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

DIVISION OF
CORPORATION FINANCE

February 19, 2025

Sean Mersten
Quest Diagnostics Incorporated

Re: Quest Diagnostics Incorporated (the "Company")
Incoming letter dated February 18, 2025

Dear Sean Mersten:

This letter is in regard to your correspondence concerning the shareholder proposal (the "Proposal") submitted to the Company by Trillium ESG Small/Mid Cap Fund (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 Your letter indicates that the Proponent has withdrawn the Proposal and that the Company therefore withdraws its January 14, 2025 request for a no-action letter from the Division.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: Andrea Ranger
Trillium Asset Management

January 14, 2025

SUBMITTED VIA STAFF ONLINE FORM
Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: *Quest Diagnostics Incorporated*
Stockholder Proposal from Trillium ESG Small/Mid Cap Fund
Securities Exchange Act of 1934—Rule 14a-8

Ladies and Gentlemen:

Quest Diagnostics Incorporated, a Delaware corporation (the "Company"), pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), submits this letter to inform the Staff of the Division of Corporation Finance (the "Staff") of the U.S. Securities and Exchange Commission (the "Commission") of the Company's intention to omit from its proxy statement and form of proxy (collectively, the "2025 Proxy Materials") the stockholder proposal (the "Proposal") and the statement in support thereof (the "Supporting Statement") submitted by Trillium ESG Small/Mid Cap Fund (the "Proponent") in a letter dated December 4, 2024. A copy of the Proposal and all related correspondence with the Proponent are attached to this letter as Exhibit A. The Company respectfully requests that the Staff concur with the Company's view that the Proposal may properly be excluded from the Company's 2025 Proxy Materials pursuant to Rule 14a-8.

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

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

- concurrently sent a copy of this correspondence to the Proponent.

We are submitting this request for no-action relief under Rule 14a-8 through the Commission's intake system for Rule 14a-8 submissions and related correspondence, https://www.sec.gov/forms/shareholder-proposal (in lieu of providing six additional copies of this letter pursuant to Rule 14a-8(j)), and the undersigned has included his name, telephone number and e-mail address in this letter.

Rule 14a-8(k) under the Exchange Act and Staff Legal Bulletin No. 14D (Nov. 7, 2008) ("SLB 14D") provide that stockholder proponents are required to send the company a copy of any correspondence that the proponents elect to submit to the Commission or Staff. Accordingly, we are taking this opportunity to inform the Proponent that if the Proponent elects to submit additional correspondence to the Commission or Staff with respect to the Proposal, a copy of that

correspondence should concurrently be furnished to the undersigned on behalf of the Company pursuant to Rule 14a-8(k) and SLB 14D.

THE PROPOSAL

The Proposal states:

> Resolved: Shareholders request that Quest issue near- and long-term science-based GHG targets aligned with the Paris Agreement's ambition of limiting global temperature rise to 1.5 degrees Celsius and summarize plans to achieve them.

BASIS FOR EXCLUSION

The Company believes that the Proposal may be properly excluded from the 2025 Proxy Materials under Rule 14a-8(i)(7) under the Exchange Act, because the Proposal relates to the Company's ordinary business operations by impermissibly seeking to micro-manage the Company.

ANALYSIS

The Company may omit the Proposal pursuant to Rule 14a-8(i)(7) because it relates to the Company's ordinary business operations by impermissibly seeking to micro-manage the Company.

A. Rule 14a-8(i)(7) Overview

Rule 14a-8(i)(7) allows a company to omit a stockholder proposal from its proxy materials if such proposal deals with a matter relating to the company's ordinary business operations. The general policy underlying 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 annual shareholders meetings." Exchange Act Release No. 34-40018 (May 21, 1998) (the "1998 Release"). This general policy reflects two central considerations: (i) "[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" and (ii) 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."

Although the Staff has stated that a proposal generally will not be excludable under Rule 14a-8(i)(7) where it raises a significant policy issue (Staff Legal Bulletin 14E (October 27, 2009)), even if a proposal involves a significant policy issue, the proposal may nevertheless be excluded under Rule 14a-8(i)(7) if it seeks to micro-manage the company by specifying in detail the manner in which the company should address the policy issue. See *Apple Inc.* (December 21, 2017) (proposal requesting the Apple board prepare a report evaluating potential for Apple to achieve net-zero greenhouse gas ("GHG") emissions by a fixed date excludable for micro-managing

despite Apple's acknowledgment that reduction of GHG emissions, which the proposal sought to address, is a significant policy issue). The Staff has recognized that a stockholder's casting of a proposal as a mere request for a report, rather than a request for a specific action, does not mean that the proposal does not seek to micro-manage the Company, even when the proposal addresses a significant policy issue. See *Ford Motor Company* (March 2, 2004) (proposal requesting the preparation and publication of scientific report regarding the existence of global warming or cooling excludable "as relating to ordinary business operations" despite recognition that global warming is a significant policy issue).

The Staff has permitted exclusion of stockholder proposals under Rule 14a-8(i)(7) requesting an intricately detailed and complex report on emissions targets. For example, *EOG Resources, Inc.* (February 26, 2018, reconsideration denied March 12, 2018) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting that the company adopt company-wide, quantitative, time-bound targets for reducing GHG emissions and issue a report discussing plans and progress towards achieving those targets, noting that the proposal "seeks to micro-manage" the company by "probing too deeply into matters of a complex nature"; *Amazon.com, Inc.* (March 6, 2018) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting a report evaluating the potential to achieve net-zero GHG emissions by a certain future target date, noting that the proposal "seeks to micro-manage" the company by "probing too deeply into matters of a complex nature"); *Deere & Co.* (December 27, 2017) (same); *Apple, Inc.* (December 21, 2017). See also, *Devon Energy Corporation* (March 4, 2019, reconsideration denied April 1, 2019) and *ExxonMobil Corporation* (April 2, 2019).

In assessing whether a proposal micro-manages, where such proposal stipulates 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 would affect a company's activities and management discretion. Moreover, "granularity" is only one factor evaluated by the Staff. As stated in Staff Legal Bulletin 14L (November 3, 2021) ("SLB 14L"), the Staff focuses "on the level of granularity sought in the proposal and whether and to what extent it inappropriately limits discretion of the board or management." As an example, the Staff cited its letter to *ConocoPhillips* (March 19, 2021), in which the company was denied no-action relief for a proposal requesting that the company set targets covering the GHG emissions of the company's operations and products, explaining specifically that the proposal did not impose a specific method for setting emissions reduction targets.

B. The Proposal seeks to micro-manage the Company by requesting the Company to implement complex policies covering both the Company's operations and value chain, which involve complex day-to-day operational decisions that are too impractical to subject to direct stockholder oversight.

The Proposal seeks to micro-manage the Company by requiring the Company to set and disclose plans to achieve "near- and long-term" GHG emissions reduction targets aligned with the "science-based GHG targets aligned with the Paris Agreement's ambition of limiting global temperature

rise to 1.5 degrees." The Supporting Statement asks that such targets "reduce [the Company's] operational and value chain GHG emissions."

In establishing its overall sustainability policy and setting any goals and targets related to this policy, the Company, under the oversight of the Company's board of directors ("Board"), must balance the related and complex operational, legal and financial considerations, which it would do using its specialized understanding of the Company's business, operational capabilities and financial resources, while maintaining its focus on the needs of its patients, customers and colleagues. These are the types of complex day-to-day operational decisions that the 1998 Release stated are too impractical to subject to direct stockholder oversight.

The Proposal would require the Company to set targets, as stated in the Supporting Statement, to "reduce its operational and value chain GHG emissions." This means that the Company's ability to reasonably and responsibly set, plan for and enforce targets would critically depend on not only the change of its own business practices, but those of the various parties in its "value chain." These parties include hospitals, physicians and a range of others in the healthcare industry, along with a number of other key service providers. This plan would need to encompass an organization that operates across the United States and in international locations. The Company operates clinical testing laboratories and maintains offices, data centers, call centers, distribution centers and patient service centers at locations throughout the United States, and in each of these locations the Company relies on a diverse set of third-party service providers. Developing GHG emissions targets, even with respect to the operations the Company itself conducts and controls, requires complex decisions and emissions calculations to be made by management relying on experts. Such decisions and calculations need to take into account, among other things, analyses and projections regarding the Company's current and future operations, regulatory compliance requirements, anticipated technological developments and anticipated changes in government policy and other regulatory requirements, while ensuring the Company has the available resources, in light of operational and strategic priorities, to fund these efforts. Any consideration of GHG emissions targets will, among other things, need to take into account this diverse footprint and the breadth of the Company's extensive "value chain."

The Company is a leading provider of innovation in diagnostic information services, through its capabilities in discovery, technology development and clinical validation of diagnostic tests. Through its research and development operations, the Company regularly introduces new and enhanced diagnostic tests. Advances in medicine are expected to give rise to new, more sophisticated and specialized diagnostic tests. New product introductions and new service offerings are expected to drive competition, also with a focus on convenience and cost. This rapid change in diagnostic testing indicates the importance of the Company's research and development efforts as part of its future growth. Any consideration of changes in business practices, including research and development efforts and investment therein, as part of setting any GHG emissions targets will need to factor the impact it could have on the Company's competitive positioning.

The Company operates in a highly regulated industry subject to extensive and frequently changing laws and regulations in the United States (at both the federal and state levels) and other jurisdictions in which it conducts business, and to government inspections and audits. The Clinical Laboratory Improvement Act requires virtually all of the Company's clinical laboratories in the United States to be certified by the federal government so that they comply with various technical, operational, personnel and quality requirements intended to ensure that the services provided are accurate, reliable and timely, and state laws may require additional personnel qualifications or licenses, quality control, record maintenance, proficiency testing or detailed review of the Company's scientific method validations and technical procedures for certain tests. The Food and Drug Administration (the "FDA") has regulatory responsibility over, among other areas, the instruments, software, test kits, reagents and other devices used by the Company in its clinical laboratories to perform diagnostic testing in the United States. The FDA also regulates drugs-of-abuse testing for employers and insurers, testing for blood bank purposes and testing of donors of human cells for purposes such as in vitro fertilization, which are areas where the Company operates. The Company is also subject to laws and regulations related to the handling, transportation and disposal of medical specimens, infectious and hazardous waste and radioactive materials. Any consideration of setting GHG emissions targets will also have to consider the impact and scope of the complex, intricate and intersecting federal and state regulatory requirements to which the Company's business is subject.

Further, while the Company principally focuses on the U.S. diagnostic testing and related solutions market, the Company operates globally and has a growing business that provides advanced reference testing to laboratory providers in other countries. The Company maintains offices, patient service centers and clinical laboratories in locations outside the United States, including in Finland and Mexico, and recently made an acquisition of a laboratory diagnostic information and digital health connectivity business in Canada. Any consideration of setting GHG emissions targets will also have to consider the impact and scope of international legal and regulatory requirements.

These complex operational, legal and financial considerations are the types of complex day-to-day operational decisions that the 1998 Release stated are too impractical to subject to direct stockholder oversight.

C. The Proposal seeks to micro-manage the Company by imposing specific time frames and a methodology to implement complex policies, which limit the discretion of the Company's Board and management.

The Proposal requests not only the setting of GHG emissions reduction targets but also imposes a specific timeline, i.e., "near and long-term" targets, and a specific methodology, i.e., "science-based GHG targets aligned with the Paris Agreement's ambition of limiting global temperature rise to 1.5 degrees Celsius." The Proposal also requires the Company to summarize its plans to achieve these targets.

The Company supports the global effort to address climate change. The Company understands and recognizes its responsibility to reduce GHG emissions and is committed to seeking out and developing ways to transition its business to a lower carbon footprint. The Company is actively

making efforts to reduce its GHG emissions. The Company has adopted plans and taken actions designed to reduce its GHG emissions, and the Company intends to continue to pursue its strategy, including identifying the methodology it uses and the time frame it sets, in a manner consistent with the demands and complexity of its business and the importance of not compromising patient care.

The Company has set a goal of expanding its electric vehicle charging capabilities pilot project to include three additional lab locations by 2025 (the "2025 Goal"), which was disclosed in its 2023 Corporate Sustainability Report (the "2023 Sustainability Report") along with the actions the Company has already taken to achieve the 2025 Goal. In the Company's 2023 CDP Climate Change Questionnaire, the Company describes emissions reduction actions taken by the Company, including its reduction in real estate by just over 111,000 square feet in 2022. In the Company's proxy statement filed on April 5, 2024, the Company describes emissions reduction actions taken by the Company, including its ongoing upgrading of facility lighting to more efficient LED bulbs and its courier route optimization initiative that reduced its CO2 emissions by approximately 870 metric tons in 2022. Similarly, in the Company's 2023 Sustainability Report, the Company discusses additional emissions reduction actions already taken, including its installation of on-site medical waste treatment technology at its two major hub laboratories in California, which, in conjunction with the Company's recycling efforts and the use of waste-to-energy, avoided over 6,900 tons of CO2-equivalent GHG in 2023. The Company describes its box optimization project, which leverages an innovative software solution to decrease the number of boxes the Company ships with collection supplies and the number of trips needed to transport these shipments. In addition, the Company has taken steps towards establishing limited assurance processes necessary to verify several categories within its Scope 3 GHG data.

These plans and actions have been carefully developed by the Company's management, under the oversight of the Company's Board, through informed and thoughtful analyses that balance highly complex, technical and competing considerations described above and are matters with respect to which ordinary stockholders are unlikely to possess adequate information and data to make an informed judgment. Accordingly, the Proposal seeks to micro-manage the Company by asking stockholders to probe deeply into "matters 'too complex' for stockholders, as a group, to make an informed judgment." See SLB 14L. The Company's Board and management, rather than stockholders, are in the best position to make an informed judgment on the complex, technical and competing considerations (described above in this letter) that are involved in determining the best steps for a provider of diagnostic information services like the Company to achieve GHG emissions reductions.

The Staff has permitted exclusion of stockholder proposals under Rule 14a-8(i)(7) requesting an intricately detailed and complex report on emissions targets. For example, in *Devon Energy Corporation* (March 4, 2019, reconsideration denied April 1, 2019) and *ExxonMobil Corporation* (April 2, 2019), the proposals to each company requested that each company adopt time-bound targets aligned with the GHG reduction goals established by the Paris Climate Agreement and issue a report that covers the corporation's operations and products. Devon Energy Corporation explained that its management balances numerous complex factors on a daily basis which enables the company to quickly change operational strategies in response to internal and external

developments, and argued that such operational strategies could not be separated from emissions targets because the two were connected and subject to a variety of factors. Similarly, ExxonMobil Corporation explained that its resource deployment and management of its highly complex global operations are inherently fact-specific and require expert oversight on a daily basis. The company argued that to achieve the proposal's objectives, management would be required to subject its day-to-day considerations to stockholder oversight which are not well-suited to stockholder supervision. The Staff concluded that both proposals sought to micro-manage the companies 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." See also, for example, *EOG Resources, Inc.* (February 26, 2018, reconsideration denied March 12, 2018); *Amazon.com, Inc.* (March 6, 2018); *Deere & Co.* (Dec. 27, 2017) (same); *Apple, Inc.* (Dec. 21, 2017). Similar to the proposals described above, the Company would be required to subject its consideration of the specific approach, scope, timing and methodology of its sustainability objectives to the requirements of the Proposal and, ultimately, stockholder oversight. This is impractical. As described above, the Company's business is highly complex and its operations are significantly regulated, requiring a specialized understanding of the diagnostic information services industry and market, personnel and operational capabilities, all of, which are not well-suited to stockholder supervision.

Accordingly, consistent with the 1998 Release, SLB 14L and the letters described above, the Company believes that the Proposal may be properly omitted from the 2025 Proxy Materials pursuant to Rule 14a-8(i)(7) because it impermissibly seeks to micro-manage the Company.

CONCLUSION

Based on the analysis above, the Company respectfully requests the Staff's concurrence with its decision to omit the Proposal from the 2025 Proxy Materials and further requests the confirmation that the Staff will not recommend any enforcement action in connection with such omission.

In the event the Staff disagrees with any conclusion expressed herein, or should any information in support or explanation of the Company's position be required, we would appreciate an opportunity to confer with the Staff before issuance of its response. If the Staff has any questions regarding this request or requires additional information, please contact the undersigned at Sean.D.Mersten@questdiagnostics.com or 917-692-6311.

Sincerely,

Signed by:
Sean D Mersten
1602324F71D3493...

Sean Mersten
Vice President and Corporate Secretary

cc: Andrea Ranger, Trillium ESG Small/Mid Cap Fund
Lona Nallengara, Allen Overy Shearman Sterling US LLP
Erika Kent, Allen Overy Shearman Sterling US LLP

EXHIBIT A

From: Andrea Ranger
Sent: Wednesday, December 4, 2024 3:37 PM
To: Mersten, Sean D <Sean.D.Mersten@questdiagnostics.com>; Bevec, Shawn C
[redacted]
Cc: Emily Lethenstrom [redacted]
Subject: Shareholder proposal filed by Trillium Asset Management on setting a science-based target

Hi Sean,
As I'd mentioned previously, we're filing this shareholder proposal asking the company to set a science-based target in order to protect our rights as shareholders. However, we wish to continue the conversation and would like to hear your feedback on the measures we proposed in our last email.

Additionally, we want to acknowledge where the company is on its sustainability journey while working collaboratively to lower our portfolio risk from climate change and your enterprise risk. Emily and I look forward to continuing the conversation with you.

Kindly acknowledge receipt of our materials.

Thank you,
Andrea

One Congress Street
Suite 3101
Boston, MA 02114

December 4, 2024

Via Federal Express

Corporate Secretary
Quest Diagnostics Incorporated
500 Plaza Drive
Secaucus, New Jersey 07094

Re: Shareholder proposal for 2025 Annual Shareholder Meeting

Dear Corporate Secretary:

Trillium Small/Mid Cap Fund is submitting the attached shareholder proposal, for inclusion in Quest Diagnostics Incorporated's ("the Company's") 2025 proxy statement in accordance with Rule 14a-8 of the General Rules and Regulations of the Securities and Exchange Act of 1934 (17 C.F.R. § 240.14a-8).

Per Rule 14a-8, Trillium Small/Mid Cap Fund holds more than $25,000 of the Company's common stock, acquired more than 1 year prior to today's date and held continuously for that time. Trillium Small/Mid Cap Fund intends to hold such shares continuously through the date of the 2025 annual meeting. Verification of Trillium Small/Mid Cap Fund's ownership will be sent separately.

Trillium Small/Mid Cap Fund is available to meet with the Company on December 19, 2024 at 2 pm Eastern time and December 20, 2024 at 2 pm Eastern time. Please let us know within 10 days if the Company would like to meet at one of these times. After 10 days we may no longer be able to hold these dates and times.

A representative of the Trillium Small/Mid Cap Fund will attend the stockholders' meeting to move the shareholder proposal as required by the Securities and Exchange Commission rules.

I may be contacted by email at [redacted] and request a confirmation of receipt of this letter via email.

One Congress Street
Suite 3101
Boston, MA 02114

Sincerely,

Andrea Ranger
Director of Shareholder Advocacy
Enclosures

Whereas: Climate change poses systemic financial risk, potentially reducing global GDP by up to19% by midcentury.[1] The Intergovernmental Panel on Climate Change urges "immediate and deep" greenhouse gas (GHG) emissions reduction across all sectors to avoid the worst impacts of climate change.[2]

In its 2024 10-K, Quest Diagnostics ("Quest" or "the Company") reports that the physical risks from extreme weather events, such as hurricanes, floods, fires, and heat waves, whose increasing intensity and frequency have been linked to climate change,[3] threaten its operations. It also discloses in its 2023 CDP Climate Change report that in instances of extreme weather, "many patients choose to skip preventative, non-critical or elective medical tests and procedures," which "negatively impacts the demand for our services."

Despite acknowledging its exposure to climate risk, Quest has not acted to mitigate its risk by setting ambitious goals to reduce its operational and value chain GHG emissions. And while the Company purchases some renewable energy, it has set no timebound goals for sourcing renewable energy, which could serve as motivation to secure long-term contracts and cost savings.

The Company could accelerate its climate risk mitigation by adopting a science-based target, aligned with the Paris Agreement's ambition of limiting global temperature rise to 1.5 degrees Celsius and to establish renewable energy procurement goals.

Quest's closest competitor, Labcorp, set a science-based target in July 2023, validated by the Science Based Targets initiative (SBTi) as well as a renewable energy sourcing goal. By 2030, Labcorp intends to reduce its operational emissions by 42% and certain categories of its value chain emissions by 25%.

Additionally, some of Quest's main suppliers have set SBTi-validated science-based targets, including Thermo Fisher, Abbott, and Siemens Healthineers. Their commitments can facilitate Quest's implementation of its own science-based target, as they represent part of the Company's value chain emissions.

Prior to this proposal, investors demonstrated strong support for emissions reduction by the Company. In 2023 and 2024, shareholders filed resolutions requesting that Quest adopt a science-based target, which garnered 48 and 42 percent of the vote, respectively.

Proxy advisory firm, Glass Lewis,[4] advises corporate boards to engage shareholders when support exceeds 30 percent of the votes cast on a shareholder's proposal, and The

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[1] https://www.nature.com/articles/s41586-024-07219-0
[2] https://www.ipcc.ch/report/ar6/wg3/resources/press/press-release/
[3] https://science.nasa.gov/climate-change/extreme-weather/
[4] https://resources.glasslewis.com/hubfs/2025%20Guidelines/2025%20US%20Benchmark%20Policy%20Guidelines.pdf#page=8

Conference Board echoes this advice.[5] Despite this clear guidance, Quest board and management have not demonstrated progress on a matter of clear investor concern.

Resolved: Shareholders request that Quest issue near- and long-term science-based GHG targets aligned with the Paris Agreement's ambition of limiting global temperature rise to 1.5 degrees Celsius and summarize plans to achieve them.

Supporting Statement: In assessing targets, we recommend:

- Taking into consideration approaches used by advisory groups like SBTi;
- Consideration of supporting targets for renewable energy, energy efficiency, and other measures deemed appropriate by management.

[5] https://www.conference-board.org/publications/newPublication/fileDownload.cfm?masterProductID=49228&filename=1_Environmental-and-Social-Proposals-2023%20copy.pdf

From: Andrea Ranger [redacted]
Sent: Wednesday, December 4, 2024 4:25 PM
To: Mersten, Sean D <Sean.D.Mersten@questdiagnostics.com>; Bevec, Shawn C
[redacted]
Cc: Emily Lethenstrom [redacted]
Subject: RE: Shareholder proposal filed by Trillium Asset Management on setting a science-based target

Hi Sean,
I learned from my associate that the versions of the documents I sent earlier were near final but not final.
My apologies.
Please find attached the final versions.
Thank you,
Andrea

Andrea Ranger | Director of Shareholder Advocacy
Trillium | Boston
[redacted]

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One Congress Street
Suite 3101
Boston, MA 02114

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Andrea Ranger
Director of Shareholder Advocacy
Enclosures

Emissions Reduction Target

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[1] https://www.nature.com/articles/s41586-024-07219-0
[2] https://www.ipcc.ch/report/ar6/wg3/resources/press/press-release/
[3] https://science.nasa.gov/climate-change/extreme-weather/
[4] https://resources.glasslewis.com/hubfs/2025%20Guidelines/2025%20US%20Benchmark%20Policy%20Guidelines.pdf#page=8

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From: Mersten, Sean D <Sean.D.Mersten@questdiagnostics.com>
Sent: Monday, December 9, 2024 4:22 PM
To: Andrea Ranger; Bevec, Shawn C
Cc: Emily Lethenstrom
Subject: RE: Shareholder proposal filed by Trillium Asset Management on setting a science-based target
Attachments: Quest Diagnostics (DGX) - Rule 14a-8 Proposal Response Letter (Trillium).pdf; SEC CF Staff Legal Bulletin No 14F.pdf; SEC CF Staff Legal Bulletin No 14G.pdf; 17 CFR 240.14a-8.pdf

Hi Andrea,

We acknowledge receipt of your proposal. Please see attached response letter and related attachments.

Thank you again for taking the time to speak with us. We look forward to continuing our engagement.

Best,
Sean

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My apologies.
Please find attached the final versions.
Thank you,
Andrea

Andrea Ranger | Director of Shareholder Advocacy
Trillium | Boston
[redacted]

From: Andrea Ranger
Sent: Wednesday, December 4, 2024 3:37 PM
To: Mersten, Sean D <Sean.D.Mersten@questdiagnostics.com>; Bevec, Shawn C [redacted]
Cc: Emily Lethenstrom [redacted]
Subject: Shareholder proposal filed by Trillium Asset Management on setting a science-based target

Hi Sean,
As I'd mentioned previously, we're filing this shareholder proposal asking the company to set a science-based target in order to protect our rights as shareholders. However, we wish to continue the conversation and would like to hear your feedback on the measures we proposed in our last email.

Additionally, we want to acknowledge where the company is on its sustainability journey while working collaboratively to lower our portfolio risk from climate change and your enterprise risk. Emily and I look forward to continuing the conversation with you.

Kindly acknowledge receipt of our materials.

Thank you,
Andrea

Sean D. Mersten
VP, Corporate Secretary
Sean.D.Mersten@QuestDiagnostics.com
Direct Line: 917-692-6311

December 9, 2024

Andrea Ranger
One Congress Street
Suite 3101
Boston, MA 02114
[redacted]

Subject: **Stockholder Proposal**

Dear Ms. Ranger:

We received the stockholder proposal dated December 4, 2024 (the "Proposal") that you submitted to Quest Diagnostics Incorporated ("Quest Diagnostics" or the "Company") on December 4, 2024 (the "Submission Date").

The Proposal contains certain procedural deficiencies, which Securities and Exchange Commission ("SEC") regulations require us to bring to your attention.

Proof of Ownership

Rule 14a-8(b)(1) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), requires that in order to be eligible to submit a proposal for inclusion in Quest Diagnostics' proxy statement for its annual meeting of stockholders, each stockholder proponent must, among other things, have continuously held such common stock of Quest Diagnostics in the amount that satisfies at least one of the following Ownership Requirements (defined below):

- at least $2,000 in market value of Quest Diagnostics' common stock entitled to vote on the proposal for at least three years preceding and including the Submission Date;
- at least $15,000 in market value of Quest Diagnostics' common stock entitled to vote on the proposal for at least two years preceding and including the Submission Date; or
- at least $25,000 in market value of Quest Diagnostics' common stock entitled to vote on the proposal for at least one year preceding and including the Submission Date (each, an "Ownership Requirement," and collectively, the "Ownership Requirements").

Each stockholder submitting a proposal must also continue to hold such common stock through the date of the Quest Diagnostics annual meeting. Our stock records indicate that you are not currently the registered holder of any shares of Quest Diagnostics' common stock, and you have not provided proof of ownership of Quest Diagnostics' common stock.

Accordingly, Rule 14a-8(b) requires that a proponent of a proposal prove eligibility as a beneficial stockholder of the company that is the subject of the proposal by submitting either:

- a written statement from the "record" holder of the shares (usually a bank or broker) verifying that, at the time the proponent submitted the proposal (in your case, December 4, 2024), the proponent had continuously held the requisite amount of shares to satisfy at least one of the Ownership Requirements above and that the proponent intends to continue to hold such common stock through the date of the Quest Diagnostics annual meeting; or

- a copy of a filed Schedule 13D, Schedule 13G, Form 3, Form 4, Form 5, or amendments to those documents or updated forms demonstrating that the proponent met at least one of the Ownership Requirements above, a copy of the schedules, forms and any subsequent amendments reporting a change in the proponent's ownership of shares and a written statement that the proponent continuously held the requisite number of shares to satisfy at least one of the Ownership Requirements above and that the proponent intends to continue ownership of the shares through the date of the Quest Diagnostics annual meeting.

To help stockholders comply with the requirements when submitting proof of ownership to companies, the SEC's Division of Corporation Finance published Staff Legal Bulletin No. 14F ("SLB 14F"), dated October 18, 2011, and Staff Legal Bulletin No. 14G ("SLB 14G"), dated October 16, 2012, a copy of both of which are attached for your reference. SLB 14F and SLB 14G provide that for securities held through The Depository Trust Company ("DTC"), only DTC participants should be viewed as "record" holders of securities that are deposited at DTC. You can confirm whether your bank or broker is a DTC participant by checking DTC's participant list, which is currently available on the Internet at: *https://www.dtcc.com/client-center/dtc-directories.*

If you hold shares through a bank or broker that is not a DTC participant, you will need to obtain proof of ownership from the DTC participant through which the bank or broker holds the shares, or an affiliate of such DTC participant. You should be able to find the name of the DTC participant by asking your bank or broker. If the DTC participant that holds your shares knows the holdings of your bank or broker, but does not know your holdings, you may satisfy the proof of ownership requirements by submitting two proof of ownership statements — one from your bank or broker confirming your ownership and the other from the DTC participant confirming the bank's or broker's ownership. Please review SLB 14F carefully before submitting proof of ownership to ensure that it is compliant.

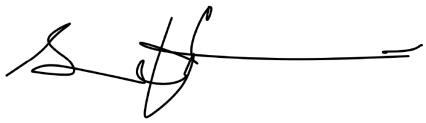
We acknowledge that your statement identified specific dates and times that you are available to meet with the Company to discuss the Proposal in accordance with Exchange Act Rule 14a-8(b)(1). Following your satisfaction of the eligibility requirements to submit the Proposal, the Company will coordinate with you to determine a mutually convenient date and time to discuss the Proposal.

In order to meet the eligibility requirements for submitting a stockholder proposal, the SEC rules require that any response to this letter be postmarked or transmitted electronically to us no

later than 14 calendar days from the date you receive this letter. Please address any response to me at the mailing address or e-mail address provided above. Copies of Rule 14a-8, which applies to stockholder proposals submitted for inclusion in proxy statements, and SLB 14F and SLB 14G, which apply to stockholders' compliance with requirements when submitting proof of ownership to companies, are enclosed for your reference.

If you have any questions, please contact me using the email address noted above.

Very truly yours,



Sean D. Mersten
VP, Corporate Secretary

Attachments

Shareholder Proposals

Staff Legal Bulletin No. 14F (CF)

Action: Publication of CF Staff Legal Bulletin

Date: October 18, 2011

Summary: This staff legal bulletin provides information for companies and shareholders regarding Rule 14a-8 under the Securities Exchange Act of 1934.

Supplementary Information: The statements in this bulletin represent the views of the Division of Corporation Finance (the "Division"). This bulletin is not a rule, regulation or statement of the Securities and Exchange Commission (the "Commission"). Further, the Commission has neither approved nor disapproved its content.

Contacts: For further information, please contact the Division's Office of Chief Counsel by calling (202) 551-3500 or by submitting a web-based request form at https://www.sec.gov/forms/corp_fin_interpretive.

A. The purpose of this bulletin

This bulletin is part of a continuing effort by the Division to provide guidance on important issues arising under Exchange Act Rule 14a-8. Specifically, this bulletin contains information regarding:

- Brokers and banks that constitute "record" holders under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8;
- Common errors shareholders can avoid when submitting proof of ownership to companies;
- The submission of revised proposals;
- Procedures for withdrawing no-action requests regarding proposals submitted by multiple proponents; and
- The Division's new process for transmitting Rule 14a-8 no-action responses by email.

You can find additional guidance regarding Rule 14a-8 in the following bulletins that are available on the Commission's website: SLB No. 14, SLB No. 14A, SLB No. 14B, SLB No. 14C, SLB No. 14D and SLB No. 14E.

B. The types of brokers and banks that constitute "record" holders under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8

1. Eligibility to submit a proposal under Rule 14a-8

To be eligible to submit a shareholder proposal, a shareholder must have continuously held at least $2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the shareholder meeting for at least one year as of the date the shareholder submits the proposal. The shareholder must also continue to hold the required amount of securities through the date of the meeting and must provide the company with a written statement of intent to do so.[1]

The steps that a shareholder must take to verify his or her eligibility to submit a proposal depend on how the shareholder owns the securities. There are two types of security holders in the U.S.: registered owners and beneficial owners.[2] Registered owners have a direct relationship with the issuer because their ownership of shares is listed on the records maintained by the issuer or its transfer agent. If a shareholder is a registered owner, the company can independently confirm that the shareholder's holdings satisfy Rule 14a-8(b)'s eligibility requirement.

The vast majority of investors in shares issued by U.S. companies, however, are beneficial owners, which means that they hold their securities in book-entry form through a securities intermediary, such as a broker or a bank. Beneficial owners are sometimes referred to as "street name" holders. Rule 14a-8(b)(2)(i) provides that a beneficial owner can provide proof of ownership to support his or her eligibility to submit a proposal by submitting a written statement "from the 'record' holder of [the] securities (usually a broker or bank)," verifying that, at the time the proposal was submitted, the shareholder held the required amount of securities continuously for at least one year.[3]

2. The role of the Depository Trust Company

Most large U.S. brokers and banks deposit their customers' securities with, and hold those securities through, the Depository Trust Company ("DTC"), a registered clearing agency acting as a securities depository. Such brokers and banks are often referred to as "participants" in DTC.[4] The names of these DTC participants, however, do not appear as the registered owners of the securities deposited with DTC on the list of shareholders maintained by the company or, more typically, by its transfer agent. Rather, DTC's nominee, Cede & Co., appears on the shareholder list as the sole registered owner of securities deposited with DTC by the DTC participants. A company can request from DTC a "securities position listing" as of a specified date, which identifies the DTC participants having a position in the company's securities and the number of securities held by each DTC participant on that date.[5]

3. Brokers and banks that constitute "record" holders under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8

In *The Hain Celestial Group, Inc.* (Oct. 1, 2008), we took the position that an introducing broker could be considered a "record" holder for purposes of Rule 14a-8(b)(2)(i). An introducing broker is a broker that engages in sales and other activities involving customer contact, such as opening customer accounts and accepting customer orders, but is not permitted to maintain custody of customer funds and securities.[6] Instead, an introducing broker engages another broker, known as a "clearing broker," to hold custody of client funds and securities, to clear and execute customer trades, and to handle other functions such as issuing confirmations of customer trades and customer account statements. Clearing brokers generally are DTC participants; introducing brokers generally are not. As introducing brokers generally are not DTC participants, and therefore typically do not appear on DTC's securities position listing, *Hain Celestial* has required companies to accept proof of ownership letters from brokers in cases where, unlike the positions of registered owners and brokers and banks that are DTC participants, the company is unable to verify the positions against its own or its transfer agent's records or against DTC's securities position listing.

In light of questions we have received following two recent court cases relating to proof of ownership under Rule 14a-8[7] and in light of the Commission's discussion of registered and beneficial owners in the Proxy Mechanics Concept Release, we have reconsidered our views as to what types of brokers and banks should be considered "record" holders under Rule 14a-8(b)(2)(i). Because of the transparency of DTC participants' positions in a company's securities, we will take the view going forward that, for Rule 14a-8(b)(2)(i) purposes, only DTC participants should be viewed as "record" holders of securities that are deposited at DTC. As a result, we will no longer follow *Hain Celestial*.

We believe that taking this approach as to who constitutes a "record" holder for purposes of Rule 14a-8(b)(2)(i) will provide greater certainty to beneficial owners and companies. We also note that this approach is consistent with

Exchange Act Rule 12g5-1 and a 1988 staff no-action letter addressing that rule,[8] under which brokers and banks that are DTC participants are considered to be the record holders of securities on deposit with DTC when calculating the number of record holders for purposes of Sections 12(g) and 15(d) of the Exchange Act.

Companies have occasionally expressed the view that, because DTC's nominee, Cede & Co., appears on the shareholder list as the sole registered owner of securities deposited with DTC by the DTC participants, only DTC or Cede & Co. should be viewed as the "record" holder of the securities held on deposit at DTC for purposes of Rule 14a-8(b)(2)(i). We have never interpreted the rule to require a shareholder to obtain a proof of ownership letter from DTC or Cede & Co., and nothing in this guidance should be construed as changing that view.

How can a shareholder determine whether his or her broker or bank is a DTC participant?

Shareholders and companies can confirm whether a particular broker or bank is a DTC participant by checking DTC's participant list, which is currently available on the Internet at http://www.dtcc.com/~/media/Files/Downloads/client-center/DTC/alpha.ashx.

What if a shareholder's broker or bank is not on DTC's participant list?

The shareholder will need to obtain proof of ownership from the DTC participant through which the securities are held. The shareholder should be able to find out who this DTC participant is by asking the shareholder's broker or bank.[9]

If the DTC participant knows the shareholder's broker or bank's holdings, but does not know the shareholder's holdings, a shareholder could satisfy Rule 14a-8(b)(2)(i) by obtaining and submitting two proof of ownership statements verifying that, at the time the proposal was submitted, the required amount of securities were continuously held for at least one year – one from the shareholder's broker or bank confirming the shareholder's ownership, and the other from the DTC participant confirming the broker or bank's ownership.

How will the staff process no-action requests that argue for exclusion on the basis that the shareholder's proof of ownership is not from a DTC participant?

The staff will grant no-action relief to a company on the basis that the shareholder's proof of ownership is not from a DTC participant only if the company's notice of defect describes the required proof of ownership in a manner that is consistent with the guidance contained in this bulletin. Under Rule 14a-8(f)(1), the shareholder will have an opportunity to obtain the requisite proof of ownership after receiving the notice of defect.

C. Common errors shareholders can avoid when submitting proof of ownership to companies

In this section, we describe two common errors shareholders make when submitting proof of ownership for purposes of Rule 14a-8(b)(2), and we provide guidance on how to avoid these errors.

First, Rule 14a-8(b) requires a shareholder to provide proof of ownership that he or she has "continuously held at least $2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the meeting for at least one year by the date you submit the proposal" (emphasis added).[10] We note that many proof of ownership letters do not satisfy this requirement because they do not verify the shareholder's beneficial ownership for the entire one-year period preceding and including the date the proposal is submitted. In some cases, the letter speaks as of a date *before* the date the proposal is submitted, thereby leaving a gap between the date of the verification and the date the proposal is submitted. In other cases, the letter speaks as of a date *after*

the date the proposal was submitted but covers a period of only one year, thus failing to verify the shareholder's beneficial ownership over the required full one-year period preceding the date of the proposal's submission.

Second, many letters fail to confirm continuous ownership of the securities. This can occur when a broker or bank submits a letter that confirms the shareholder's beneficial ownership only as of a specified date but omits any reference to continuous ownership for a one-year period.

We recognize that the requirements of Rule 14a-8(b) are highly prescriptive and can cause inconvenience for shareholders when submitting proposals. Although our administration of Rule 14a-8(b) is constrained by the terms of the rule, we believe that shareholders can avoid the two errors highlighted above by arranging to have their broker or bank provide the required verification of ownership as of the date they plan to submit the proposal using the following format:

> "As of [date the proposal is submitted], [name of shareholder] held, and has held continuously for at least one year, [number of securities] shares of [company name] [class of securities]."[11]

As discussed above, a shareholder may also need to provide a separate written statement from the DTC participant through which the shareholder's securities are held if the shareholder's broker or bank is not a DTC participant.

D. The submission of revised proposals

On occasion, a shareholder will revise a proposal after submitting it to a company. This section addresses questions we have received regarding revisions to a proposal or supporting statement.

1. A shareholder submits a timely proposal. The shareholder then submits a revised proposal before the company's deadline for receiving proposals. Must the company accept the revisions?

Yes. In this situation, we believe the revised proposal serves as a replacement of the initial proposal. By submitting a revised proposal, the shareholder has effectively withdrawn the initial proposal. Therefore, the shareholder is not in violation of the one-proposal limitation in Rule 14a-8(c).[12] If the company intends to submit a no-action request, it must do so with respect to the revised proposal.

We recognize that in Question and Answer E.2 of SLB No. 14, we indicated that if a shareholder makes revisions to a proposal before the company submits its no-action request, the company can choose whether to accept the revisions. However, this guidance has led some companies to believe that, in cases where shareholders attempt to make changes to an initial proposal, the company is free to ignore such revisions even if the revised proposal is submitted before the company's deadline for receiving shareholder proposals. We are revising our guidance on this issue to make clear that a company may not ignore a revised proposal in this situation.[13]

2. A shareholder submits a timely proposal. After the deadline for receiving proposals, the shareholder submits a revised proposal. Must the company accept the revisions?

No. If a shareholder submits revisions to a proposal after the deadline for receiving proposals under Rule 14a-8(e), the company is not required to accept the revisions. However, if the company does not accept the revisions, it must treat the revised proposal as a second proposal and submit a notice stating its intention to exclude the revised proposal, as required by Rule 14a-8(j). The company's notice may cite Rule 14a-8(e) as the reason for excluding the revised proposal. If the company does not accept the revisions and intends to exclude the initial proposal, it would also need to submit its reasons for excluding the initial proposal.

3. If a shareholder submits a revised proposal, as of which date must the shareholder prove his or her share ownership?

A shareholder must prove ownership as of the date the original proposal is submitted. When the Commission has discussed revisions to proposals,[14] it has not suggested that a revision triggers a requirement to provide proof of ownership a second time. As outlined in Rule 14a-8(b), proving ownership includes providing a written statement that the shareholder intends to continue to hold the securities through the date of the shareholder meeting. Rule 14a-8(f)(2) provides that if the shareholder "fails in [his or her] promise to hold the required number of securities through the date of the meeting of shareholders, then the company will be permitted to exclude all of [the same shareholder's] proposals from its proxy materials for any meeting held in the following two calendar years." With these provisions in mind, we do not interpret Rule 14a-8 as requiring additional proof of ownership when a shareholder submits a revised proposal.[15]

E. Procedures for withdrawing no-action requests for proposals submitted by multiple proponents

We have previously addressed the requirements for withdrawing a Rule 14a-8 no-action request in SLB Nos. 14 and 14C. SLB No. 14 notes that a company should include with a withdrawal letter documentation demonstrating that a shareholder has withdrawn the proposal. In cases where a proposal submitted by multiple shareholders is withdrawn, SLB No. 14C states that, if each shareholder has designated a lead individual to act on its behalf and the company is able to demonstrate that the individual is authorized to act on behalf of all of the proponents, the company need only provide a letter from that lead individual indicating that the lead individual is withdrawing the proposal on behalf of all of the proponents.

Because there is no relief granted by the staff in cases where a no-action request is withdrawn following the withdrawal of the related proposal, we recognize that the threshold for withdrawing a no-action request need not be overly burdensome. Going forward, we will process a withdrawal request if the company provides a letter from the lead filer that includes a representation that the lead filer is authorized to withdraw the proposal on behalf of each proponent identified in the company's no-action request.[16]

F. Use of email to transmit our Rule 14a-8 no-action responses to companies and proponents

To date, the Division has transmitted copies of our Rule 14a-8 no-action responses, including copies of the correspondence we have received in connection with such requests, by U.S. mail to companies and proponents. We also post our response and the related correspondence to the Commission's website shortly after issuance of our response.

In order to accelerate delivery of staff responses to companies and proponents, and to reduce our copying and postage costs, going forward, we intend to transmit our Rule 14a-8 no-action responses by email to companies and proponents. We therefore encourage both companies and proponents to include email contact information in any correspondence to each other and to us. We will use U.S. mail to transmit our no-action response to any company or proponent for which we do not have email contact information.

Given the availability of our responses and the related correspondence on the Commission's website and the requirement under Rule 14a-8 for companies and proponents to copy each other on correspondence submitted to the Commission, we believe it is unnecessary to transmit copies of the related correspondence along with our no-action response. Therefore, we intend to transmit only our staff response and not the correspondence we receive from the parties. We will continue to post to the Commission's website copies of this correspondence at the same time that we post our staff no-action response.

[1] *See* Rule 14a-8(b).

[2] For an explanation of the types of share ownership in the U.S., see Concept Release on U.S. Proxy System, Release No. 34-62495 (July 14, 2010) [75 FR 42982] ("Proxy Mechanics Concept Release"), at Section II.A. The term "beneficial owner" does not have a uniform meaning under the federal securities laws. It has a different meaning in this bulletin as compared to "beneficial owner" and "beneficial ownership" in Sections 13 and 16 of the Exchange Act. Our use of the term in this bulletin is not intended to suggest that registered owners are not beneficial owners for purposes of those Exchange Act provisions. *See* Proposed Amendments to Rule 14a-8 under the Securities Exchange Act of 1934 Relating to Proposals by Security Holders, Release No. 34-12598 (July 7, 1976) [41 FR 29982], at n.2 ("The term 'beneficial owner' when used in the context of the proxy rules, and in light of the purposes of those rules, may be interpreted to have a broader meaning than it would for certain other purpose[s] under the federal securities laws, such as reporting pursuant to the Williams Act.").

[3] If a shareholder has filed a Schedule 13D, Schedule 13G, Form 3, Form 4 or Form 5 reflecting ownership of the required amount of shares, the shareholder may instead prove ownership by submitting a copy of such filings and providing the additional information that is described in Rule 14a-8(b)(2)(ii).

[4] DTC holds the deposited securities in "fungible bulk," meaning that there are no specifically identifiable shares directly owned by the DTC participants. Rather, each DTC participant holds a pro rata interest or position in the aggregate number of shares of a particular issuer held at DTC. Correspondingly, each customer of a DTC participant – such as an individual investor – owns a pro rata interest in the shares in which the DTC participant has a pro rata interest. *See* Proxy Mechanics Concept Release, at Section II.B.2.a.

[5] *See* Exchange Act Rule 17Ad-8.

[6] *See* Net Capital Rule, Release No. 34-31511 (Nov. 24, 1992) [57 FR 56973] ("Net Capital Rule Release"), at Section II.C.

[7] *See KBR Inc. v. Chevedden*, Civil Action No. H-11-0196, 2011 U.S. Dist. LEXIS 36431, 2011 WL 1463611 (S.D. Tex. Apr. 4, 2011); *Apache Corp. v. Chevedden,* 696 F. Supp. 2d 723 (S.D. Tex. 2010). In both cases, the court concluded that a securities intermediary was not a record holder for purposes of Rule 14a-8(b) because it did not appear on a list of the company's non-objecting beneficial owners or on any DTC securities position listing, nor was the intermediary a DTC participant.

[8] *Techne Corp.* (Sept. 20, 1988).

[9] In addition, if the shareholder's broker is an introducing broker, the shareholder's account statements should include the clearing broker's identity and telephone number. *See* Net Capital Rule Release, at Section II.C.(iii). The clearing broker will generally be a DTC participant.

[10] For purposes of Rule 14a-8(b), the submission date of a proposal will generally precede the company's receipt date of the proposal, absent the use of electronic or other means of same-day delivery.

[11] This format is acceptable for purposes of Rule 14a-8(b), but it is not mandatory or exclusive.

[12] As such, it is not appropriate for a company to send a notice of defect for multiple proposals under Rule 14a-8(c) upon receiving a revised proposal.

[13] This position will apply to all proposals submitted after an initial proposal but before the company's deadline for receiving proposals, regardless of whether they are explicitly labeled as "revisions" to an initial proposal, unless the shareholder affirmatively indicates an intent to submit a second, *additional* proposal for inclusion in the company's proxy materials. In that case, the company must send the shareholder a notice of defect pursuant to Rule 14a-8(f)(1) if it intends to exclude either proposal from its proxy materials in reliance on Rule 14a-8(c). In light of this guidance, with respect to proposals or revisions received before a company's deadline for submission, we will no longer follow *Layne Christensen Co.* (Mar. 21, 2011) and other prior staff no-action letters in which we took the view that a proposal would violate the Rule 14a-8(c) one-proposal limitation if such proposal is submitted to a

company after the company has either submitted a Rule 14a-8 no-action request to exclude an earlier proposal submitted by the same proponent or notified the proponent that the earlier proposal was excludable under the rule.

[14] *See, e.g.*, Adoption of Amendments Relating to Proposals by Security Holders, Release No. 34-12999 (Nov. 22, 1976) [41 FR 52994].

[15] Because the relevant date for proving ownership under Rule 14a-8(b) is the date the proposal is submitted, a proponent who does not adequately prove ownership in connection with a proposal is not permitted to submit another proposal for the same meeting on a later date.

[16] Nothing in this staff position has any effect on the status of any shareholder proposal that is not withdrawn by the proponent or its authorized representative.

Modified: Oct. 18, 2011

Shareholder Proposals

Staff Legal Bulletin No. 14G (CF)

Action: Publication of CF Staff Legal Bulletin

Date: October 16, 2012

Summary: This staff legal bulletin provides information for companies and shareholders regarding Rule 14a-8 under the Securities Exchange Act of 1934.

Supplementary Information: The statements in this bulletin represent the views of the Division of Corporation Finance (the "Division"). This bulletin is not a rule, regulation or statement of the Securities and Exchange Commission (the "Commission"). Further, the Commission has neither approved nor disapproved its content.

Contacts: For further information, please contact the Division's Office of Chief Counsel by calling (202) 551-3500 or by submitting a web-based request form at https://www.sec.gov/forms/corp_fin_interpretive.

A. The purpose of this bulletin

This bulletin is part of a continuing effort by the Division to provide guidance on important issues arising under Exchange Act Rule 14a-8. Specifically, this bulletin contains information regarding:

- the parties that can provide proof of ownership under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8;
- the manner in which companies should notify proponents of a failure to provide proof of ownership for the one-year period required under Rule 14a-8(b)(1); and
- the use of website references in proposals and supporting statements.

You can find additional guidance regarding Rule 14a-8 in the following bulletins that are available on the Commission's website: SLB No. 14, SLB No. 14A, SLB No. 14B, SLB No. 14C, SLB No. 14D, SLB No. 14E and SLB No. 14F.

B. Parties that can provide proof of ownership under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8

1. Sufficiency of proof of ownership letters provided by affiliates of DTC participants for purposes of Rule 14a-8(b)(2)(i)

To be eligible to submit a proposal under Rule 14a-8, a shareholder must, among other things, provide documentation evidencing that the shareholder has continuously held at least $2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the shareholder meeting for at least one year as of

the date the shareholder submits the proposal. If the shareholder is a beneficial owner of the securities, which means that the securities are held in book-entry form through a securities intermediary, Rule 14a-8(b)(2)(i) provides that this documentation can be in the form of a "written statement from the 'record' holder of your securities (usually a broker or bank)…."

In SLB No. 14F, the Division described its view that only securities intermediaries that are participants in the Depository Trust Company ("DTC") should be viewed as "record" holders of securities that are deposited at DTC for purposes of Rule 14a-8(b)(2)(i). Therefore, a beneficial owner must obtain a proof of ownership letter from the DTC participant through which its securities are held at DTC in order to satisfy the proof of ownership requirements in Rule 14a-8.

During the most recent proxy season, some companies questioned the sufficiency of proof of ownership letters from entities that were not themselves DTC participants, but were affiliates of DTC participants.[1] By virtue of the affiliate relationship, we believe that a securities intermediary holding shares through its affiliated DTC participant should be in a position to verify its customers' ownership of securities. Accordingly, we are of the view that, for purposes of Rule 14a-8(b)(2)(i), a proof of ownership letter from an affiliate of a DTC participant satisfies the requirement to provide a proof of ownership letter from a DTC participant.

2. Adequacy of proof of ownership letters from securities intermediaries that are not brokers or banks

We understand that there are circumstances in which securities intermediaries that are not brokers or banks maintain securities accounts in the ordinary course of their business. A shareholder who holds securities through a securities intermediary that is not a broker or bank can satisfy Rule 14a-8's documentation requirement by submitting a proof of ownership letter from that securities intermediary.[2] If the securities intermediary is not a DTC participant or an affiliate of a DTC participant, then the shareholder will also need to obtain a proof of ownership letter from the DTC participant or an affiliate of a DTC participant that can verify the holdings of the securities intermediary.

C. Manner in which companies should notify proponents of a failure to provide proof of ownership for the one-year period required under Rule 14a-8(b)(1)

As discussed in Section C of SLB No. 14F, a common error in proof of ownership letters is that they do not verify a proponent's beneficial ownership for the entire one-year period preceding and including the date the proposal was submitted, as required by Rule 14a-8(b)(1). In some cases, the letter speaks as of a date *before* the date the proposal was submitted, thereby leaving a gap between the date of verification and the date the proposal was submitted. In other cases, the letter speaks as of a date *after* the date the proposal was submitted but covers a period of only one year, thus failing to verify the proponent's beneficial ownership over the required full one-year period preceding the date of the proposal's submission.

Under Rule 14a-8(f), if a proponent fails to follow one of the eligibility or procedural requirements of the rule, a company may exclude the proposal only if it notifies the proponent of the defect and the proponent fails to correct it. In SLB No. 14 and SLB No. 14B, we explained that companies should provide adequate detail about what a proponent must do to remedy all eligibility or procedural defects.

We are concerned that companies' notices of defect are not adequately describing the defects or explaining what a proponent must do to remedy defects in proof of ownership letters. For example, some companies' notices of defect make no mention of the gap in the period of ownership covered by the proponent's proof of ownership letter or other specific deficiencies that the company has identified. We do not believe that such notices of defect serve the purpose of Rule 14a-8(f).

Accordingly, going forward, we will not concur in the exclusion of a proposal under Rules 14a-8(b) and 14a-8(f) on the basis that a proponent's proof of ownership does not cover the one-year period preceding and including the date the proposal is submitted unless the company provides a notice of defect that identifies the specific date on which the proposal was submitted and explains that the proponent must obtain a new proof of ownership letter verifying continuous ownership of the requisite amount of securities for the one-year period preceding and including such date to cure the defect. We view the proposal's date of submission as the date the proposal is postmarked or transmitted electronically. Identifying in the notice of defect the specific date on which the proposal was submitted will help a proponent better understand how to remedy the defects described above and will be particularly helpful in those instances in which it may be difficult for a proponent to determine the date of submission, such as when the proposal is not postmarked on the same day it is placed in the mail. In addition, companies should include copies of the postmark or evidence of electronic transmission with their no-action requests.

D. Use of website addresses in proposals and supporting statements

Recently, a number of proponents have included in their proposals or in their supporting statements the addresses to websites that provide more information about their proposals. In some cases, companies have sought to exclude either the website address or the entire proposal due to the reference to the website address.

In SLB No. 14, we explained that a reference to a website address in a proposal does not raise the concerns addressed by the 500-word limitation in Rule 14a-8(d). We continue to be of this view and, accordingly, we will continue to count a website address as one word for purposes of Rule 14a-8(d). To the extent that the company seeks the exclusion of a website reference in a proposal, but not the proposal itself, we will continue to follow the guidance stated in SLB No. 14, which provides that references to website addresses in proposals or supporting statements could be subject to exclusion under Rule 14a-8(i)(3) if the information contained on the website is materially false or misleading, irrelevant to the subject matter of the proposal or otherwise in contravention of the proxy rules, including Rule 14a-9.[3]

In light of the growing interest in including references to website addresses in proposals and supporting statements, we are providing additional guidance on the appropriate use of website addresses in proposals and supporting statements.[4]

1. References to website addresses in a proposal or supporting statement and Rule 14a-8(i)(3)

References to websites in a proposal or supporting statement may raise concerns under Rule 14a-8(i)(3). In SLB No. 14B, we stated that the exclusion of a proposal under Rule 14a-8(i)(3) as vague and indefinite may be appropriate if neither the shareholders voting on the proposal, nor the company in implementing the proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires. In evaluating whether a proposal may be excluded on this basis, we consider only the information contained in the proposal and supporting statement and determine whether, based on that information, shareholders and the company can determine what actions the proposal seeks.

If a proposal or supporting statement refers to a website that provides information necessary for shareholders and the company to understand with reasonable certainty exactly what actions or measures the proposal requires, and such information is not also contained in the proposal or in the supporting statement, then we believe the proposal would raise concerns under Rule 14a-9 and would be subject to exclusion under Rule 14a-8(i)(3) as vague and indefinite. By contrast, if shareholders and the company can understand with reasonable certainty exactly what actions or measures the proposal requires without reviewing the information provided on the website, then we believe that the proposal would not be subject to exclusion under Rule 14a-8(i)(3) on the basis of the reference to the website address. In this case, the information on the website only supplements the information contained in the proposal and in the supporting statement.

2. Providing the company with the materials that will be published on the referenced website

We recognize that if a proposal references a website that is not operational at the time the proposal is submitted, it will be impossible for a company or the staff to evaluate whether the website reference may be excluded. In our view, a reference to a non-operational website in a proposal or supporting statement could be excluded under Rule 14a-8(i)(3) as irrelevant to the subject matter of a proposal. We understand, however, that a proponent may wish to include a reference to a website containing information related to the proposal but wait to activate the website until it becomes clear that the proposal will be included in the company's proxy materials. Therefore, we will not concur that a reference to a website may be excluded as irrelevant under Rule 14a-8(i)(3) on the basis that it is not yet operational if the proponent, at the time the proposal is submitted, provides the company with the materials that are intended for publication on the website and a representation that the website will become operational at, or prior to, the time the company files its definitive proxy materials.

3. Potential issues that may arise if the content of a referenced website changes after the proposal is submitted

To the extent the information on a website changes after submission of a proposal and the company believes the revised information renders the website reference excludable under Rule 14a-8, a company seeking our concurrence that the website reference may be excluded must submit a letter presenting its reasons for doing so. While Rule 14a-8(j) requires a company to submit its reasons for exclusion with the Commission no later than 80 calendar days before it files its definitive proxy materials, we may concur that the changes to the referenced website constitute "good cause" for the company to file its reasons for excluding the website reference after the 80-day deadline and grant the company's request that the 80-day requirement be waived.

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[1] An entity is an "affiliate" of a DTC participant if such entity directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the DTC participant.

[2] Rule 14a-8(b)(2)(i) itself acknowledges that the record holder is "usually," but not always, a broker or bank.

[3] Rule 14a-9 prohibits statements in proxy materials which, at the time and in the light of the circumstances under which they are made, are false or misleading with respect to any material fact, or which omit to state any material fact necessary in order to make the statements not false or misleading.

[4] A website that provides more information about a shareholder proposal may constitute a proxy solicitation under the proxy rules. Accordingly, we remind shareholders who elect to include website addresses in their proposals to comply with all applicable rules regarding proxy solicitations.

Modified: Oct. 16, 2012

Title 17 —Commodity and Securities Exchanges
Chapter II —Securities and Exchange Commission
Part 240 —General Rules and Regulations, Securities Exchange Act of 1934
Subpart A —Rules and Regulations Under the Securities Exchange Act of 1934
Regulation 14A: Solicitation of Proxies

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z-2, 77z-3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78c-3, 78c-5, 78d, 78e, 78f, 78g, 78i, 78j, 78j-1, 78j-4, 78k, 78k-1, 78*l*, 78m, 78n, 78n-1, 78*o*, 78*o*-4, 78*o*-10, 78p, 78q, 78q-1, 78s, 78u-5, 78w, 78x, 78dd, 78*ll*, 78mm, 80a-20, 80a-23, 80a-29, 80a-37, 80b-3, 80b-4, 80b-11, 1681w(a)(1), 6801-6809, 6825, 7201 *et seq.*, and 8302; 7 U.S.C. 2(c)(2)(E); 12 U.S.C. 5221(e)(3); 18 U.S.C. 1350; Pub. L. 111-203, 939A, 124 Stat. 1376 (2010); and Pub. L. 112-106, sec. 503 and 602, 126 Stat. 326 (2012), unless otherwise noted. Section 240.3a4-1 also issued under secs. 3 and 15, 89 Stat. 97, as amended, 89 Stat. 121 as amended; Section 240.3a12-8 also issued under 15 U.S.C. 78a *et seq.*, particularly secs. 3(a)(12), 15 U.S.C. 78c(a)(12), and 23(a), 15 U.S.C. 78w(a); *See Part 240 for more*

Editorial Note: Nomenclature changes to part 240 appear at 57 FR 36501, Aug. 13, 1992, and 57 FR 47409, Oct. 16, 1992.

§ 240.14a-8 Shareholder proposals.

This section addresses when a company must include a shareholder's proposal in its proxy statement and identify the proposal in its form of proxy when the company holds an annual or special meeting of shareholders. In summary, in order to have your shareholder proposal included on a company's proxy card, and included along with any supporting statement in its proxy statement, you must be eligible and follow certain procedures. Under a few specific circumstances, the company is permitted to exclude your proposal, but only after submitting its reasons to the Commission. We structured this section in a question-and-answer format so that it is easier to understand. The references to “you” are to a shareholder seeking to submit the proposal.

(a) ***Question 1:*** What is a proposal? A shareholder proposal is your recommendation or requirement that the company and/or its board of directors take action, which you intend to present at a meeting of the company's shareholders. Your proposal should state as clearly as possible the course of action that you believe the company should follow. If your proposal is placed on the company's proxy card, the company must also provide in the form of proxy means for shareholders to specify by boxes a choice between approval or disapproval, or abstention. Unless otherwise indicated, the word “proposal” as used in this section refers both to your proposal, and to your corresponding statement in support of your proposal (if any).

(b) ***Question 2:*** Who is eligible to submit a proposal, and how do I demonstrate to the company that I am eligible?

(1) To be eligible to submit a proposal, you must satisfy the following requirements:

(i) You must have continuously held:

(A) At least $2,000 in market value of the company's securities entitled to vote on the proposal for at least three years; or

(B) At least $15,000 in market value of the company's securities entitled to vote on the proposal for at least two years; or

(C) At least $25,000 in market value of the company's securities entitled to vote on the proposal for at least one year; or

(D) The amounts specified in paragraph (b)(3) of this section. This paragraph (b)(1)(i)(D) will expire on the same date that § 240.14a-8(b)(3) expires; and

(ii) You must provide the company with a written statement that you intend to continue to hold the requisite amount of securities, determined in accordance with paragraph (b)(1)(i)(A) through (C) of this section, through the date of the shareholders' meeting for which the proposal is submitted; and

(iii) You must provide the company with a written statement that you are able to meet with the company in person or via teleconference no less than 10 calendar days, nor more than 30 calendar days, after submission of the shareholder proposal. You must include your contact information as well as business days and specific times that you are available to discuss the proposal with the company. You must identify times that are within the regular business hours of the company's principal executive offices. If these hours are not disclosed in the company's proxy statement for the prior year's annual meeting, you must identify times that are between 9 a.m. and 5:30 p.m. in the time zone of the company's principal executive offices. If you elect to co-file a proposal, all co-filers must either:

(A) Agree to the same dates and times of availability, or

(B) Identify a single lead filer who will provide dates and times of the lead filer's availability to engage on behalf of all co-filers; and

(iv) If you use a representative to submit a shareholder proposal on your behalf, you must provide the company with written documentation that:

(A) Identifies the company to which the proposal is directed;

(B) Identifies the annual or special meeting for which the proposal is submitted;

(C) Identifies you as the proponent and identifies the person acting on your behalf as your representative;

(D) Includes your statement authorizing the designated representative to submit the proposal and otherwise act on your behalf;

(E) Identifies the specific topic of the proposal to be submitted;

(F) Includes your statement supporting the proposal; and

(G) Is signed and dated by you.

(v) The requirements of paragraph (b)(1)(iv) of this section shall not apply to shareholders that are entities so long as the representative's authority to act on the shareholder's behalf is apparent and self-evident such that a reasonable person would understand that the agent has authority to submit the proposal and otherwise act on the shareholder's behalf.

(vi) For purposes of paragraph (b)(1)(i) of this section, you may not aggregate your holdings with those of another shareholder or group of shareholders to meet the requisite amount of securities necessary to be eligible to submit a proposal.

(2) One of the following methods must be used to demonstrate your eligibility to submit a proposal:

(i) If you are the registered holder of your securities, which means that your name appears in the company's records as a shareholder, the company can verify your eligibility on its own, although you will still have to provide the company with a written statement that you intend to continue to hold the requisite amount of securities, determined in accordance with paragraph (b)(1)(i)(A) through (C) of this section, through the date of the meeting of shareholders.

(ii) If, like many shareholders, you are not a registered holder, the company likely does not know that you are a shareholder, or how many shares you own. In this case, at the time you submit your proposal, you must prove your eligibility to the company in one of two ways:

(A) The first way is to submit to the company a written statement from the "record" holder of your securities (usually a broker or bank) verifying that, at the time you submitted your proposal, you 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. You must also include your own written statement that you intend to continue to hold the requisite amount of securities, determined in accordance with paragraph (b)(1)(i)(A) through (C) of this section, through the date of the shareholders' meeting for which the proposal is submitted; or

(B) The second way to prove ownership applies only if you were required to file, and filed, a Schedule 13D (§ 240.13d-101), Schedule 13G (§ 240.13d-102), Form 3 (§ 249.103 of this chapter), Form 4 (§ 249.104 of this chapter), and/or Form 5 (§ 249.105 of this chapter), or amendments to those documents or updated forms, demonstrating that you meet at least one of the share ownership requirements under paragraph (b)(1)(i)(A) through (C) of this section. If you have filed one or more of these documents with the SEC, you may demonstrate your eligibility to submit a proposal by submitting to the company:

(*1*) A copy of the schedule(s) and/or form(s), and any subsequent amendments reporting a change in your ownership level;

(*2*) Your written statement that you 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; and

(*3*) Your written statement that you intend to continue to hold the requisite amount of securities, determined in accordance with paragraph (b)(1)(i)(A) through (C) of this section, through the date of the company's annual or special meeting.

(c) ***Question 3:*** How many proposals may I submit? Each person may submit no more than one proposal, directly or indirectly, to a company for a particular shareholders' meeting. A person may not rely on the securities holdings of another person for the purpose of meeting the eligibility requirements and submitting multiple proposals for a particular shareholders' meeting.

(d) ***Question 4:*** How long can my proposal be? The proposal, including any accompanying supporting statement, may not exceed 500 words.

(e) ***Question 5:*** What is the deadline for submitting a proposal?

(1) If you are submitting your proposal for the company's annual meeting, you can in most cases find the deadline in last year's proxy statement. However, if the company did not hold an annual meeting last year, or has changed the date of its meeting for this year more than 30 days from last year's meeting, you can usually find the deadline in one of the company's quarterly reports on Form 10-Q (§

249.308a of this chapter), or in shareholder reports of investment companies under § 270.30d-1 of this chapter of the Investment Company Act of 1940. In order to avoid controversy, shareholders should submit their proposals by means, including electronic means, that permit them to prove the date of delivery.

(2) The deadline is calculated in the following manner if the proposal is submitted for a regularly scheduled annual meeting. The proposal must be received at the company's principal executive offices not less than 120 calendar days before the date of the company's proxy statement released to shareholders in connection with the previous year's annual meeting. However, if the company did not hold an annual meeting the previous year, or if the date of this year's annual meeting has been changed by more than 30 days from the date of the previous year's meeting, then the deadline is a reasonable time before the company begins to print and send its proxy materials.

(3) If you are submitting your proposal for a meeting of shareholders other than a regularly scheduled annual meeting, the deadline is a reasonable time before the company begins to print and send its proxy materials.

(f) ***Question 6:*** What if I fail to follow one of the eligibility or procedural requirements explained in answers to Questions 1 through 4 of this section?

(1) The company may exclude your proposal, but only after it has notified you of the problem, and you have failed adequately to correct it. Within 14 calendar days of receiving your proposal, the company must notify you in writing of any procedural or eligibility deficiencies, as well as of the time frame for your response. Your response must be postmarked, or transmitted electronically, no later than 14 days from the date you received the company's notification. A company need not provide you such notice of a deficiency if the deficiency cannot be remedied, such as if you fail to submit a proposal by the company's properly determined deadline. If the company intends to exclude the proposal, it will later have to make a submission under § 240.14a-8 and provide you with a copy under Question 10 below, § 240.14a-8(j).

(2) If you fail in your promise to hold the required number of securities through the date of the meeting of shareholders, then the company will be permitted to exclude all of your proposals from its proxy materials for any meeting held in the following two calendar years.

(g) ***Question 7:*** Who has the burden of persuading the Commission or its staff that my proposal can be excluded? Except as otherwise noted, the burden is on the company to demonstrate that it is entitled to exclude a proposal.

(h) ***Question 8:*** Must I appear personally at the shareholders' meeting to present the proposal?

(1) Either you, or your representative who is qualified under state law to present the proposal on your behalf, must attend the meeting to present the proposal. Whether you attend the meeting yourself or send a qualified representative to the meeting in your place, you should make sure that you, or your representative, follow the proper state law procedures for attending the meeting and/or presenting your proposal.

(2) If the company holds its shareholder meeting in whole or in part via electronic media, and the company permits you or your representative to present your proposal via such media, then you may appear through electronic media rather than traveling to the meeting to appear in person.

(3) If you or your qualified representative fail to appear and present the proposal, without good cause, the company will be permitted to exclude all of your proposals from its proxy materials for any meetings held in the following two calendar years.

(i) ***Question 9:*** If I have complied with the procedural requirements, on what other bases may a company rely to exclude my proposal?

(1) Improper under state law: If the proposal is not a proper subject for action by shareholders under the laws of the jurisdiction of the company's organization;

> Note to paragraph (i)(1): Depending on the subject matter, some proposals are not considered proper under state law if they would be binding on the company if approved by shareholders. In our experience, most proposals that are cast as recommendations or requests that the board of directors take specified action are proper under state law. Accordingly, we will assume that a proposal drafted as a recommendation or suggestion is proper unless the company demonstrates otherwise.

(2) ***Violation of law:*** If the proposal would, if implemented, cause the company to violate any state, federal, or foreign law to which it is subject;

> Note to paragraph (i)(2): We will not apply this basis for exclusion to permit exclusion of a proposal on grounds that it would violate foreign law if compliance with the foreign law would result in a violation of any state or federal law.

(3) ***Violation of proxy rules:*** If the proposal or supporting statement is contrary to any of the Commission's proxy rules, including § 240.14a-9, which prohibits materially false or misleading statements in proxy soliciting materials;

(4) ***Personal grievance; special interest:*** If the proposal relates to the redress of a personal claim or grievance against the company or any other person, or if it is designed to result in a benefit to you, or to further a personal interest, which is not shared by the other shareholders at large;

(5) ***Relevance:*** If the proposal relates to operations which account for less than 5 percent of the company's total assets at the end of its most recent fiscal year, and for less than 5 percent of its net earnings and gross sales for its most recent fiscal year, and is not otherwise significantly related to the company's business;

(6) ***Absence of power/authority:*** If the company would lack the power or authority to implement the proposal;

(7) ***Management functions:*** If the proposal deals with a matter relating to the company's ordinary business operations;

(8) ***Director elections:*** If the proposal:

(i) Would disqualify a nominee who is standing for election;

(ii) Would remove a director from office before his or her term expired;

(iii) Questions the competence, business judgment, or character of one or more nominees or directors;

(iv) Seeks to include a specific individual in the company's proxy materials for election to the board of directors; or

(v) Otherwise could affect the outcome of the upcoming election of directors.

(9) ***Conflicts with company's proposal:*** If the proposal directly conflicts with one of the company's own proposals to be submitted to shareholders at the same meeting;

Note to paragraph (i)(9): A company's submission to the Commission under this section should specify the points of conflict with the company's proposal.

(10) ***Substantially implemented:*** If the company has already substantially implemented the proposal;

Note to paragraph (i)(10): A company may exclude a shareholder proposal that would provide an advisory vote or seek future advisory votes to approve the compensation of executives as disclosed pursuant to Item 402 of Regulation S-K (§ 229.402 of this chapter) or any successor to Item 402 (a "say-on-pay vote") or that relates to the frequency of say-on-pay votes, provided that in the most recent shareholder vote required by § 240.14a-21(b) of this chapter a single year (*i.e.,* one, two, or three years) received approval of a majority of votes cast on the matter and the company has adopted a policy on the frequency of say-on-pay votes that is consistent with the choice of the majority of votes cast in the most recent shareholder vote required by § 240.14a-21(b) of this chapter.

(11) ***Duplication:*** If the proposal 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;

(12) ***Resubmissions.*** If the proposal addresses substantially the same subject matter as a proposal, or proposals, previously included in the company's proxy materials within the preceding five calendar years if the most recent vote occurred within the preceding three calendar years and the most recent vote was:

(i) Less than 5 percent of the votes cast if previously voted on once;

(ii) Less than 15 percent of the votes cast if previously voted on twice; or

(iii) Less than 25 percent of the votes cast if previously voted on three or more times.

(13) ***Specific amount of dividends:*** If the proposal relates to specific amounts of cash or stock dividends.

(j) ***Question 10:*** What procedures must the company follow if it intends to exclude my proposal?

(1) If the company intends to exclude a proposal from its proxy materials, it must file its reasons with the Commission no later than 80 calendar days before it files its definitive proxy statement and form of proxy with the Commission. The company must simultaneously provide you with a copy of its

submission. The Commission staff may permit the company to make its submission later than 80 days before the company files its definitive proxy statement and form of proxy, if the company demonstrates good cause for missing the deadline.

(2) The company must file six paper copies of the following:

(i) The proposal;

(ii) An explanation of why the company believes that it may exclude the proposal, which should, if possible, refer to the most recent applicable authority, such as prior Division letters issued under the rule; and

(iii) A supporting opinion of counsel when such reasons are based on matters of state or foreign law.

(k) ***Question 11:*** May I submit my own statement to the Commission responding to the company's arguments?

Yes, you may submit a response, but it is not required. You should try to submit any response to us, with a copy to the company, as soon as possible after the company makes its submission. This way, the Commission staff will have time to consider fully your submission before it issues its response. You should submit six paper copies of your response.

(l) ***Question 12:*** If the company includes my shareholder proposal in its proxy materials, what information about me must it include along with the proposal itself?

(1) The company's proxy statement must include your name and address, as well as the number of the company's voting securities that you hold. However, instead of providing that information, the company may instead include a statement that it will provide the information to shareholders promptly upon receiving an oral or written request.

(2) The company is not responsible for the contents of your proposal or supporting statement.

(m) ***Question 13:*** What can I do if the company includes in its proxy statement reasons why it believes shareholders should not vote in favor of my proposal, and I disagree with some of its statements?

(1) The company may elect to include in its proxy statement reasons why it believes shareholders should vote against your proposal. The company is allowed to make arguments reflecting its own point of view, just as you may express your own point of view in your proposal's supporting statement.

(2) However, if you believe that the company's opposition to your proposal contains materially false or misleading statements that may violate our anti-fraud rule, § 240.14a-9, you should promptly send to the Commission staff and the company a letter explaining the reasons for your view, along with a copy of the company's statements opposing your proposal. To the extent possible, your letter should include specific factual information demonstrating the inaccuracy of the company's claims. Time permitting, you may wish to try to work out your differences with the company by yourself before contacting the Commission staff.

(3) We require the company to send you a copy of its statements opposing your proposal before it sends its proxy materials, so that you may bring to our attention any materially false or misleading statements, under the following timeframes:

(i) If our no-action response requires that you make revisions to your proposal or supporting statement as a condition to requiring the company to include it in its proxy materials, then the company must provide you with a copy of its opposition statements no later than 5 calendar days after the company receives a copy of your revised proposal; or

(ii) In all other cases, the company must provide you with a copy of its opposition statements no later than 30 calendar days before its files definitive copies of its proxy statement and form of proxy under § 240.14a-6.

[63 FR 29119, May 28, 1998; 63 FR 50622, 50623, Sept. 22, 1998, as amended at 72 FR 4168, Jan. 29, 2007; 72 FR 70456, Dec. 11, 2007; 73 FR 977, Jan. 4, 2008; 76 FR 6045, Feb. 2, 2011; 75 FR 56782, Sept. 16, 2010; 85 FR 70294, Nov. 4, 2020]

TRILLIUM
ASSET MANAGEMENT®

One Congress Street
Suite 3101
Boston, MA 02114

December 9, 2024

Via FedEx

Corporate Secretary
Quest Diagnostics Incorporated
500 Plaza Drive
Secaucus, New Jersey 07094

Dear Corporate Secretary:

As stated in Trillium's filing letter, and in accordance with the SEC Rules, please find the attached custodial letters documenting that the filer of the shareholder proposal holds sufficient company shares to file a proposal under Rule 14a-8.

Rule 14a-8(f) requires notice of specific deficiencies in our proof of eligibility to submit a proposal. Therefore, we request that you notify us if you see any deficiencies in the enclosed documentation.

Please contact me if you have any questions at [redacted] or [redacted].

Sincerely,

Andrea T Ranger

Andrea Ranger
Director of Shareholder Advocacy

Enclosures

NORTHERN TRUST

The Northern Trust Company
50 South LaSalle Street
Chicago, IL 60603
(312) 630-6000

December 9, 2024

Re: Trillium ESG Small/Mid Cap Fund – Account Number [redacted]

As of today, Trillium ESG Small/Mid Cap Fund beneficially owns, and has beneficially owned continuously for at least one year prior to December 4, 2024, shares of Quest Diagnostics Incorporated common stock worth at least $25,000 (the "Shares").

Northern Trust is custodian and record holder of the Shares and is a Depository Trust Company participant.

Sincerely,

Jason Fryman
Vice President

February 18, 2025

SUBMITTED VIA STAFF ONLINE FORM
Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: *Quest Diagnostics Incorporated*
Stockholder Proposal from Trillium ESG Small/Mid Cap Fund
Securities Exchange Act of 1934—Rule 14a-8

Ladies and Gentlemen:

Reference is made to the letter dated January 14, 2025 (the "No-Action Request") submitted by Quest Diagnostics Incorporated, a Delaware corporation (the "Company"), regarding the stockholder proposal and the statement in support thereof (the "Proposal") submitted by Trillium ESG Small/Mid Cap Fund (the "Proponent") in a letter dated December 4, 2024.

A letter agreement dated as of February 14, 2025 between the Company and the Proponent providing for the withdrawal of the Proposal by the Proponent is attached to this letter as Exhibit A. In reliance thereon, the Company hereby withdraws the No-Action Request relating to the Company's ability to exclude the Proposal pursuant to Rule 14a-8 under the Securities Exchange Act of 1934, as amended.

If the Staff of the Division of Corporation Finance has any questions regarding this request or requires additional information, please contact the undersigned at Sean.D.Mersten@questdiagnostics.com or 917-692-6311.

Sincerely,

Signed by:
Sean D Mersten
1602324FZ1D3493...

Sean Mersten
Vice President and Corporate Secretary

cc: Andrea Ranger, Trillium ESG Small/Mid Cap Fund
Lona Nallengara, Allen Overy Shearman Sterling US LLP
Erika Kent, Allen Overy Shearman Sterling US LLP

EXHIBIT A

TRILLIUM
ASSET MANAGEMENT®

One Congress Street
Suite 3101
Boston, MA 02114

February 14, 2025

Via email

Sean Mersten
Vice President and Corporate Secretary
Quest Diagnostics Incorporated
500 Plaza Drive
Secaucus, New Jersey 07094

Re: Shareholder proposal for 2025 Annual Shareholder Meeting

Dear Mr. Mersten,

On behalf of the Trillium ESG Small/Mid Cap Fund ("the Fund"), I write to withdraw the Fund's shareholder proposal ("the Proposal"), that requests Quest Diagnostics Inc. ("Quest" or "the Company) to set near-and long-term science based targets aligned with the goals of the Paris Agreement, from inclusion in Quest's 2025 proxy ballot.

In exchange, Quest agrees to: 1) withdraw its January 14, 2025 request to the U.S. Securities and Exchange Commission seeking no-action relief from omission of the Proposal, and 2) meet with Trillium Asset Management in July 2025 and at an additional date, also in 2025.

I appreciate your attention to this matter. Thank you.

Sincerely,

Andrea T Ranger

Andrea Ranger
Director of Shareholder Advocacy
Enclosures

Signed and Agreed:

Sean Mersten
Vice President and Corporate Secretary
Quest Diagnostics Incorporated