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January 16, 2024

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: CVS Health Corporation
Stockholder Proposal from Myra K. Young
Securities Exchange Act of 1934 – Rule 14a-8**

Ladies and Gentlemen:

CVS Health Corporation, 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 “**2024 Proxy Materials**”) the stockholder proposal (the “**Proposal**”) and the statement in support thereof submitted by Myra K. Young (the “**Proponent**”) in a letter dated November 23, 2023. A copy of the Proposal and all relevant correspondence with the Proponent and James McRitchie, the Proponent’s representative (the “**Representative**”) 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 2024 Proxy Materials pursuant to Rule 14a-8.

Pursuant to Rule 14a-8(j) under the Exchange Act, we have:

- filed this letter with the Commission no later than eighty (80) calendar days before the Company intends to file its definitive 2024 Proxy Materials with the Commission; and
- concurrently sent copies of this correspondence to the Proponent and the Representative.

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 SLB 14D provide that shareholder 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 and the Representative that if the Proponent or the Representative on the Proponent's behalf 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:

Shareholders request the Board of Directors adopt and disclose a policy stating how it will exercise its discretion to treat shareholders' nominees for board membership equitably and avoid encumbering such nominations with unnecessary administrative or evidentiary requirements.

BASIS FOR EXCLUSION

The Company believes that the Proposal may be properly excluded from the 2024 Proxy Materials under Rule 14a-8(i)(10) under the Exchange Act, because the Company has already substantially implemented the Proposal.

ANALYSIS

The Proposal May Be Excluded under Rule 14a-8(i)(10) Because the Company Has Already Substantially Implemented the Proposal

A. Rule 14a-8(i)(10) Overview

Rule 14a-8(i)(10) permits a company to exclude a shareholder proposal from its proxy materials if the company has "substantially implemented" the proposal. The Commission adopted the "substantially implemented" standard after determining that the "previous formalistic application" of the rule defeated its purpose, which is "to avoid the possibility of shareholders having to consider matters which already have been favorably acted upon by the management." See Exchange Act Release No. 34-20091 (Aug. 16, 1983); Exchange Act Release No. 34-12598 (July 7, 1976).

Applying this standard, the Staff has consistently permitted the exclusion of a proposal under Rule 14a-8(i)(10) when a company can demonstrate that it has already addressed the underlying concerns and satisfied the essential objectives of the proposal, even if the proposal had not been implemented exactly as proposed by the proponent, including proposals requesting the company amend its governing documents to afford shareholders certain rights where the company had already provided such rights to shareholders on substantially similar terms. For example, in *Walgreen Co.* (avail. Sept. 26, 2013), the Staff concurred with the exclusion under Rule 14a-

8(i)(10) of a proposal requesting the elimination of supermajority voting requirements in the company's governing documents, where the company had already eliminated all supermajority voting requirements but for one requirement that was not approved by its shareholders. In *Bank of America Corporation* (avail. Dec. 15, 2010), the Staff concurred with the exclusion under Rule 14a-8(i)(10) of a proposal requesting that the board amend the bylaws to give shareholders owning 10% of the outstanding common stock the power to call a special meeting, where the board had already adopted a bylaws amendment to allow such holders to call a special meeting if certain evidentiary and procedural requirements were met.

B. The Company's Corporate Governance Guidelines Already Address the Proposal's Underlying Concern and Essential Objective

The Proposal requests that the Company's Board of Directors (the "**Board**") adopt and disclose a policy that states how the Board will exercise its discretion to treat stockholder nominees for election to the Board "equitably" and avoid encumbering them with "unnecessary administrative or evidentiary requirements." The underlying concern and essential objective of the Proposal is to ensure that the Board treats stockholders' nominees to the Board in a manner that is consistent with Board nominees, including by not subjecting stockholders' nominees to requirements to which Board nominees are not subject.

The Company has long supported the ability of the Company's stockholders to nominate individuals to serve on the Board. In 2016, the Company amended its By-laws (the "**By-laws**") to adopt "proxy access," supplementing the Company's existing "advance notice" provisions, to provide stockholders with meaningful rights to present candidates for consideration for election to the Board at a meeting of stockholders. The Company's By-laws necessarily specify the procedural steps and information required from nominating stockholders and about stockholder nominees to ensure that nominating stockholders are informed about the information necessary to take advantage of proxy access and the advance notice provisions.

The Proposal's supporting statement suggests that the Company has imposed unnecessary requirements on stockholders and their director nominees. The supporting statement lists informational requirements that the Company imposes on stockholder nominees that it does not. For example, the supporting statement suggests that the Company subjects stockholder nominee to interviews. The Company's By-laws do not provide for interviews of stockholder nominees and nor does the Company require it. The supporting statement suggests that the Company requires stockholders and stockholder nominees to provide information that is already required to be disclosed. The Company's By-laws only limit these requirements to information related to the nominee, providing for "...all information relating to such proposed nominee that is required to be disclosed in solicitations of proxies for election of directors in a contested election, or is otherwise required, in each case pursuant to Regulation 14A under the Exchange Act," which is consistent with the information that the Company would seek from Board nominees and necessary for the Company to comply with regulatory requirements to properly consider a stockholder nominee for election to the Board. The supporting statement also suggests that the Company imposes questionnaires and other informational requirements on stockholder nominees

that are not set forth in the Company's By-laws. The Company's By-laws provide a comprehensive list of the information required from nominating stockholders and stockholder nominees and a detailed outline that places requirements on both the Company, on the one hand, and the stockholder and the stockholder nominee, on the other, to ensure that the process is fair and transparent. For example, the questionnaire that would be required from a stockholder nominee is the same questionnaire that would be required by a Board nominee.

The Company recognizes that the provisions related to the procedural and information requirements in its By-laws related to director nominees are focused on stockholder nominees pursuant to the advance notice and proxy access provisions and could be interpreted as imposing different requirements on stockholder nominees as compared to Board nominees. As a result, the Company has adopted policies and procedures to provide for equitable treatment of stockholder nominees, which the Company believes address the underlying concern and essential objective of the Proposal.

The Company's Corporate Governance Guidelines provides the following:

...all nominees, whether proposed by the Board or recommended by stockholders, shall be subject to the same information requirements, which may include, among other requirements, the completion of the Company's standard Directors and Officers Questionnaire and any biographical affidavit required by the National Association of Insurance Commissioners.

Equitable treatment of stockholder nominees as compared to Board nominees is already enshrined in the Company's corporate governance policies, and no informational or evidentiary requirements are imposed on stockholder nominees that are not imposed on Board nominees.

Accordingly, the underlying concern and essential objective of the Proposal of ensuring equitable treatment of stockholder nominees as compared to Board nominees is already reflected in the Company's current policies and procedures. The Proposal is therefore excludable under Rule 14a-8(i)(10).

CONCLUSION

Based on the analysis above, the Company respectfully requests the Staff's concurrence with its decision to omit the Proposal from the 2024 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 (401) 770-5409 or Thomas.Moffatt@CVSHealth.com.

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Division of Corporation Finance
January 16, 2024
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We appreciate your attention to this request.

Respectfully yours,

A handwritten signature in blue ink, appearing to read 'T. Moffatt', followed by a long horizontal line extending to the right.

Thomas S. Moffatt
Vice President, Assistant Secretary and Senior Legal Counsel - Corporate Services

cc: Myra K. Young
James McRitchie
Colleen M. McIntosh, Senior Vice President, Secretary and Chief Governance Officer,
CVS Health Corporation
Lona Nallengara, Shearman & Sterling LLP

EXHIBIT A

From: MKY <[REDACTED]>

Sent: Thursday, November 23, 2023 4:08 PM

To: McIntosh, Colleen <[REDACTED]>

Cc: Moffatt, Thomas S. <Thomas.Moffatt@CVSHealth.com>; James McRitchie <[REDACTED]>;
John Chevedden <[REDACTED]>

Subject: [EXTERNAL] (CVS) Shareholder Proposal Submission

Importance: High

**** External Email - Use Caution ****

Please find attached and acknowledge my shareholder proposal. Per SEC SLB 14L <https://www.sec.gov/corpfin/staff-legal-bulletin-14l-shareholder-proposals>, Section F, Staff "encourages both companies and shareholder proponents to acknowledge receipt of emails when requested."

MK Young, Shareholder Advocate
CorpGov.net

[REDACTED] PII

Corporate Governance

CorpGov.net: improving accountability through democratic corporate governance since 1995

Colleen M. McIntosh
Senior Vice President, Corporate Secretary and Chief Governance Officer
CVS Health Corporation
One CVS Drive
Woonsocket, Rhode Island 02895
Via: McIntosh, Colleen [REDACTED]
cc: Moffatt, Thomas S. <Thomas.Moffatt@CVSHealth.com>

Dear Ms. McIntosh or current Corporate Secretary:

I am submitting the attached shareholder proposal, which I support, for a vote at the next annual shareholder meeting requesting CVS Health Corporation (CVS), **Fair Treatment of Shareholder Nominees**. I pledge to continue to hold the required amount of stock until after the date of that meeting.

I will meet Rule 14a-8 requirements, including the continuous ownership of the required stock value until after the date of the next shareholder meeting. My submitted format, with the shareholder-supplied emphasis, is intended to be used for definitive proxy publication.

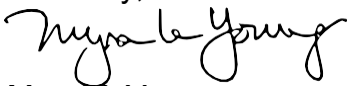
I am available to meet with the Company representative via phone on December 8, 2023, at 8:00 AM or 8:30 PM Pacific or at another time that is mutually convenient.

This letter confirms that I am delegating my husband James McRitchie as my agent regarding both negotiations and presentation of this proposal and John Chevedden as my backup presenter if my husband is unavailable. I do intend to have this Rule 14a-8 proposal presented on my behalf at the forthcoming shareholder meeting. Please include James McRitchie ([REDACTED]) and Mr. Chevedden in all future communications regarding my rule 14a-8 proposal. John Chevedden (PH: [REDACTED]) email: [REDACTED]

Avoid the time and expense of filing a deficiency letter to verify ownership by acknowledging receipt of my proposal promptly by emailing jm@corpgov.net. That will prompt me to request the required letter from my broker and submit it to you.

Per SEC SLB 14L <https://www.sec.gov/corpfin/staff-legal-bulletin-14l-shareholder-proposals>, Section F, Staff "encourages both companies and shareholder proponents to acknowledge receipt of emails when requested." As stated above, I so request.

Sincerely,



Myra K. Young

November 23, 2023

Date



Proposal [4*] – Fair Treatment of Shareholder Nominees

Resolved

Shareholders request the Board of Directors adopt and disclose a policy stating how it will exercise its discretion to treat shareholders' nominees for board membership equitably and avoid encumbering such nominations with unnecessary administrative or evidentiary requirements.

Supporting Statement

In the view of the proponent, the Board should consider exercising its discretion under the proposed policy toward ensuring that paperwork requirements governing the nomination and election of directors should generally treat shareholder and Board nominees equitably; requirements regarding endorsements and solicitations should not unnecessarily encumber the nomination process.

Consideration should also be given under the policy to repealing any advance notice bylaw provisions imposing additional requirements inconsistent with this proposal, unless legally required, such as those requiring:

- Nominating shareholders be shareholders of record, rather than beneficial owners;
- Nominees submit questionnaires regarding background and qualifications (other than as required in the Company's certificate of incorporation or bylaws);
- Nominees submit to interviews with the Board or any committee thereof;
- Shareholders or nominees provide information that is already required to be publicly disclosed under applicable law or regulation; and
- Excessive or inappropriate levels of disclosure regarding nominees' eligibility to serve on the Board, the nominees' background, or experience.

The legitimacy of Board power to oversee the executives of CVS Health Corp (Company) rests on the power of shareholders to elect directors:¹ [T]he unadorned right to cast a ballot in a contest for [corporate] office . . . is meaningless without the right to participate in selecting the contestants... To allow for voting while maintaining a closed candidate selection process thus renders the former an empty exercise."²

¹ <https://ssrn.com/abstract=4565395>

² <https://casetext.com/case/durkin-v-national-bank-of-olyphant>

Burdening shareholder nominees can entrench incumbent directors and management. Laws and regulations overseen and enforced by the U.S. Securities and Exchange Commission, a neutral third party, ensure shareholders have pertinent information on nominating shareholders and nominees before executing proxies,³

Advance notice bylaws can create hurdles for shareholders exercising their rights and can be used to conduct “fishing expeditions” to which board nominees are not subject.

These practices delegitimize corporate activity because directors work *on behalf of shareholders*, who should be able to replace their own fiduciaries. Company interference in this process is especially dangerous because financial theory recommends that most shareholders diversify their portfolios.

Such diversified investors have an interest in ensuring our Company does not profit from practices that threaten social and environmental systems upon which diversified portfolios depend.⁴ Company directors influenced by executives, in contrast, may prioritize Company profitability over systems that are of critical importance to shareholders.⁵

Accordingly, giving Company directors a gatekeeper role through a burdensome unequal nomination process threatens the interests of shareholders to nominate candidates free of management influence.

Fair Treatment of Shareholder Nominees - Vote FOR Proposal [4*]

[This line and any below it, other than footnotes, is *not* for publication]
Number 4* to be assigned by the Company.

The above title is part of the proposal and within the word limit. It should not be altered or misrepresented. The title should be used in all references to the proposal in the proxy and on the ballot. If there is an objection to the title, please negotiate or seek no-action relief as a last resort.

The graphic above is intended to be published with the rule 14a-8 proposal. The graphic would be the same size as the largest management graphic (and/or accompanying bold or highlighted management text with a graphic, box or shading) or any highlighted management executive summary used in conjunction with a management proposal or any other rule 14a-8 shareholder proposal in the 2024 proxy.

The proponent is willing to discuss the mutual elimination of both shareholder graphic and management graphic in the proxy in regard to specific proposals. Issuers should not assume proponent will not insist on inclusion of the graphic if the issuer unilaterally decides not to include their own graphic.

Reference: SEC Staff Legal Bulletin No. **14L** (CF)**[16]**

³ <https://www.ecfr.gov/current/title-17/chapter-II/part-240/subpart-A/subject-group-ECFR8c9733e13b955d6/section-240.14a-101>

⁴ <https://theshareholdercommons.com/wp-content/uploads/2022/09/Climate-Change-Case-Study-FINAL.pdf>

⁵ <https://ssrn.com/abstract=4056602>

Companies should not minimize or otherwise diminish the appearance of a shareholder's graphic. For example, if the company includes its own graphics in its proxy statement, it should give similar prominence to a shareholder's graphics. If a company's proxy statement appears in black and white, however, the shareholder proposal and accompanying graphics may also appear in black and white.

Notes: This proposal is believed to conform with Staff Legal Bulletin No. **14B** (CF), September 15, 2004, including (with our emphasis):

Accordingly, going forward, we believe that it would not be appropriate for companies to exclude supporting statement language and/or an entire proposal in reliance on rule 14a-8(i)(3) in the following circumstances:

- the company objects to factual assertions because they are not supported;
- the company objects to factual assertions that, while not materially false or misleading, may be disputed or countered;
- the company objects to factual assertions because those assertions may be interpreted by shareholders in a manner that is unfavorable to the company, its directors, or its officers; and/or
- the company objects to statements because they represent the opinion of the shareholder proponent or a referenced source, but the statements are not identified specifically as such.

We believe that it is appropriate under rule 14a-8 for companies to address these objections in their statements of opposition.

See also Sun Microsystems, Inc. (July 21, 2005)

The stock supporting this proposal will be held until after the annual meeting and the proposal will be presented at the annual meeting. Please acknowledge receipt of this proposal promptly by emailing the proponent.