it to the Staff to decide the extent to which this statement thus constitutes a knowing misrepresentation by Gibson, Dunn & Crutcher LLP, the Company's law firm, particularly when viewed in the context in which it was previously made to Proponent. See Gibson, Dunn & Crutcher LLP email to Proponent dated January 11, 2024.

> As stated [in our Second Deficiency Notice], Rule 14a-8(b) requires proof of ownership from the "record" holder of the proponent's shares, and "[i]f the Proponent's shares were held by more than one 'record' holder over the course of the applicable one-, two-, or three-year ownership period, then confirmation of ownership must be obtained from each record holder with respect to the time during which it held the shares on the Proponent's behalf, and those documents must collectively demonstrate the Proponent's continuous ownership of sufficient shares to satisfy at least one of the Ownership Requirements."

Id. (emphasis added).

2. The Company cites *Johnson & Johnson* (avail. Feb. 8, 2019) for the proposition that "when a proponent's shares were transferred during the applicable holding period, a proponent must submit letters from each record holder demonstrating that there was no interruption in the proponent's chain of ownership to satisfy Rule 14a-8(b)'s requirements." However, the relevant claimed deficiency in *Johnson & Johnson* (avail. Feb. 8, 2019) supports no such assertion, given that the company therein only ultimately claimed as deficient "the failure to include a statement from the record holder of the Trust's shares confirming that the Trust beneficially owned the requisite number of Johnson & Johnson's shares continuously for at least the one-year period preceding, and including, November 13, 2018, the date the Proposal was submitted." Obviously, Proponent's record holder provided precisely such a statement.

3. The Company provides no explanation for why Wells Fargo would risk the myriad negative consequences – legal and reputational – that would accompany any attempt by it to misrepresent our share ownership. That is because the only reasonable presumption that can be applied is that Wells Fargo would only verify our share ownership if it had actually verified that ownership sufficiently to make the affirmation it made in its letter. Yet the Company essentially tries to argue that Wells Fargo can cavalierly misrepresent our share ownership because it is protected from certain liability for misstatements under Treasury Regulations in connection with certain related data it might provide the IRS. We trust the Staff will dismiss this argument as facially absurd. If anything, the cited Treasury Regulations support the need for some reasonable level of trust between market participants in order for markets to function effectively. This is perhaps related to the admonition in SLB 14L that companies should not "apply an overly technical reading of proof of ownership letters as a means to exclude a proposal." Nor does the Staff need to earn a PhD in the mechanics of cost-basis data transfers. Absent proof of actual fraud, the Staff can rely on verifications from the record holder that satisfy the text of the rule. In fact, it is worth asking what the limiting principle would be were the Staff to accept the Company's claim that "the cost-basis information that the Proponent seeks to rely on was not designed to demonstrate satisfaction of the ownership standard required under Rule 14a-8(b), and it is not a substitute that provides the level of assurance required by the record holder requirement of Rule 14a-8(b)." On what basis other than cost basis is the record holder to verify ownership? Accepting the Company's argument on this point would essentially gut the current proof-of-ownership process.

4. The Company cites Staff Legal Bulletin 14F (Oct. 18, 2011) ("SLB 14F") for the proposition that "a proof of ownership provided by an 'introducing broker' would not satisfy Rule 14a-8(b)'s requirements for providing proof of ownership from a 'record' holder." With all due respect, so what? Wells Fargo is the record holder, not an introducing broker.

5. The Company's argument challenging our views on the limits of SEC authority in this matter miss the point of our position. We recognize the authority of the SEC to compel disclosure by *corporations,* the entities that offer *securities* on *exchanges*. However, we believe the SEC lacks a co-extensive power to silence shareholders, for reasons beginning with the complete failure of Congress to grant to this agency, much less to its staff without any reliable method of review, any oversight of shareholder proposals or other communications between shareholder-owners and their executive management teams.

That point of law aside, there is nothing inconsistent with our compliance with the Rule 14a-8 process in order to facilitate inclusion of our Proposal in the Company's proxy statement while at the same time challenging the Staff's authority to effectively bless the Company's attempt to exclude our Proposal. Surely the Company's counsel does not lay before the Company or other of its clients a stark dichotomy: (1) either submit meekly to what it considers illegal or *ultra vires* behaviors by government agencies that affect the Company or clients adversely; or (2) challenge the government actions thought to be faulty while in the meanwhile refusing to have anything to do with those potentially faulty processes, even if such non-participation could result in additional adverse consequences for the Company or other clients. That would be absurd, and even fall to the level of actionable incompetence in representation.

Of course the wise and prudent thing to do when faced with an instance – or long pattern and practice, as here – of legally problematic behavior on the part of a government agency is for the injured party to proceed in the manner that minimizes the disadvantages arising from the agency's problematic behavior as much as possible, without creating *new* disadvantages, while simultaneously challenging the assertedly inappropriate actions and practices as permitted by law. As shareholder proponents we are in practice stuck with the no-action review process as it has developed and as it has been undertaken by the Staff, and we continue to be until the merits of our claims are heard. It would avail us nothing and harm us still further to respond to biased and arbitrary practices in many instances by the Staff – behavior that results in our proposals sometimes being inappropriately omitted – by refusing to submit any shareholder proposals at all.

As foolish would be refusing to oppose ill-considered and baseless no-action requests such as the tedious string that counsel has submitted on behalf of a stable of corporate clients this season, all without having identified any coherent locus for honest doubt about our ownership or any possible sanction in statute, regulation, staff precedent, broader practice, common sense or basic good faith and fair dealing for his desired determination.[12] Counsel's plea that the Staff spin out of nothing a brand-new obligation to provide proof-of-ownership letter***s*** in circumstances in which there is no identifiable grounds for any honest doubt about the sufficiency of the always-heretofore-sufficient and regulation-established single letter is so lacking in grounding or persuasive power that we doubt that counsel would ever have tried it against a shareholder proponents animated by the policy preferences to which the Staff has shown inappropriate partiality, and the only feeble hope that drew the argument forth against us was that if the arbiter is biased against an adversary, even bad arguments might end up prevailing.

Even biased adjudicators deciding within an inappropriately arbitrary, capricious, under-explained and not-at-all-effectively reviewed process face boundaries on the scope of their opportunities to deploy that bias. Those boundaries are narrowed by effective demonstration that some arguments are so preposterous; so fraught with untenable later precedential and practical implications; so at odds with (whatever we might think of them) the long-standing rules of the no-action process, common sense and general fair play that adjudicator acceptance of such an argument becomes

[12] While the various related letters we have received are signed by different attorneys, we understand the primary driver of this argument to be Ronald O. Mueller, Partner, Gibson, Dunn & Crutcher LLP.

practically impossible – or at least would establish beyond cavil the lawlessness of the review and adjudication process itself. This is the very situation in which we find ourselves.

Counsel now asserts that our dismantling of his spurious, wholly manufactured argument for exclusion of our Proposals (many of them, indeed) should be set aside because we didn't, in confronting government action we believe to be illegal in ways that work to our detriment, also withdraw from that flawed process while challenging it, thereby leaving the process in place while magnifying its improper harms to us and our efforts. This, then is the ludicrous coda of counsel's many-fronted effort to tempt the Staff, in its disfavor of the motivations and goals of our shareholder-proponent efforts, to latch onto the claptrap he offered as grounds for omitting a significant share of our proposals despite all of the various ramification of that acceptance – ramifications that we have identified consistently, repeatedly and without any meaningful response from Company counsel all season long. In aid of saving some corporate executives the momentary discomfort of being recalled to their fiduciary duties to run their companies by objective analysis rather than by personal policy preference,

Company counsel invited the Staff to accept an argument that would contradict regulatory text, overturn long practice, have the unquestionable effect of rendering all heretofore-accepted proofs of ownership insufficient by undermining the reliability of proof-of-ownership letters themselves, all of them – and all of this without his having identified the smallest ground for reasonable doubt of those one, single letters per company per year, in this instance and more generally. Were the Staff to accept this argument despite all of these individually sufficient disqualifiers, it would provide incontrovertible proof to courts now sitting that the no-action process is at very least so arbitrary and capricious in design and application, and so bereft of salutary and effective review and correction mechanisms that it must be rebuilt from the slab – unless opting instead for root-and-branch demolition.

III. Conclusion

The Companies have clearly failed to meet their Rule 14a-8(g) burden on the issue of excluding our Proposal. Therefore, based upon the analysis set forth above and in our prior replies, we respectfully request that the Staff reject the Company's request for a no-action letter concerning our Proposal.

A copy of this correspondence has been timely provided to the Company. If we can provide additional materials to address any queries the Commission may have with respect to this letter, please do not hesitate to call us at (202) 507-6398 or email us at [redacted] and at [redacted].

Sincerely,

Scott Shepard
FEP Director
National Center for Public Policy Research

Stefan Padfield
FEP Deputy Director
National Center for Public Policy Research

cc: Gibson Dunn generic shareholder proposal email address
([redacted])