



DIVISION OF
CORPORATION FINANCE

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

February 24, 2025

Julia R. Boesch
Cooley LLP

Re: BioMarin Pharmaceutical Inc. (the "Company")
Incoming letter dated February 21, 2025

Dear Julia R. Boesch:

This letter is in regard to your correspondence concerning the shareholder proposal (the "Proposal") submitted to the Company by SEIU MasterTrust (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 Your letter indicates that the Proponent has withdrawn the Proposal and that the Company therefore withdraws its January 16, 2025 request for a no-action letter from the Division. Because the matter is now moot, we will have no further comment.

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

Sincerely,

Rule 14a-8 Review Team

cc: Maureen O'Brien
Segal Marco Advisors



Julia R. Boesch
T: +1 415 693 2326
jboesch@cooley.com

January 16, 2025

By electronic submission

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

Re: Shareholder Proposal to BioMarin Pharmaceutical Inc.

Ladies and Gentlemen:

On behalf of BioMarin Pharmaceutical Inc. (the "**Company**"), we are submitting this letter pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), to notify the Securities and Exchange Commission (the "**Commission**") of the Company's intention to exclude a shareholder proposal (the "**Proposal**"), and a statement in support thereof (the "**Supporting Statement**") submitted by SEIU MasterTrust (the "**Proponent**") from the Company's proxy statement and form of proxy (together, the "**2025 Proxy Materials**") to be distributed to the Company's stockholders in connection with its 2025 annual meeting of stockholders (the "**2025 Annual Meeting**"). We also request confirmation that the staff of the Division of Corporation Finance (the "**Staff**") will not recommend enforcement action to the Commission if the Company omits the Proposal from the 2025 Proxy Materials for the reasons discussed below.

In accordance with Rule 14a-8(j), the Company is submitting this letter not less than 80 calendar days before it intends to file its definitive 2025 Proxy Materials with the Commission and the Company has concurrently sent a copy of this correspondence by email and overnight courier to the Proponent as notice of the Company's intent to omit the Proposal from the 2025 Proxy Materials. Rule 14a-8(k) and Staff Legal Bulletin No. 14D (November 7, 2008) provide that the Proponent is required to send the Company a copy of any correspondence relating to the Proposal which the Proponent submits to the Commission or the Staff. Accordingly, we hereby inform the Proponent that, if the Proponent elects to submit additional correspondence to the Commission or the Staff relating to the Proposal, the Proponent should concurrently furnish a copy of that correspondence to the undersigned on behalf of the Company.

THE PROPOSAL

The Proposal sets forth the following resolution to be voted on by stockholders at the 2025 Annual Meeting:

Resolved, the stockholders of BioMarin Pharmaceutical Inc. (BioMarin) request the preparation of a report, updated annually, disclosing:

1. Company policies and procedures governing direct and indirect lobbying;



U.S. Securities and Exchange Commission
January 16, 2025
Page Two

2. Payments by BioMarin used for direct or indirect lobbying, including the amount of the payment and the recipient; and
3. A description of management's decision-making process and the Board's oversight for making payments described in section 2 above.

For purposes of this proposal, "indirect lobbying" is lobbying engaged in by a trade association or other organization of which BioMarin is a member or to which BioMarin contributes. "Direct and indirect lobbying" include efforts at the territorial, local, state, and federal levels, including lobbying outside the United States.

The report should be posted on BioMarin's website.

A copy of the Proponent's complete submission, including the Proposal, the Supporting Statement, and related materials, is attached hereto as Exhibit A.

BASIS FOR EXCLUSION

The Company hereby respectfully requests that the Staff concur in its view that the Proposal may be excluded from the 2025 Proxy Materials pursuant to Rule 14a-8(i)(7) because the Proposal deals with matters relating to the Company's ordinary business operations and seeks to impermissibly micromanage the Company.

ANALYSIS

The Proposal may be excluded pursuant to Rule 14a-8(i)(7) because it deals with matters relating to the Company's ordinary business operations and impermissibly seeks to micromanage the Company.

Under Rule 14a-8(i)(7), a shareholder proposal may be excluded from a company's proxy materials if the proposal "deals with matters relating to the company's ordinary business operations." In Exchange Act Release No. 34-40018 (May 21, 1998) (the "**1998 Release**"), the Commission stated that the policy underlying the ordinary business exclusion rests on two central considerations. The first recognizes that certain 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 relates to the degree to which the proposal seeks to "micro-manage" the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be able to make an informed judgment. As demonstrated below, the Proposal implicates this second consideration.

The Commission noted in the 1998 Release that determinations as to the excludability of proposals on the basis of micromanagement will "be made on a case-by-case basis, taking into account factors such as the nature of the proposal and the circumstances of the company to which it is directed." In addition, the Commission has indicated that "the Staff will take a measured approach to evaluating companies' micromanagement arguments" and "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." See Staff Legal Bulletin No. 14L (Nov. 3, 2021) ("**SLB 14L**"). To that end, the Staff stated that this "approach is consistent with the Commission's views on the ordinary business exclusion, which is designed to preserve management's discretion on ordinary business matters but not prevent shareholders from providing high-level direction on large strategic corporate matters". See SLB 14L.



U.S. Securities and Exchange Commission
January 16, 2025
Page Three

In accordance with these principles, the Staff has permitted exclusion under micromanagement grounds of numerous proposals requesting reporting of information that is significantly less complex and detailed than the information requested by the Proposal. *See e.g., Delta Air Lines, Inc.* (Apr. 24, 2024) (permitting exclusion of a proposal requiring a report regarding “union suppression expenditures,” including internal and external expenses); *Paramount Global* (Apr. 19, 2024) (permitting exclusion of a proposal requesting disclosure of the recipients of corporate charitable contributions of \$5,000 or more); *Amazon.com, Inc.* (Apr. 1, 2024) (permitting exclusion of proposal calling for highly detailed living wage report); and *Phillips 66* (Mar. 20, 2023) (permitting exclusion of a proposal requesting an audited report describing the undiscounted expected value to settle obligations for the company’s asset retirement obligations with indeterminate settlement dates).

Notably, and very recently, in *Air Products and Chemicals, Inc.* (Nov. 29, 2024) (“**Air Products**”), the Staff permitted exclusion under Rule 14a-8(i)(7) on micromanagement grounds of a substantially similar shareholder proposal as the Proposal. In *Air Products*, the Company argued that the proposal micromanaged the company “by requesting a highly prescriptive and detailed report that requires dozens of distinct pieces of information” related to the company’s lobbying activities and listed in detail all of the burdensome and granular disclosure requirements that implementation of the proposal would impose. As the Proposal is substantially similar to the proposal in *Air Products*, we believe that the Proposal should similarly be excludable under Rule 14a-8(i)(7).

Like the proposal in *Air Products*, the Proposal seeks to micromanage the Company by requesting a highly prescriptive and detailed report that requires dozens of distinct pieces of information. In particular, the Proposal requests an annual report on the Company’s lobbying activities and payments that addresses three sections, with each section then further subdivided into multiple subsections.

- The first section of the report requests disclosure of the Company’s “policy and procedures governing” both “direct and indirect lobbying.” Direct lobbying consists of lobbying by the Company, and indirect lobbying includes lobbying conducted by entities supported by the Company, which could include trade associations, social welfare groups or other organizations of which the Company is a member or to which it contributes. The Proposal’s definitions of both “direct and indirect lobbying” would require all of the requested information “at the territorial, local, state and federal levels, including lobbying outside the United States.”
- The second section of the requested report would focus on the Company’s payments related to direct or indirect lobbying, in each case “including the amount of the payment and the recipient.”
- The third section of the report would include disclosure of management’s decision-making process and Board of Directors’ oversight for making payments covered by the second section.

Finally, the Proposal mandates that the report would be disclosed to the public on the Company’s website. A chart illustrating the dozens of discrete pieces of information required by the Proposal is attached to this letter as [Exhibit B](#).

The highly prescriptive and granular nature of the Proposal would significantly micromanage the manner in which the Company provides information regarding its lobbying initiatives. In addition, the Proposal would require the Company to collect and report a significant amount of information from third parties with respect to their activities. The disclosures prescribed in the Proposal are not required by the Commission and do not follow any established framework for reporting lobbying activities. The prescribed disclosures are also more detailed than the disclosures provided by the Company’s peers and other public



U.S. Securities and Exchange Commission
January 16, 2025
Page Four

companies and are more detailed and granular than the information required by the proposals noted in the precedents listed above.

Following the precedent set forth by the Staff's decision in *Air Products*, if adopted, the Proposal would be unduly burdensome by requiring the Company to provide granular disclosure of prescribed lobbying activities regardless of their significance to the Company's operations, or even with respect to their significance to the Company's overall government relations activities. For example, the Proposal does not seek to limit required disclosures with respect to the Company's lobbying activities and seeks reporting on any and all any associations with or contributions to a covered organization, even if the Company's involvement is tangential or if the amount contributed is insignificant or if management determines that disclosure is not otherwise required and could be detrimental to the Company's interests. In addition, the Proposal ignores the fact that lobbying activities are highly complex and based on a range of considerations related to the day-to-day operations of the business, and also that such activities are already subject to disclosure under the Lobbying Disclosure Act and similar state and foreign requirements.

Furthermore, the Supporting Statement provides that the Company's "lack of disclosure presents reputational risk when its lobbying contradicts company public positions" and "disclosure of lobbying policies, expenditures, and decision-making processes would allow shareholders to evaluate the risks created by BioMarin's lobbying activities." However, the Company currently provides a detailed summary of its approach to political engagement activity in its Global Code of Conduct and Business Ethics (the "**Code of Conduct**") located on its website.¹ In the Code of Conduct, the Company discloses that it may engage in political activities, such as lobbying, from time to time, with all such activities conducted through its Government Affairs group of the Company's Legal Department. The Company understands, and states as such in the Code of Conduct, that the rules governing participation in the political process differ greatly from state to state and country to country. Also, the Company already files publicly available reports of its lobbying activities, including indirect lobbying by trade associations and other organizations of which the Company is a member or contributes, pursuant to applicable laws and regulations.² With respect to Board of Directors and management oversight of the Company's lobbying activities, the Company's lobbying and political activities are generally conducted through the Company's Government Affairs group, which then provides regular updates of such activities to the Company's Board of Directors and its Corporate Governance and Nominating Committee. As such, the Company's policies and procedures related to its public affairs and political activity are highly complex matters, and numerous factors are taken into consideration by the Company's management and Board of Directors in determining the level of its political activity and engagement and required disclosure thereof. With its detailed and prescriptive disclosure request the Proposal seeks to indirectly influence management's decisions and assessments of how best to oversee and support the execution of the Company's engagement with community, regulatory and legislative stakeholders to better support the overall business and ongoing operations of the Company. These decisions fall squarely within the purview of the Company's management and Board of Directors, not shareholders.

In sum, the Proposal seeks to micromanage the Company by probing too deeply into matters of a complex nature upon which stockholders, as a group, would not be able to make an informed judgment. By dictating the method and terms of the requested report that the Company prepare, including content, form, and timing, the Proposal constitutes the type of micromanagement that permits exclusion under Rule 14a-8(i)(7) by impermissibly interfering with the discretion of management and the Board of Directors with respect to Company's lobbying and public policy disclosures. Accordingly, based on the foregoing, and

¹ https://s203.q4cdn.com/846063244/files/doc_governance/2024/BioMarin-Global-Code-of-Conduct-and-Business-Ethics-effective-Dec-1-2024-no-intranet-links.pdf

² <https://www.fec.gov/data/committee/C00543371/?tab=summary>



U.S. Securities and Exchange Commission
January 16, 2025
Page Five

consistent with the precedent cited above, most notably *Air Products*, the Proposal may be excluded pursuant to Rule 14a-8(i)(7) because it attempts to micromanage the Company.

CONCLUSION

Based upon the foregoing analysis, we respectfully request that the Staff concur that the Company may exclude the Proposal from the 2025 Proxy Materials. Should the Staff disagree with the conclusions set forth in this letter, or should you require any additional information in support of our position, we would welcome the opportunity to discuss these matters with you as you prepare your response. Please note that the Company expects to mail the 2025 Proxy Materials to shareholders no later than April 8, 2025; consequently, the Company would appreciate it if the Staff could respond to this request by then. Any such correspondence should be sent to Julia Boesch of Cooley LLP at jboesch@cooley.com, Siana Lowrey of Cooley LLP at slowrey@cooley.com and Reid Hooper of Cooley LLP at rhooper@cooley.com. If we can be of any further assistance in this matter, please do not hesitate to call me at (415) 693-2326, Siana at (415) 693-2150 or Reid at (202) 776-2097.

Very truly yours,

A handwritten signature in black ink that reads "Julia Boesch".

Julia R. Boesch

cc:

G. Eric Davis, BioMarin Pharmaceutical Inc.
Eric Fleekop, BioMarin Pharmaceutical Inc.
Megan Sweeney, SEIU MasterTrust
Maureen O'Brien, Segal Marco Advisors
Jodie Bourdet, Cooley LLP
Siana Lowrey, Cooley LLP

Exhibit A

Cover Letter and Proposal



P.O. Box 22650
Lehigh Valley, PA 18002-2650

December 9, 2024

Via regular mail and email: IR@BMRN.com

G. Eric Davis
EVP, Chief Legal Officer, Secretary
BioMarin Pharmaceutical Inc.
105 Digital Drive
Novato, CA 94949

RE: Shareholder Proposal Submission for 2025 Stockholder's Meeting

Dear G. Eric Davis,

In my capacity as Chair of SEIU MasterTrust (the "Fund"), I write to give notice that pursuant to the 2024 proxy statement of BioMarin Pharmaceutical Inc. (the "Company"), the Fund intends to present the attached proposal (the "Proposal") at the 2025 annual meeting of shareholders (the "Annual Meeting"). The Fund requests that the Company include the Proposal in the Company's proxy statement for the Annual Meeting. Please note The SEIU MasterTrust is the lead filer on this proposal.

A letter from the Fund's custodian documenting the Fund's continuous ownership of the requisite amount of the Company's stock is being sent separately. The Fund also intends to continue its ownership of at least the minimum number of shares required through the date of the Annual Meeting. I represent that the Fund or its agent intends to appear in person or by proxy at the Annual Meeting to present the attached Proposal. I declare the Fund has no "material interest" other than that believed to be shared by stockholders of the Company generally.

Fund representatives are available to meet with the Company via teleconference on December 20, 2024 between 2pm-4pm ET/11am-1pm PT or January 7, 2025 between 1pm-2pm ET/10am-11am PT.

Representation – Important Notice

Please be advised that we will hereafter be using a representative regarding the management of this proposal. Please send a copy of any correspondence regarding this proposal including deficiency notices, no action requests or engagement scheduling to Maureen O'Brien, [REDACTED] at [REDACTED]. I authorize the representative to speak on my behalf, negotiate withdrawal of the proposal and engage with the company and its representatives.

Sincerely,

DocuSigned by:

Megan Sweeney

CC336E35027A4FD...
Megan Sweeney
Chair

Physical address:
1800 Massachusetts Ave. NW
Suite 301
Washington, DC 20036

Resolved, the stockholders of BioMarin Pharmaceutical Inc. (BioMarin) request the preparation of a report, updated annually, disclosing:

1. Company policies and procedures governing direct and indirect lobbying;
2. Payments by BioMarin used for direct or indirect lobbying, including the amount of the payment and the recipient; and
3. A description of management’s decision-making process and the Board’s oversight for making payments described in section 2 above.

For purposes of this proposal, “indirect lobbying” is lobbying engaged in by a trade association or other organization of which BioMarin is a member or to which BioMarin contributes. “Direct and indirect lobbying” include efforts at the territorial, local, state, and federal levels, including lobbying outside the United States.

The report should be posted on BioMarin’s website.

Supporting Statement

Fuller disclosure of BioMarin’s lobbying activities and expenditures is needed to assess whether BioMarin’s lobbying is consistent with its expressed goals and stockholder interests. BioMarin spent \$8,050,000 from 2017-2023 on federal lobbying. BioMarin also lobbies at the state level, where disclosure is uneven or absent. And BioMarin lobbies abroad, spending between €200,000 – 299,999 on lobbying in Europe for 2023.

Companies can give unlimited amounts to certain third party groups that spend millions on lobbying.¹ BioMarin fails to disclose to stockholders its memberships in or payments to trade associations and social welfare groups, or the amounts used for lobbying. BioMarin is a member of the Pharmaceutical Research and Manufacturers of America, which has spent over \$530 million on federal lobbying since 1998, and CEO Alexander Hardy serves on the organization’s board. BioMarin also belongs to the Biotechnology Innovation Organization, which has spent over \$65 million on federal lobbying since 2019. Unlike that of peers Biogen and Vertex, BioMarin’s disclosure critically leaves out its payments to social welfare groups, including the Alliance for Regenerative Medicine and Alliance for a Stronger FDA.

BioMarin’s lack of disclosure presents reputational risk when its lobbying contradicts company public positions. For example, BioMarin states it is committed to expanding access to its medicines, yet PhRMA opposed,² and sued to invalidate, the federal government’s plan to negotiate Medicare drug prices.³

¹ <https://theintercept.com/2019/08/06/business-group-spending-on-lobbying-in-washington-is-at-least-double-whats-publicly-reported/>; <https://www.irs.gov/charities-non-profits/other-non-profits/business-leagues>

² <https://phrma.org/en/Inflation-Reduction-Act>

³ <https://www.cnn.com/2023/06/21/politics/medicare-drug-price-negotiation-lawsuit-phrma/index.html>;
<https://www.reuters.com/business/healthcare-pharmaceuticals/challenge-us-drug-price-negotiation-program-revived-by-appeals-court-2024-09-20/>

Fuller disclosure of lobbying policies, expenditures, and decision making processes would allow shareholders to evaluate the risks created by BioMarin's lobbying activities.



Exhibit B

Information Required by the Proposal

Information Required by the Shareholder Proposal	
Policies and Procedures Governing:	<ol style="list-style-type: none"> 1. Direct Lobbying – Territorial 2. Direct Lobbying – Local 3. Direct Lobbying – State 4. Direct Lobbying – Federal 5. Direct Lobbying – Foreign 6. Indirect Trade Association – Territorial 7. Indirect Trade Association – Local 8. Indirect Trade Association – State 9. Indirect Trade Association – Federal 10. Indirect Trade Association – Foreign 11. Social Welfare Group – Territorial 12. Social Welfare Group – Local 13. Social Welfare Group – State 14. Social Welfare Group – Federal 15. Social Welfare Group – Foreign
Recipient of Payments Used for or Made to:	<ol style="list-style-type: none"> 1. Direct Lobbying – Territorial 2. Direct Lobbying – Local 3. Direct Lobbying – State 4. Direct Lobbying – Federal 5. Direct Lobbying – Foreign 6. Indirect Trade Association – Territorial 7. Indirect Trade Association – Local 8. Indirect Trade Association – State 9. Indirect Trade Association – Federal 10. Indirect Trade Association – Foreign 11. Social Welfare Group – Territorial 12. Social Welfare Group – Local 13. Social Welfare Group – State 14. Social Welfare Group – Federal 15. Social Welfare Group – Foreign
Amount Paid to Each Recipient Regarding:	<ol style="list-style-type: none"> 1. Direct Lobbying – Territorial 2. Direct Lobbying – Local 3. Direct Lobbying – State 4. Direct Lobbying – Federal 5. Direct Lobbying – Foreign



	<ol style="list-style-type: none">6. Indirect Trade Association – Territorial7. Indirect Trade Association – Local8. Indirect Trade Association – State9. Indirect Trade Association – Federal10. Indirect Trade Association – Foreign11. Social Welfare Group – Territorial12. Social Welfare Group – Local13. Social Welfare Group – State14. Social Welfare Group – Federal15. Social Welfare Group – Foreign
<p>Management’s Decision-Making Process for Making Payments Related to:</p>	<ol style="list-style-type: none">1. Direct Lobbying – Territorial2. Direct Lobbying – Local3. Direct Lobbying – State4. Direct Lobbying – Federal5. Direct Lobbying – Foreign6. Indirect Trade Association – Territorial7. Indirect Trade Association – Local8. Indirect Trade Association – State9. Indirect Trade Association – Federal10. Indirect Trade Association – Foreign11. Social Welfare Group – Territorial12. Social Welfare Group – Local13. Social Welfare Group – State14. Social Welfare Group – Federal15. Social Welfare Group – Foreign



U.S. Securities and Exchange Commission
January 16, 2025
Page Nine

Board Oversight for Making Payments Related to:	<ol style="list-style-type: none">1. Direct Lobbying – Territorial2. Direct Lobbying – Local3. Direct Lobbying – State4. Direct Lobbying – Federal5. Direct Lobbying – Foreign6. Indirect Trade Association – Territorial7. Indirect Trade Association – Local8. Indirect Trade Association – State9. Indirect Trade Association – Federal10. Indirect Trade Association – Foreign11. Social Welfare Group – Territorial12. Social Welfare Group – Local13. Social Welfare Group – State14. Social Welfare Group – Federal15. Social Welfare Group – Foreign
--	--



Julia R. Boesch
T: +1 415 693 2326
jboesch@cooley.com

February 21, 2025

By electronic submission

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

Re: Shareholder Proposal to BioMarin Pharmaceutical Inc.

Ladies and Gentlemen:

In a letter dated January 16, 2025 (the “**No-Action Request**”), we requested that the staff of the Division of Corporation Finance of the Securities and Exchange Commission (the “**Staff**”) concur that our client, BioMarin Pharmaceutical Inc. (the “**Company**”), could exclude from its proxy statement and form of proxy for its 2025 annual meeting of stockholders a stockholder proposal (the “**Proposal**”) and statement in support thereof submitted by SEIU MasterTrust (the “**Proponent**”).

Enclosed as Exhibit A is correspondence, dated February 19, 2025, from the Proponent withdrawing the Proposal. In reliance on this communication, we hereby withdraw the No-Action Request.

If you have any questions with respect to the foregoing, please contact the undersigned at (415) 693-2326, Siana Lowrey at (415) 693-2150 or Reid Hooper at (202) 776-2097. Thank you for your attention to this matter.

Very truly yours,

Julia Boesch
Julia R. Boesch

cc:

G. Eric Davis, BioMarin Pharmaceutical Inc.
Eric Fleekop, BioMarin Pharmaceutical Inc.
Megan Sweeney, SEIU MasterTrust
Maureen O’Brien, Segal Marco Advisors
Jodie Bourdet, Cooley LLP
Siana Lowrey, Cooley LLP

Exhibit A

Proponent Correspondence



P.O. Box 22650
Lehigh Valley, PA 18002-2650

Via regular mail and email: IR@BMRN.com

February 19, 2025

G. Eric Davis
EVP, Chief Legal Officer, Secretary
BioMarin Pharmaceutical Inc.
105 Digital Drive
Novato, CA 94949

RE: Shareholder Proposal Submission for 2025 Stockholder's Meeting

Dear G. Eric Davis:

In my capacity as Chair of the Service Employees International Union Pension Plans Master Trust (the "Fund"), I write to give notice that the Fund is withdrawing its shareholder proposal that it had intended to present at the 2025 annual meeting of shareholders (the "Annual Meeting").

We trust you will notify the SEC of the withdrawal to relieve them of the task of deciding on the request for no action.

Sincerely,



Megan Sweeney
Chair

Physical address:
1800 Massachusetts Ave. NW
Suite 301
Washington, DC 20036