CHRO ASSOCIATION

Shareholder Proposal Guide

A Playbook for CHROs and Total Rewards

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Introduction and Key Takeaways from the Guide

In today's corporate governance landscape, shareholder proposals are a powerful tool for investors to influence company strategies. Increasingly, they intersect with human capital management, executive compensation, and ESG issues. For CHROs and Total Rewards executives, this means proposals often touch directly on pay equity, DEI (for and against), workforce benefits, labor management and severance, among other HR issues.

This guide provides a step-by-step framework to assess, respond to, and manage shareholder proposals, ensuring alignment with business goals, employee interests, and stakeholder expectations.

Central to success is proactive, cross-functional collaboration across HR, Legal, Investor Relations (IR), and the Board of Directors. A point person should be identified within the company to lead the process (e.g. Legal or Governance leader). By understanding proponent motivations, engaging constructively, and leveraging regulatory tools thoughtfully, HR and Legal leaders can mitigate risks, build trust, and turn challenges into opportunities for enhanced governance and reputation.

Bottom Line

This playbook equips leaders with strategies, examples, and tools to navigate shareholder proposals while minimizing risks and maximizing long-term value.

Shareholder Volume and Themes

- Companies typically receive 4–12 proposals annually, with 70–90% related to ESG.
- Overall volume has declined, but politically motivated "anti-ESG" (e.g., anti-DEI) proposals have risen. These are often generic and filed across industries, unlike the more tailored proposals of five to seven years ago.
- Executive compensation proposals have decreased as pay programs have become more standardized and aligned with investor/ISS/Glass Lewis expectations.
- A surprising finding: industry-specific issues often surface under broad ESG themes (e.g., healthcare affordability, animal treatment, or climate impacts).

Proponent Intent

- Nowadays, we found, the "ask" is not always clear; proposals can be vague or even misleading. The companies we interviewed stressed the importance of distinguishing genuine concerns (e.g., long-term sustainability, affordability, labor rights) from political crusades or "fishing expeditions." In the latter case, even extensive engagement may not make much of a difference to the outcome.

> **Determine the proponent's goals—often they just want to be heard. What is their mission? Are they active in the shareholder proponent world? Ask them: Do you want access to management, the board, or just information? They appreciate hearing the rationale and may withdraw their proposal with greater understanding."**

Assessing and Understanding Shareholder Proposals

The first step in responding to a shareholder proposal is a thorough assessment: understanding its content, the proponent's motivation, and potential impact on the business and workforce.

This stage involves gathering data, consulting peers, and carefully distinguishing between constructive operational concerns and proposals driven by political or reputational agendas.

KEY STEPS IN ASSESSMENT

1. Review Proposal Volume and Categories

Track how many proposals your company receives annually and classify them by type. Proposal mix often fluctuates. Companies we interviewed reported the following general split among their proposals:

- **30–40% social** (e.g., DEI, pay equity, human rights)
- **25–30% governance** (e.g., board structure, shareholder rights)
- **~30% environmental**
- **Occasional compensation-focused proposals**

2. Assess Intent and Motivation

Engage directly with proponents to uncover their true objectives. "Listening calls" can reveal whether a filer is reasonable, fact-driven, and/or pursuing a broader agenda, which will then drive your engagement strategy. Key considerations include:

1. **Proponent history:** Review prior filings, withdrawal rates, and engagement with peers. Patterns may reveal whether a filer typically uses proposals as a pressure tactic or generally collaborates toward a solution.
2. **Underlying issues:** Some proposals mask narrow, industry-specific concerns (e.g., pharmaceutical access or product affordability) under popular themes like DEI to get broader investor support. Companies told us they had to dig under the surface to find out what the proponent's goal really was.
3. **Filing strategy:** Many proponents begin with KPIs or scorecards and escalate to formal proposals only after dialogue fails. Often a proponent will point to companies that are best in class for doing what the proponent wants another company to follow. For instance, scorecards that rank a company's pay transparency and pay equity efforts can be used to encourage companies that are not as transparent to bolster their practices. Early engagement can sometimes prevent escalation to a costly proxy fight.
4. **Template vs. tailored:** Some use boilerplate filings replicated across companies, signaling a broader agenda; others file tailored requests, indicating a deeper intent to influence the company's strategy or industry practice.

Because the filing process itself is resource-intensive for both sides, understanding how and why a proposal was filed can help sharpen the company's response strategy. Is this a tactical escalation after dialogue stalled, a first attempt by an activist group or part of a broader campaign across companies? Taking the time to assess intent may save effort in the long run. One company noted that proposals often request the company to take actions that are already underway—simply because the proponent is unaware of existing initiatives.

3. Distinguish Genuine vs. Agenda-Driven Proposals

- **Genuine proposals** seek dialogue and improvement (e.g., using scorecards to highlight leaders and laggards).
- **Agenda-driven proposals** may be politically motivated (e.g., anti-DEI filings) or designed to generate media soundbites.

> **Proposal text can sometimes misrepresent the filer's true intentions, with agendas becoming clear only during direct dialogue."**

Framework for Evaluating Shareholder Proposals

FACTOR	QUESTIONS TO ASK	SOURCES FOR INSIGHTS
Proponent Background	• What is the filing history and withdrawal rate? • Does proponent belong to coalitions e.g., Interfaith Center, As You Sow)? • How do they communicate externally (e.g., social media, press)?	• Proxy advisor databases • Peer company intel • Public filings & social media scans
Underlying Intent	• Is the proposal tailored to the company or boilerplate? • Are they seeking dialogue, access, or visibility? • Does this represent escalation after prior engagement?	• "Listening calls" with proponents • Past interactions • Review of mission statements
Business Impact	• Could this create reputational risk? • How might employees/ERGs react? • Could it affect customers or external stakeholders?	• Internal SMEs (legal, HR, Comms) • Employee surveys • Stakeholder feedback
Peer Benchmarks	• How have peers responded (withdrawal, exclusion, negotiation)? • Is this an emerging industry trend? • Any evolving SEC/proxy advisor perspectives?	• Industry roundtables • Benchmarking reports • Corporate Secretary network • Center On Executive Compensation

Executive Snapshot—Why Shareholder Proposals Matter

Shareholder proposals may be **non-binding,** but they drive real outcomes: board debate, institutional investor pressure, media coverage, and employee perception. In today's environment, **even low-support proposals (20–30%) can trigger policy reviews or reputational risks.**

1. More Than Votes

- Proposals force public positions on sensitive issues (DEI, reproductive health, executive pay).
- A 25% "yes" vote can signal dissatisfaction from large investors like BlackRock or Vanguard—even without reaching a majority.
- Dual-class share structures may mask true levels of dissent.

2. Volume & Complexity Are Rising

Proposal topics are no longer just "governance." Most connect directly to **culture, fairness, or employee experience.**

- **Social/ESG:** DEI, labor practices, benefits
- **Compensation:** Severance practices, clawbacks, pay equity
- **Governance:** Voting rights, board structure
- **Hybrid:** Lobbying or pricing framed as oversight

3. Stakeholder Impacts

- **Employees:** ERGs and staff view proposals as cultural statements; silence breeds mistrust.
- **Investors:** Use proposals to demand better *disclosure,* not always *adoption.*
- **Media/Public:** Even exclusions become headlines ("Company blocks DEI audit vote").

4. Regulation Isn't the End

SEC guidance (e.g., SLB 14M, 2025) allows exclusions based on micromanagement or "economic irrelevance." But exclusion does not erase workforce or reputational impact. **HR must still communicate.**

5. HR's Strategic Role

- Owns the data that shapes defenses (pay, equity, benefits).
- Interprets employee sentiment and morale risks.
- Helps boards craft credible narratives for both investors and employees.
- Partners with Legal counterparts.

> **Lack of engagement makes it harder to win overall investor support. We want to assure our institutional investors: we talked to the proponent, we heard them out, here is why we feel differently, and we need your support."**

Engagement and Response Strategy

Once the assessment is complete, the next step is to build a response strategy centered on **engagement.** Large investors increasingly expect companies to engage directly with proponents. Doing so not only increases the chances of withdrawal or compromise but also builds credibility and trust over time.

1. Initial Contact, Negotiation, Withdrawal

Initial Contact Principles

Begin with empathy and openness. Be proactive—don't wait for the proponent to push—and avoid sounding defensive or dismissive. Meeting with every proponent and listening carefully helps uncover true concerns (e.g., obtaining feedback from local leaders on labor issues).

Build Trust

Transparency is the currency. Share your rationale and data when possible. Proponents may agree to withdraw proposals in exchange for good-faith commitments, such as three- to-five-year plans toward improvement.

Negotiation Tactics

Offer alternatives or phased commitments where feasible. Incremental progress—such as clarifying existing disclosures or issuing statements on relevant topics—can resolve concerns. If proponents' demands are unrealistic (e.g., providing raw supply chain data on ESG or human capital concerns), explain the operational context and suggest more practical alternatives. Be firm if aligned with your strategy, as over-negotiation can weaken long-term credibility.

Here are some of the success stories we heard:

- One company interviewed received a proposal requesting a report on how their DEI initiatives impact hiring, retention and promotion metrics. The company was denied a "no-action request" but continued to engage with the proponent. Ultimately, the company agreed to enhance their reporting and make a public statement about its commitments and the proponent withdrew the proposal.
- In another example, a health and safety proposal was withdrawn after the company disclosed its progress toward reducing human rights violations in its supply chain by a certain date.

Aim for Withdrawal

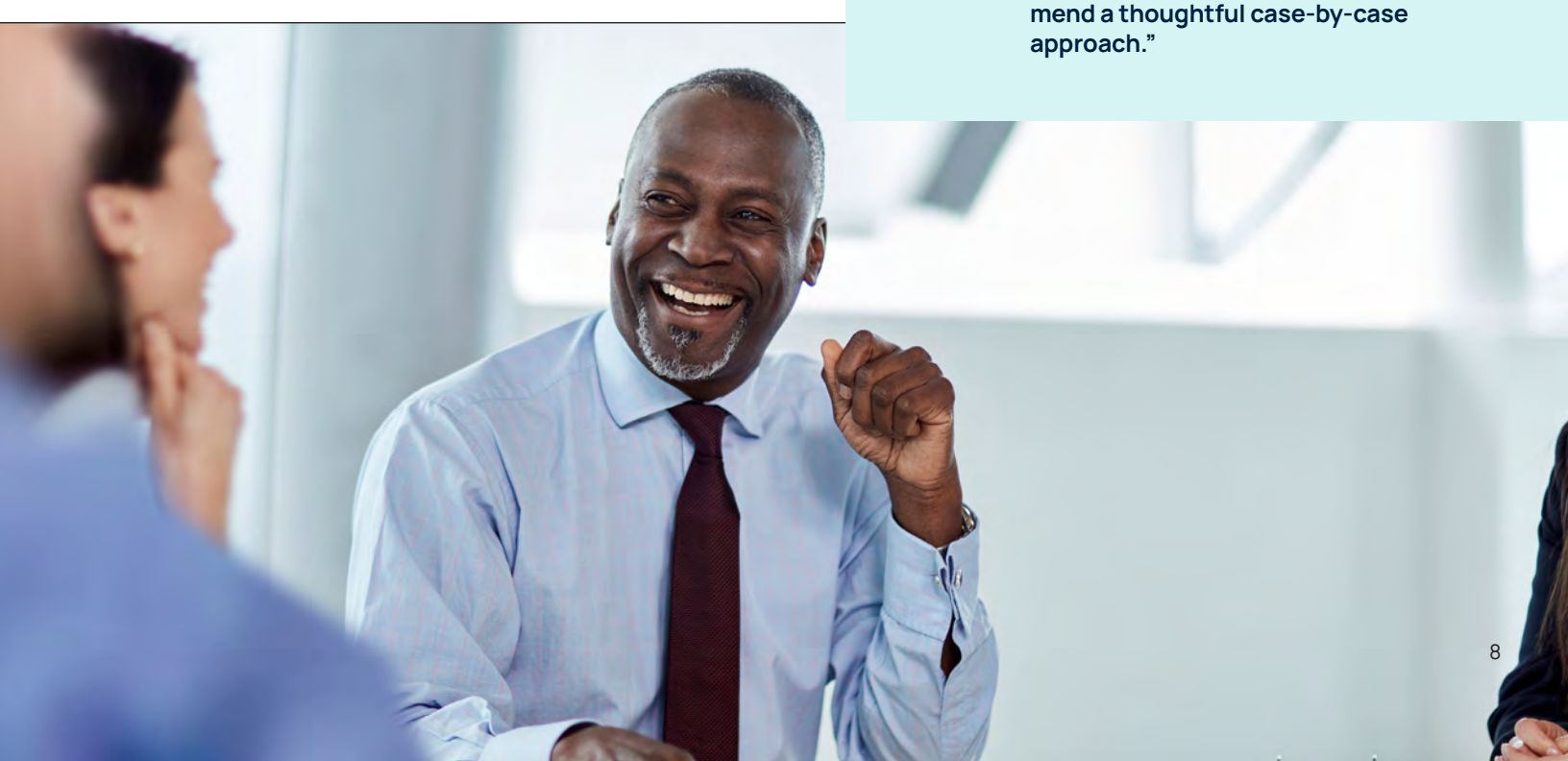
Show alignment where possible—"we're already doing this"—and be transparent about the rationale. If engagement stalls, politely signal intent to seek no-action relief while keeping the door open for dialogue.

⚠ WATCHOUTS

- Avoid "moving the goalpost": once a concession is made, some proponents may push for more. Secure agreements in writing—"trust but verify."
- Assume anything you communicate could become public.
- SEC rules prohibit selective disclosure; don't share non-public information with a single investor.

> **Learn everything you can about the proponent and try to develop rapport over time—even if it's about whether they're Yankees or Mets fans."**

> **We don't pursue no-action relief for every proposal but look for procedural deficiencies or evidence of micromanagement. While some companies request relief for every proposal and others just include the proposal in the proxy without challenge, we recommend a thoughtful case-by-case approach."**



2. Consider Exclusion

If engagement fails, companies may seek **SEC no-action** relief to have the proposal excluded from the proxy. This can be pursued in parallel with dialogue with the proponent—in fact, investor voting outcomes are more favorable when companies demonstrate meaningful dialogue.

Evaluation Factors

Assess the likelihood of success under commonly argued grounds such as:

- **Ordinary Business.** This argument can be pursued if the proposal is related to the company's "ordinary business" and seeks to micromanage the company.
- **Procedural flaws** (e.g., proponent does not own sufficient shares, has issued too many proposals, missed deadlines, other filing errors).
- **Substantial Implementation** (the company has already "substantially implemented" the proposal).
- **Economic irrelevance** (proposal relates to operations accounting for less than 5% of assets, sales and earnings).

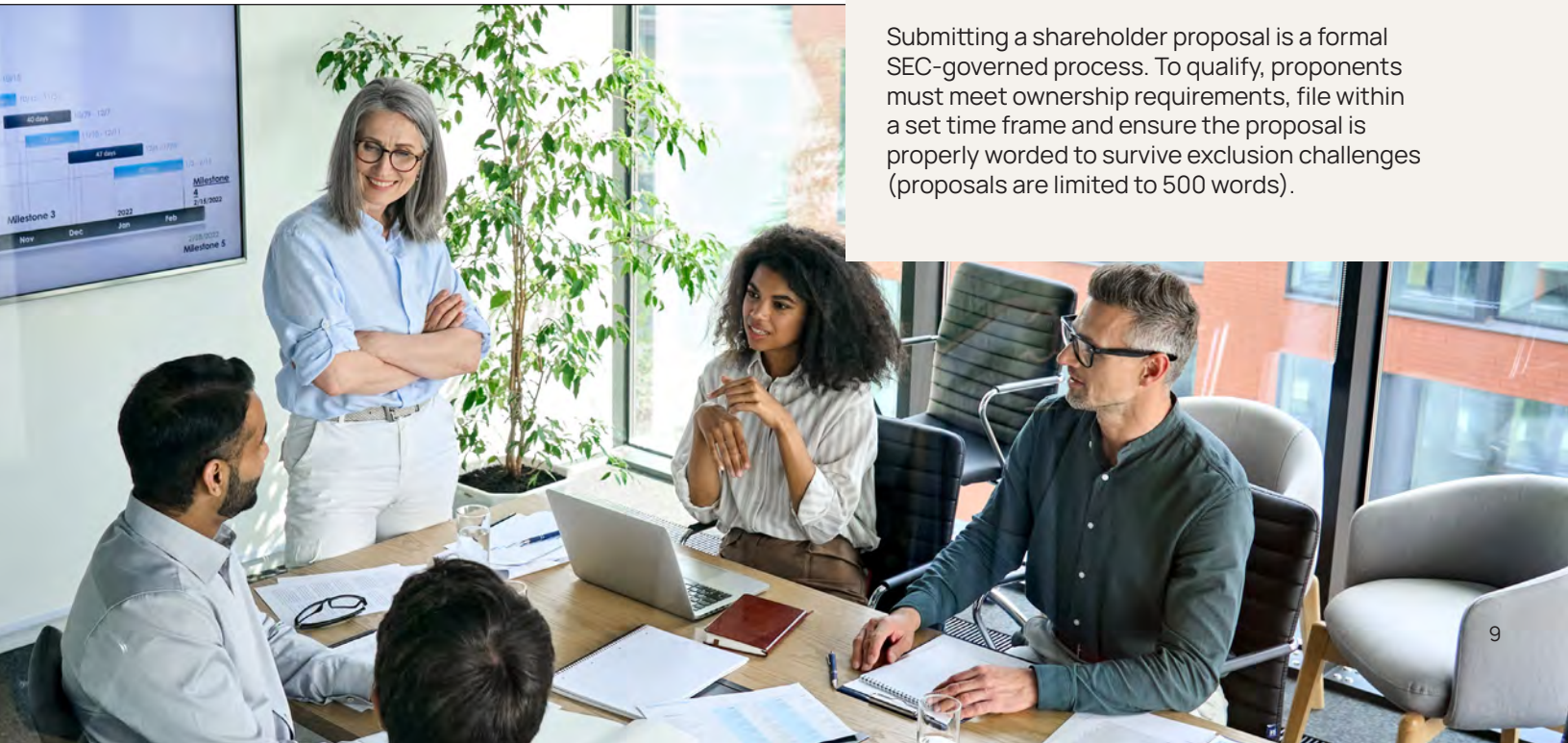
Process

- File with multiple arguments ("scattershot" approach) using as many grounds as apply to maximize the chance of success.
- Consider retaining outside experts to craft compelling letters.
- Be selective; not every proposal warrants no-action relief. A denied request may carry reputational risks and set a negative precedent.
- HR can play a pivotal role by supplying historical context, economic impact data, and workforce implications.

RISE AND FALL

The SEC's posture on no-action relief shifts with the political environment. Under Chair Gensler, the agency made it harder for companies to have proposals excluded (SLB 14L), while under Chair Atkins, there has been updated guidance (SLB 14M) to make it easier again.

Submitting a shareholder proposal is a formal SEC-governed process. To qualify, proponents must meet ownership requirements, file within a set time frame and ensure the proposal is properly worded to survive exclusion challenges (proposals are limited to 500 words).



> **Sometimes our board is comfortable with a proposal going to the ballot. It may be on a topic that we don't think is related to our mission. We don't believe our stance will impact our brand and ability to do business, so we are not going to negotiate."**

Drafting Statement of Opposition

If the proposal cannot be negotiated, withdrawn, or excluded, get ready—it proceeds to a shareholder vote. In this case, the company must draft a clear, fact-based opposition statement for the proxy.

Key Elements

- Highlight existing practices and explain why the proposal is unnecessary.
- Provide business rationale and emphasize risks of adoption.
- Use peer benchmarks and workforce feedback to strengthen the argument.
- Simplify complex issues, since investors have limited time and attention.
- Involve Legal, IR, HR, and other SMEs; form working groups to refine.

Board Engagement

According to the companies and experts we interviewed, boards differ on the level of engagement they desire with shareholder proposals. However, once a proposal is going in the proxy, the board must be involved.

The draft opposition statement should be reviewed by the board, typically via the Nominating/Governance Committee. Management should present predictions on proxy advisor recommendations, workforce sentiment, and potential risks. Directors may need education on nuances, so take the time to explain all dimensions clearly.

Engagement Do's and Dont's

✅ TOP 5 ENGAGEMENT DO'S

1. **Engage early and often**—Large investors expect dialogue before votes.
2. **Build trust with transparency**—Share your rationale, context, and long-term plans.
3. **Document agreements**—"Trust but verify" to avoid goalpost shifting.
4. **Tailor your approach**—Distinguish genuine proposals from agenda-driven ones.
5. **Loop in the board**—Directors should understand risks, rationale, and investor sentiment.

❌ TOP 5 ENGAGEMENT DONT'S

1. **Don't ignore proponents**—Silence erodes investor support.
2. **Don't over-promise**—Only commit to what aligns with strategy.
3. **Don't share selectively**—Avoid disclosing non-public information to a single investor.
4. **Don't negotiate endlessly**—Concessions without boundaries undermine credibility.
5. **Don't rely solely on exclusion**—SEC no-action relief should complement, not replace, engagement.

> **Engage outside proxy season—relationships are made or broken during the off-season."**

Managing Outcomes and Long-Term Strategy

Even after a proposal has gone to a vote, the work isn't over. Managing outcomes strategically—and engaging afterward—helps shape future responses and strengthen governance.

1. Engage with Shareholders Before and After the Vote

- **Pre-Vote Engagement:** Meet with top investors early to frame the issue and highlight conversations you've had with proponents. This builds credibility, educates investors on the company's stance, and demonstrates responsiveness. Solicit feedback and note where perspectives differ to determine if more conversations are warranted.
- **Post-Vote Analysis:** As a general rule, if a proposal garners more than 30% support, it requires attention. Consider actions that align with long-term strategy and disclose them clearly in the next proxy statement. *Even low levels of support can spur momentum for change.*
- **Post-Vote Engagement:** Reach outs to institutional investors post-vote demonstrates that the company values every shareholder's perspective. Investors may have opposed the proposal for reasons unrelated to its core content so (e.g. policy positions) so a conversation helps uncover nuances and find common ground for collaboration which can re-engagement helps translate proposals into value-add changes rather than escalations.

Case in Point: One company described a racial equity audit proposal that went to a vote and failed to gain much support. While the company was not concerned about the support level the proposal would receive, they conducted the audit anyway. Post-vote, large investors noted: "*We didn't support the proposal, but we do support you taking action."*

2. Long-Term Engagement Strategy

Avoid viewing proposals as one-off battles. Instead, track trends, adapt, and build a reputation for constructive engagement. Over-negotiation can undermine credibility, but responsiveness to reasonable themes is different—it builds long-term trust.

- Build peer networks to "compare notes." We heard over and over again how important it is to engage with peer companies and other recipients of proposals similar to yours.
- Maintain active dialogue with proponents in and out of proxy season.
- Listen closely and adapt based on investor feedback.

Bottom Line:

Shareholder proposals are no longer technical proxy events—they are **cultural flashpoints**. For HR and Total Rewards leaders, each one is a **test of alignment between governance strategy with shareholder and workforce trust.**

Metrics to Watch

SIGNAL	THRESHOLD & ACTION
Vote Support	>30%: Re-engage, report progress; >50%: Deep review
Withdrawal Rates	High withdrawals signal effective dialogue
Investor Feedback	Post-vote calls; adjust if themes recur
Reputational Impact	Track media coverage and employee sentiment

Timeline

1940s–1960s— FOUNDATIONS	1970s–1990s— EARLY SOCIAL ACTIVISM	2000s–2010s— ESG ERA	2020s— POLITICIZATION & COMPLEXITY	TODAY— HR AT THE TABLE

• SEC Rule 14a-8 (1942) establishes the right to submit shareholder proposals.
• Focus: technical governance (audit, director independence, shareholder rights).
• Minimal workforce or HR relevance.
	• Faith-based and mission-driven investors push proposals on apartheid, tobacco divestment, and defense contracts.
	• Equity and nondiscrimination start surfacing.
	• Still low volume, but ethics enter the proxy process.
		• Shareholder coalitions **(As You Sow, Ceres)** expand proposals to environment, social justice, and governance (ESG).
		• Topics: pay equity, climate impact, board & workforce diversity.
		• Proxy advisors (ISS, Glass Lewis) amplify impact.
		• Boards begin treating proposals as material, not symbolic.
			• Surge in ESG filings plus anti-ESG/ anti-DEI backlash.
			• Proposals often **masked** in governance/lobbying language, but targeting:
			  ○ DEI programs
			  ○ Reproductive health benefits
			  ○ Workforce equity
			• Pharma & high-visibility sectors face heavy scrutiny.
				• Shareholder proposals directly impact pay, inclusion, care access, and employee trust.
				• CHROs & Total Rewards leaders are now **strategic partners** in governance response.

Shareholder Proposals: A Playbook for CHROs and Total Rewards

Thank you to those that contributed to the development of this guide.

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2 FORTUNE 100 COMPANIES

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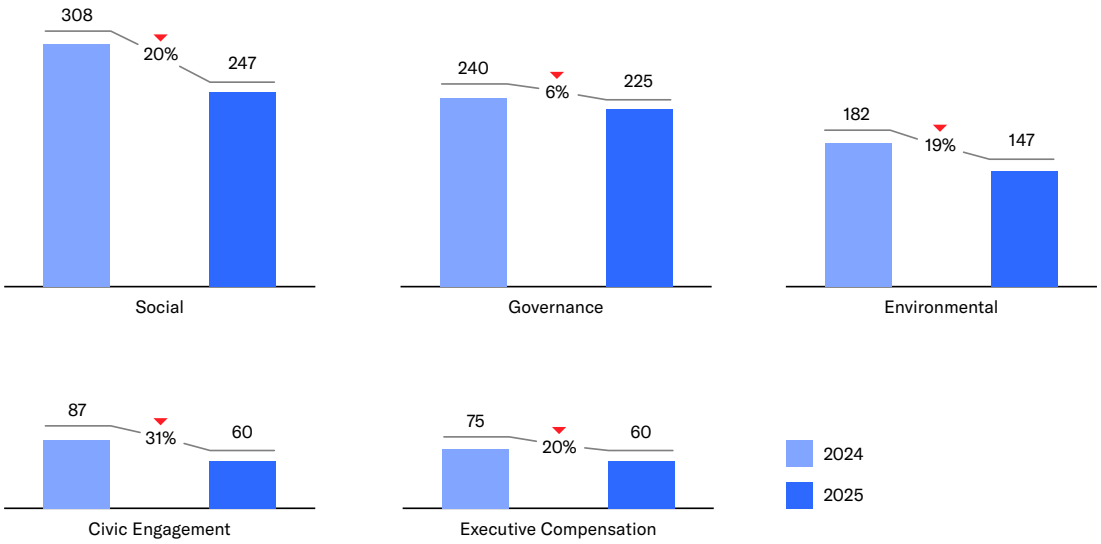
Appendix

Overview of Shareholder Proposals Submitted

802 Shareholders submitted 802 shareholder proposals during the 2025 proxy season, down 14% from 929 in 2024.

49% Social and environmental proposals combined represented 49% of all proposals submitted, down from 53% in 2024.



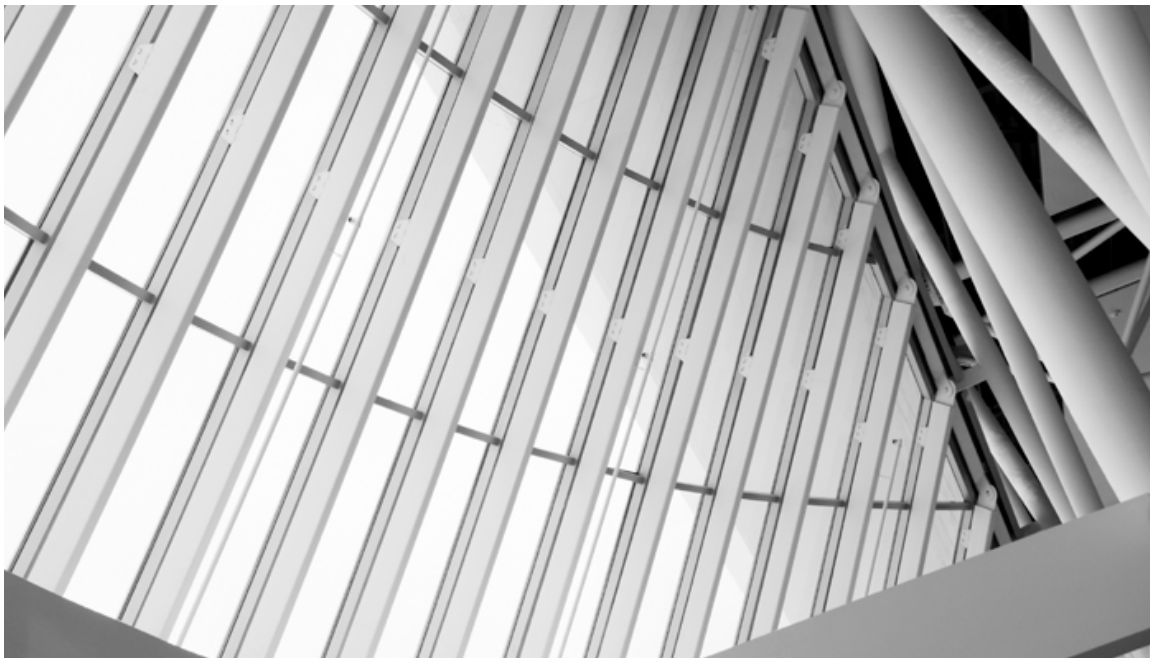
- **Social Proposals:** The largest subcategory of social proposals was nondiscrimination and diversity-related proposals, representing 45% of all social proposals, with 112 submitted in 2025, as compared to 97 in 2024. Of note, anti-ESG proposals made up 58% of nondiscrimination and diversity-related proposals (compared to 44% in 2024).
- **Governance Proposals:** Special meeting rights proposals replaced simple majority vote proposals as the most common governance proposal, representing 34% of these proposals, with 76 submitted, up from 29 proposals in 2024.
- **Environmental Proposals:** The largest subcategory of environmental proposals, representing 54% of these proposals, continued to be climate change proposals, with 80 submitted in 2025 (down substantially from 126 in 2024 and 150 in 2023).
- **Civic Engagement Proposals:** Lobbying spending proposals were up slightly, with 37 in 2025 and 35 in 2024. Political contributions proposals were down to 21 in 2025, as compared to 30 proposals in 2024. The number of political spending congruence proposals fell to 2 from 13 in 2024.
- **Executive Compensation Proposals:** The largest subcategory of executive compensation proposals continued to be those requesting that boards seek shareholder approval of certain severance agreements, representing 50% of these proposals, up from 44% in 2024.

Most Popular Shareholder Proposals Submitted to Public Companies

2025	2024
Nondiscrimination & diversity (14%)	Climate change (14%)
Climate change (10%)	Nondiscrimination & diversity (10%)
Special meeting (9%)	Simple majority vote (5%)
Simple majority vote (5%)	Director resignation bylaws (5%)
Lobbying payments and policy (5%)	Independent board chair (5%)

- Three of the five most popular proposal topics during the 2025 proxy season were the same as those in the 2024 proxy season.
- The concentration of the top five most popular topics rose slightly from 39% of proposals submitted in 2024 to 43% of proposals submitted in 2025.
- This level of concentration is still below that of the 2022 and 2023 proxy seasons,* as proponents continue to submit proposals across a broad spectrum of topics.

*The concentration of the top five most popular topics was 49% in 2022 and 45% in 2023.



Overview of Shareholder Proposal Outcomes

The 2025 proxy season saw both new and continued trends in proposal outcomes that emerged in the 2024 proxy season:

- the percentage of proposals voted on decreased (55% in 2025 compared to 63% in 2024);
- overall support increased slightly (23.1% in 2025 compared to 22.9% in 2024);
- the percentage of proposals excluded through a no-action request increased substantially (25% in 2025 compared to 15% in 2024); and
- the percentage of proposals withdrawn decreased slightly (13% in 2025 compared to 15% in 2024).

Shareholder Proposal Outcomes*

	2025	2024
Total number of proposals submitted	802	929
Excluded pursuant to a no-action request	25% (201)	15% (142)
Withdrawn by the proponent	13% (106)	15% (136)
Voted on	55% (439)	63% (587)

Social proposals saw higher withdrawal rates, with 19% of social proposals withdrawn in 2025 (compared to 12% in 2024), while environmental proposals saw a slight decrease in withdrawal rates, with 24% of environmental proposals withdrawn in 2025 (compared to 29% in 2024).

Shareholder proponents appear to have been more willing to withdraw their proposals after the publication of SLB 14M in February 2025, which signaled that the Staff would be applying a more traditional approach to evaluating Rule 14a-8 no-action requests.

*Statistics on proposal outcomes exclude proposals that the ISS database reported as having been submitted but that were not in the proxy or were not voted on for other reasons (*e.g.,* due to a proposal being withdrawn but not publicized as such or the failure of the proponent to present the proposal at the meeting). Outcomes also exclude proposals that were to be voted on after July 1. As a result, in each year, percentages may not add up to 100%. ISS reported that 21 proposals (representing 3% of the proposals submitted during the 2025 proxy season) remained pending as of July 1, 2025, and 16 proposals (representing 2% of the proposals submitted during the 2024 proxy season) remained pending as of July 1, 2024.

Conagra 2025 Proxy: Shareholder Engagement Practices

Shareholder Engagement Program

Engaging with our shareholders to better understand the issues that matter most to them is important to us. Our shareholder engagement strategy is overseen by the Board and its committees. Our Board and its committees direct investor outreach specifically related to our annual meeting and corporate governance and management leads our year-round engagement program.

Through our year-round engagement program, we seek to engage with our shareholders in a variety of ways:

Aspects of our Year-Round Engagement Program

Shareholder Communications	Shareholder and Conagra Meetings	Conagra Communications
Letters	One-on-One	Earnings materials
Voting	Small groups	Press releases
Voting policies	Investor conferences	Periodic reports
Public statements	Quarterly earnings calls	Current reports
Engagement policies	Annual meetings of shareholders	Proxy statements
Websites		Website
		Citizenship reports

HIGHLIGHTS FROM OUR YEAR-ROUND SHAREHOLDER ENGAGEMENT PROGRAM IN FISCAL 2025

CONNECTED WITH	REPRESENTING
>100 INVESTORS	>60% OF OUR PUBLIC FLOAT

Our President and Chief Executive Officer leads our earnings calls and investor conferences with our Executive Vice President, Chief Financial Officer. Both frequently participate in one-on-one and small group calls with investors. These meetings provide our shareholders with a forum to engage with us on a variety of topics including:

- Financial results and performance
- Long-term strategy
- Innovation
- Tariff activity
- Supply chain
- Portfolio reshaping
- Debt paydown
- Capital allocation
- Price investment and promotional activity
- Health and nutrition
- Consumer preferences
- Consumer confidence & spending
- Policy & regulatory environment

HIGHLIGHTS FROM OUR ANNUAL MEETING/GOVERNANCE ENGAGEMENT IN FISCAL 2025

Our independent Board leadership, including the Chairman of our Board, participates in meetings with our significant shareholders when appropriate. These interactions provide us with the opportunity to learn about our shareholders' priorities and perspectives and to participate in a dialogue that enables us to respond to shareholder feedback. Our Board and its committees consider shareholder feedback related to our annual meeting and corporate governance throughout the year as detailed below:

Winter and Spring Engagement
- Engage with proponents of shareholder proposals
- Engage with shareholders on voting matters to be described in the proxy statement
- Engage with shareholders on topics described in our annual Citizenship Report

Annual Meeting
- Publish proxy statement and annual report
- Hold annual meeting and respond to shareholder questions
- Receive and publish voting results

Fall and Winter Engagement
- Engage with shareholders to understand their votes and views on other governance topics
- Report and discuss voting results with the Board of Directors and its committees
- Identify areas for further engagement

Understand and Respond to Feedback
- Review feedback from shareholders
- Review governance trends and shareholders' voting policy updates
- Consider feedback when reviewing governance policies and practices, evaluating compensation programs, and planning disclosure enhancements

What we learned

By meeting with some of our largest investors before and following our 2024 annual meeting, we:

- Gained a better understanding of our shareholders' views on governance issues including officer exculpation and shareholders' right to call special meeting
- Developed a broader view of our shareholders' interest in CEO succession
- Made enhancements to our disclosures based on feedback on prior disclosure
- Received feedback on what areas drove our 2024 Say-on-Pay vote outcome as discussed in more detail in our Compensation Discussion and Analysis

Zebra Technologies 2025 Proxy: Shareholder Engagement Practices

Stockholder Engagement and Responsiveness to 2024 Say-on-Pay Result

At the 2024 Annual Meeting, the Say-on-Pay vote received 40.2% support from our stockholders. Following the 2024 Annual Meeting, our Compensation and Culture Committee (referenced as "Committee" throughout this CD&A) determined that it was necessary to better understand the perspectives of our stockholders and consider responsive action that will enable us to regain the historically strong support for our executive compensation program. Senior members of our management team and Janice Roberts, the Committee Chair, undertook a multi-phase engagement effort to capture feedback and implement appropriate responses to the Say-on-Pay vote.

May – Jun 2024
Post Annual Meeting

Post Annual Meeting

Following our Say-on-Pay vote, the Committee and the Nominating and Governance Committee considered the results, carefully reviewed stockholder feedback and put in place a plan for an expanded engagement effort to determine stockholders' rationale for adverse votes.

Jul – Aug 2024
Summer Engagement and Consideration of Feedback

Summer Engagement and Consideration of Feedback

Our new Committee Chair, Janice Roberts, and senior members of our management team conducted a summer "listening tour" of meetings with stockholders representing approximately 20% of our stock outstanding. All meetings were with stockholders who had not supported our Say-on-Pay proposal at the 2024 Annual Meeting. During these meetings, our stockholders:

- Conveyed concern with the magnitude, vesting period and performance criteria of the one-time equity grant to the former Executive Chair and noted preference for a commitment limiting future one-time awards
- Discussed preference for enhanced disclosure of quantitative targets in the short-term incentive plan
- Provided feedback on our performance-based equity awards and related disclosure
- Requested clarity and transparency regarding any future severance payments for involuntary terminations

Contacted

Engaged

Oct 2024 – Jan 2025
Fall / Winter Engagement

Contacted

Engaged

Fall / Winter Engagement

In the fall we invited stockholders representing 65% of stock outstanding to engage. Senior members of our management team, joined by our Committee Chair at select meetings, conducted outreach meetings with investors representing approximately 48% of our stock outstanding. During these meetings, our stockholders generally:

- Expressed support for our core compensation program, including our commitment to pay for performance
- Emphasized the importance of transparency around our short and long-term program metrics and performance as well as disclosure around our stockholder engagement efforts in our 2025 Proxy Statement
- Provided positive feedback on the compensation program disclosure changes under consideration, particularly around our proposed commitment to limit future one-time awards outside of extraordinary circumstances

Feb – Mar 2025
Board Responds to Stockholder Feedback

Board Responds to Stockholder Feedback

In February 2025, the Committee and the Nominating and Governance Committee carefully reviewed the stockholder feedback received from our engagement efforts following the 2024 Annual Meeting. The Committee noted that stockholders generally expressed strong support for the structure and design of our core compensation program. As a result, the Committee concluded that a change to our core compensation program metrics and weightings would not be necessary. However, in consideration of feedback heard in these meetings regarding one-time awards, as well as feedback heard regarding severance payments and disclosure of our short- and long-term compensation programs, and in alignment with our compensation strategy, the Committee made a series of commitments and enhancements to our compensation disclosure.

Board Actions in Response to 2024 Say-on-Pay Feedback

The Committee conducted an in-depth review of the stockholder feedback provided in 2024 to develop an appropriate response to the 2024 Say-on-Pay vote as described in the table below.

WHAT WE HEARD FROM STOCKHOLDERS	WHAT WE DID
Expressed concern with the one-time equity grant to the former Executive Chair and noted preference for no future one-time awards	Committed to not grant a one-time award outside of extraordinary circumstances
Requested greater disclosure regarding the quantitative targets in the short-term incentive plan	Added the dollar values and percentages of the threshold, target and maximum goals for the short-term incentive plan metrics in our proxy statement
Discussed ways to provide additional insight around the structure of our long-term incentive program	Enhanced disclosure on the program design and goals to illustrate how this plan retains executives, is aligned with stockholder interests and drives performance
Requested clarity and transparency around severance payments for involuntary terminations	Committed to provide enhanced disclosure if severance payments are made associated with involuntary terminations
Requested clearer disclosure on feedback from stockholder engagement and how these discussions shape responsive actions	Added new sections in the CD&A on stockholder engagement and the process undertaken by our Board and management team to incorporate feedback into program design and disclosure

The Board's Statement in Opposition to Item 7

The Board of Directors recommends shareowners vote AGAINST this shareowner proposal.

We believe the proposal is unnecessary because the ongoing practices of the Talent and Compensation Committee of the Board (the "Compensation Committee") already address the proposal's essential objective.

The essential objective of this proposal states that the Compensation Committee "*revisit*" its incentive guidelines for executive pay to "*identify* and *consider*" eliminating certain goals from compensation inducements.

The proposal does not request the Compensation Committee do anything other than "revisit", "identify" and "consider" the treatment of certain non-financial measures. As such, the proposal does not request that the Compensation Committee do anything more than what it has already done this year and in past years.

As discussed below and in more detail in the Compensation Discussion and Analysis of this Proxy Statement, the Compensation Committee, in conjunction with its independent compensation consultant and other advisors, already revisits the Company's incentive compensation programs on an annual basis and, in doing so, identifies and determines the measures to be used in structuring incentive awards, including non-financial measures. Therefore, the Compensation Committee's practices address the proposal's essential objective, and as a result, the Company has substantially implemented the proposal.

The Compensation Committee engages in ongoing review of the Company's executive compensation, including a yearly evaluation of all financial and non-financial measures to be included in the determination of incentive awards. The Compensation Committee is tasked with overseeing executive compensation and does so using a robust year-round engagement, planning, review and approval process. As disclosed in this and prior Proxy Statements, in the first quarter of each fiscal year, the Compensation Committee reviews overall robustness and rigor of performance measures and targets, finalizes performance measures and targets for upcoming performance cycles, approves annual and long-term incentive award opportunities for executive officers and discusses key components of its talent, leadership and culture strategy. In particular, typically at its meetings held in the early part of each year, the Compensation Committee sets targets and goals with respect to annual incentive compensation, grants long-term incentive awards and determines achievement of previously granted awards.

In carrying out this work, the Compensation Committee carefully considers a wide range of factors in determining which financial and non-financial measures to include in structuring incentive awards. With respect to non-financial measures, the Compensation Committee considered and determined in February 2024 to include measures in the annual and long-term incentive awards that relate to certain of the Company's sustainability aspirations. As in prior years, the Compensation Committee held a meeting in February 2025, where it once again revisited and considered the Company's incentive compensation programs and determined which financial and non-financial measures were appropriate for this year's annual and long-term incentive awards. Disclosure regarding this process and the resulting incentive programs are included in this Proxy Statement.

The Board of Directors recommends a vote against the shareowner proposal regarding DEI goals in executive pay.

COCA-COLA OPPOSITION STATEMENT: 2025 PROXY

ITEM 8:

Shareowner Proposal Regarding a Report on Brand Image Impacts

As You Sow, 2020 Milvia Street, Suite 500, Berkeley, CA 94704, on behalf of the Michael E. Monteiro 2016 Rev Trust, the beneficial owner for at least one year of Company Common Stock having a market value of at least $25,000, submitted the following proposal:

WHEREAS: On September 13, 2024, Coca-Cola's CEO, Director of Corporate Governance, VP & Head of Investor Relations, and Associate General Counsel & Corporate Secretary received a letter signed by investors with over $63 billion in assets.[1] The letter inquired as to why Coca-Cola was sponsoring a conference featuring keynote speaker Chris Rufo, a high-profile, right-wing radical activist who has been leading attacks against marginalized communities, first by weaponizing a distorted version of "critical race theory" and then by linking LGBTQ-inclusive education practices to pedophilic "grooming."[2]

Shareholders want to be confident that our Board of Directors and executives are focused on ensuring that our brand will attract the best and brightest employees, the most loyal customers, and long-term shareholders. The decision to sponsor the Canada Strong and Free event on September 21, 2024, featuring Chris Rufo associates our brand with divisiveness, homophobia, hate speech, and far-right radical activism. These associations diminish our brand equity and goodwill, alienate many of our customers, and harm our ability to retain top talent.

Coca-Cola's DEI webpage is titled: "Creating a culture of diversity, equity and inclusion." It continues, "Diversity, equity and inclusion are at the heart of our values and our growth strategy and play an important part in our company's success. We leverage the remarkable diversity of people across the world to achieve our purpose of refreshing the world and making a difference. Our aspiration is not only to mirror the diversity of the communities where we operate, but also to lead and advocate for a better shared future."[3]

The sponsorship of this conference, with Chris Rufo as a keynote speaker, is fundamentally misaligned with the Company's stated goals and values related to diversity, inclusion, and civil rights.

The end result of our Company's logo on Canada Strong's website is that we have seen media coverage calling out Coca-Cola's hypocrisy including stories in Forbes, Popular Information, as well as a video posted on X that asks, "Why is Coca-Cola associating itself with divisiveness and homophobia?"[4] The video contrasts Chris Rufo's racist statements with Coca-Cola's declaration that: "We do not tolerate racism or discrimination of any kind. Coca-Cola has always stood for optimism, diversity and inclusion." The video ends by asking Coca-Cola to choose "Harmony" over "Harm."[5]

RESOLVED: Shareholders request that the Coca-Cola Board of Directors prepare and publish a report at least six months prior to the next Annual General Meeting, at reasonable expense, analyzing the negative impacts to our brand image, culture, customer base, and shareholder value of associating our brand with politically divisive events that contravene our publicly stated goals and public commitments.

SUPPORTING STATEMENT: Shareholders recommend, at Board and management discretion, that the report outline policies that can be put in place to avoid such risks in the future.

[1] https://www.asyousow.org/press-releases/2024/9/13/coca-cola-mastercard-meta-and-doordashs-sponsorship-of-conference
[2] https://www.asyousow.org/press-releases/2024/9/13/coca-cola-mastercard-meta-and-doordashs-sponsorship-of-conference
[3] https://www.coca-colacompany.com/social/diversity-and-inclusion
[4] https://www.forbes.com/sites/michaelposner/2024/09/12/why-us-corporations-need-to-promote-greater-workplace- diversity/; https://popular.info/p/major-corporations-sponsor-anti-woke
[5] https://x.com/ccbecker271/status/1834674684010303832

Stockholder Proposals

PROPOSAL
4

Stockholder Proposal Requesting the CEO Pay Ratio Factor Be Included in the Company's Executive Compensation Programs

Jing Zhao has submitted a stockholder proposal for consideration at the Annual Meeting. We will furnish the address for the proponent upon receipt of a request to the Corporate Secretary for such information. We have been notified that Mr. Zhao has continuously held 60 shares of our common stock since at least March 6, 2019.

If properly presented at the Annual Meeting, our Board unanimously recommends a vote "AGAINST" the following proposal. The resolution being submitted by Mr. Zhao to the stockholders for approval is as follows:

Stockholder Proposal

Stockholder Proposal to Improve Executive Compensation Program

Resolved: stockholders recommend that Gilead Sciences, Inc. (our Company) improve the executive compensation programs to include the CEO pay ratio factor.

Supporting Statement

The American corporate boards and executives have become a class of oligarchy, as defined by Aristotle, according to his _*Politics*_. In this great classic, Aristotle demonstrated that in a stable polis, the ratio of the rich citizen's land to the poor citizen's land should not be over 5 to 1. Our Company's CEO pay ratio is 110 to 1 in 2023 (2024 Notice of Annual Meeting of Stockholders and Proxy Statement p.67), jumped from 89 to 1 in 2022 (2023 Notice of Annual Meeting of Stockholders and Proxy Statement p.79).

America's ballooning executive compensation is not sustainable for the economy, and there is no rational methodology to decide the executive compensation, particularly because there is no consideration of the CEO pay ratio. The Economic Policy Institute found that "From 1978–2023, top CEO compensation shot up 1,085%, compared with a 24% increase in a typical worker's compensation. In 2023, CEOs were paid 290 times as much as a typical worker—in contrast to 1965, when they were paid 21 times as much as a typical worker."[1] The CEO pay ratios of big Japanese and European companies are much less than of big American companies. The increase of disparity of income has a direct negative impact on American social instability.

Adam Smith said: "Wealth, as Mr Hobbes says, is power." America has a long history to check and balance power. The public gives the board the power to run the corporate business without organized unions in most American big companies, and without employee representation in the board; and the board is nominated and elected without any competition. To increase the executive wealth (compensation) irregularly, irrationally, and unreasonably is to abuse the power. Shareholders in JPMorgan Chase & Co., Intel, Netflix, Salesforce and other big companies rejected sky-high executive pay packages in 2022, 2023, and 2024.

Human nature has not changed dramatically. The Company has the flexibility to reform the Compensation and Talent Committee to improve the executive compensation programs to include the CEO pay ratio factor.

[1] By Josh Bivens, Elise Gould, and Jori Kandra, September 19, 2024.

Our Board Recommends a Vote AGAINST This Proposal

Our executive compensation program is designed through thoughtful application of a combination of pay elements to promote an adept, driven executive team whose incentives align with Gilead's and stockholder interests. We believe that given our strong existing executive compensation practices and policies, which have historically received broad stockholder support, the adoption of this proposal is unnecessary, and its implementation would not meaningfully enhance our executive compensation program.

Our Current Executive Compensation Program is Strategically Designed to Align with Stockholder Interests and Gilead's Performance

Our Compensation and Talent Committee reviews our executive compensation programs, payment criteria, goals and pay outcomes annually to maintain programs that are fair, aligned with stockholder expectations and deliver pay that is aligned with Gilead's performance:

- Our executive compensation program is designed to recognize both short- and long-term successes, and a substantial portion of an executive's target total direct compensation is at-risk and tied directly to Gilead's performance;
- Our annual incentive plan aligns pay to Gilead's performance through rigorous annual incentive metrics with financial metrics weighted at 50% and strategic metrics comprising the other 50%;
- Our long-term incentive plan aligns pay with the long-term interests of our stockholders and provides value based on stock price appreciation, relative Total Stockholder Return growth and achievement of financial goals; and
- We maintain "best-in-class" governance standards for the oversight of our executive compensation program and practices.

As described in more detail under "Compensation Discussion and Analysis," a significant portion of our executive compensation is performance-based and dependent upon Gilead's success in creating long-term value for our stockholders. In addition, we take a holistic perspective in establishing total compensation for our executive officers, considering internal pay equity that recognizes officers' relative experience, responsibilities and individual capabilities in addition to external market compensation practices. We believe this approach helps us attract and retain the most talented executives to help drive innovation, creativity, growth and long-term value for our stockholders. The proposal would interfere with our carefully designed executive compensation program, which we believe is not only effective but integral to our success.

The SEC's Required CEO Pay Ratio Calculation Is Not a Meaningful Input to Our Executive Compensation Program

Our Compensation and Talent Committee does not believe that the CEO pay ratio should factor into Gilead's compensation philosophy or objectives or guide its executive compensation decisions. The CEO pay ratio is required by SEC rules and is simply a mathematical result derived from two components – the annual total compensation of a company's CEO, as determined under SEC rules, and the median of the annual total compensation of all employees of the company other than the CEO. CEO pay ratios vary widely from company to company, as the determination of the median compensated employee and the amount of that compensation is influenced by a wide variety of factors such as differences in the composition and location of companies' workforces, areas of business and other circumstances. Both the compensation of Gilead's CEO and the compensation of our employees are the result of thoughtful decisions based on individual and company performance, as well as the competitive market for talent. Factoring the CEO pay ratio into these determinations would severely limit our ability to attract and retain critical talent in highly competitive markets. Consequently, the CEO pay ratio itself is not a meaningful factor in setting executive compensation and does not provide stockholders with decision-useful insight into how our executive compensation program compares to those of other companies.

Stockholders Have Overwhelmingly Supported Our Executive Compensation Program

Gilead recognizes the value of and is committed to engaging with our stockholders. We believe strong corporate governance includes proactive outreach and engagement with our stockholders on a regular basis throughout the year to better understand the issues that are important to them. This enables

us to meaningfully and effectively address these matters and to drive improvements in our policies, communications and other areas. As described in more detail under "Our Stockholder Outreach and Engagement," our senior leadership team engages with investors on a variety of topics in a number of forums, including in quarterly earnings calls, investor and industry conferences, analyst meetings and individual corporate governance and corporate responsibility discussions with stockholders. In addition, our Lead Independent Director participates in investor meetings and shares the investor views expressed in these meetings with the full Board. These conversations are with respect to a variety of topics, including our executive compensation program and philosophy. Among the key topics discussed with stockholders in 2024 were the Company's executive stock ownership guidelines and the strategic goals and financial metrics of our short-term and long-term incentive plans in our executive compensation program. During these engagements, stockholders have not expressed a desire for us to incorporate the CEO pay ratio as an element of our executive compensation program.

In addition, our stockholders have consistently and overwhelmingly endorsed our pay practices. Most recently, at our 2024 annual meeting of stockholders, our stockholders supported our advisory proposal to approve Gilead's executive compensation by approximately 91.3% of the votes cast, similar to the levels of support expressed at our 2023 (90.9%) and 2022 (91.3%) annual meetings of stockholders.

✖ **Our Board unanimously recommends a vote "AGAINST" Proposal 4.**

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

DIVISION OF
CORPORATION FINANCE

April 2, 2025

Brian V. Breheny
Skadden, Arps, Slate, Meagher & Flom LLP

Re: JPMorgan Chase & Co. (the "Company")
Incoming letter dated January 17, 2025

Dear Brian V. Breheny:

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

The Proposal requests that the Company consider abolishing its DEI program, policies, department and goals.

There appears to be some basis for your view that the Company may exclude the Proposal under Rule 14a-8(i)(10). Based on the information you have presented, it appears that the Company has already substantially implemented the Proposal. Accordingly, we will not recommend enforcement action to the Commission if the Company omits the Proposal from its proxy materials in reliance on Rule 14a-8(i)(10). In reaching this position, we have not found it necessary to address the alternative basis for omission upon which the Company relies.

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

Sincerely,

Rule 14a-8 Review Team

cc: Stefan Padfield
National Center for Public Policy Research

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January 17, 2025

VIA STAFF ONLINE FORM

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

Re: Shareholder Proposal Submitted by
the National Center for Public Policy Research

Ladies and Gentlemen:

This letter is submitted on behalf of JPMorgan Chase & Co., a Delaware corporation (the "Company"), pursuant to Rule 14a-8(j) promulgated under the Securities Exchange Act of 1934, as amended (the "Exchange Act"). The Company requests that the staff of the Division of Corporation Finance (the "Staff") of the U.S. Securities and Exchange Commission (the "Commission") not recommend enforcement action if the Company omits from its proxy materials for the Company's 2025 Annual Meeting of Shareholders (the "2025 Annual Meeting") the shareholder proposal and supporting statement (the "Proposal") submitted by the National Center for Public Policy Research (the "Proponent").

This letter provides an explanation of why the Company believes it may exclude the Proposal and includes the attachments required by Rule 14a-8(j). In accordance with relevant Staff guidance, we are submitting this letter and its attachments to the Staff through the Staff's online Shareholder Proposal Form. A copy of this letter also is being sent to the Proponent as notice of the Company's intent to omit the Proposal from the Company's proxy materials for the 2025 Annual Meeting.

Rule 14a-8(k) and Section E of Staff Legal Bulletin No. 14D (Nov. 7, 2008) provide that shareholder proponents are required to send companies a copy of any correspondence that the shareholder proponents elect to submit to the Commission or

the Staff. Accordingly, we are taking this opportunity to remind the Proponent that if the Proponent submits correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should be furnished concurrently to the Company.

Background

The Company received the Proposal via email on December 6, 2024, along with a cover letter from the Proponent. On December 18, 2024, after confirming that the Proponent was not a registered holder of Company common stock, in accordance with Rule 14a-8(f)(1), the Company sent a letter to the Proponent, via email, requesting a written statement from the record owner of the Proponent's shares verifying that the Proponent beneficially owned the requisite number of shares of Company common stock continuously for at least the requisite period preceding and including the date of submission of the Proposal, which the Proponent satisfactorily responded to on December 19, 2024. Copies of the Proposal, cover letter and related correspondence are attached hereto as Exhibit A.[1]

Summary of the Proposal

The text of the resolution contained in the Proposal follows:

RESOLVED:

Shareholders request that the Company consider abolishing its DEI program, policies, department and goals.

Bases for Exclusion

We hereby respectfully request that the Staff concur in the Company's view that it may exclude the Proposal from the proxy materials for the 2025 Annual Meeting pursuant to:

- Rule 14a-8(i)(10) because the Company has substantially implemented the Proposal as it requests the Company to revisit its DEI program and policies; and

[1] Exhibit A omits correspondence between the Company and the Proponent that is irrelevant to this request, such as the aforementioned deficiency letter and subsequent response. *See* the Staff's "Announcement Regarding Personally Identifiable and Other Sensitive Information in Rule 14a-8 Submissions and Related Materials" (Dec. 17, 2021), available at https://www.sec.gov/corpfin/announcement/announcement-14a-8-submissions-pii-20211217.

- Rule 14a-8(i)(7) because the Proposal deals with matters relating to the Company's ordinary business operations.

Analysis

As an initial matter, the Company believes that attracting and retaining the best talent and fostering an inclusive culture strengthen business and community trust. Our efforts are designed to strengthen our workforce, enhance community trust and drive business success. We remain fully committed to an inclusive workforce made up of top talent that includes diverse backgrounds and perspectives, which we believe is critical for generating the best ideas, enjoying a stronger corporate culture and delivering better results for our shareholders and, importantly, our customers.

Our Guiding Principles will help ensure that our programs align with our core values, are well-designed, and comply with the law while fostering an inclusive work environment.

Jamie Dimon, the Company's Chairman and Chief Executive Officer, noted in his April 2024 letter to shareholders (the "2024 Letter") that at the Company, "equity" means "equal treatment, equal opportunity and equal access … not equal outcomes" and that "[w]e would like to provide a fair chance for everyone to succeed — regardless of their background. And we want to make sure everyone who works at our company feels welcome."[2]

A. The Proposal Should Be Excluded Pursuant to Rule 14a-8(i)(10) Because the Company Has Substantially Implemented the Proposal as It Requests the Company to Revisit Its DEI Program and Policies.

Rule 14a-8(i)(10) permits a company to exclude a shareholder proposal if the company has already substantially implemented the proposal. The Commission adopted the "substantially implemented" standard in 1983 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) (the "1983 Release"); Exchange Act Release No. 34-12598 (July 7, 1976). Accordingly, the actions requested by a proposal need not be "fully effected" provided that they have been "substantially implemented" by the company. *See* 1983 Release.

Applying this standard, the Staff has consistently permitted the exclusion of a proposal when it has determined that the company's policies, practices and procedures

[2] *See* Chairman and CEO Letter to Shareholders, available at https://www.jpmorganchase.com/ir/annual-report/2023/ar-ceo-letters.

or public disclosures compare favorably with the guidelines of the proposal. For example, in *JPMorgan Chase & Co.* (Feb. 5, 2020), the Staff permitted exclusion under Rule 14a-8(i)(10) of a proposal requesting that the Company's Board of Directors (the "Board") exercise its fiduciary duties by reviewing the Statement of the Purpose of a Corporation, and provide oversight and guidance as to how the new statement of stakeholder theory should alter the Company's governance and management system, and publish recommendations regarding implementation, where the Company represented, among other things, that the Corporate Governance & Nominating Committee of the Board had reviewed the Statement and determined that no additional action or assessment is required. In permitting exclusion, the Staff noted that the Board's actions "compare favorably with the guidelines of the [p]roposal and that the Company has, therefore, substantially implemented the [p]roposal." *See also, e.g.*, *Eli Lilly and Co.* (Feb. 26, 2021)*; *Devon Energy Corp.* (Apr. 1, 2020)*; *Visa Inc.* (Oct. 11, 2019); *The Allstate Corp.* (Mar. 15, 2019); *The Bank of New York Mellon Corporation* (Feb. 15, 2019); *Johnson & Johnson* (Feb. 6, 2019); *United Cont'l Holdings, Inc.* (Apr. 13, 2018); *eBay Inc.* (Mar. 29, 2018); *Kewaunee Scientific Corp.* (May 31, 2017); *Wal-Mart Stores, Inc.* (Mar. 16, 2017).

In addition, the Staff has permitted exclusion under Rule 14a-8(i)(10) where the company 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. For example, in *The Boeing Company* (Feb. 17, 2011), the Staff permitted exclusion under Rule 14a-8(i)(10) of a proposal requesting that the company "review its policies related to human rights" and report its findings, where the company had already adopted human rights policies and provided an annual report on corporate citizenship. *See also, e.g.*, *The Wendy's Co.* (Apr. 10, 2019) (permitting exclusion under Rule 14a-8(i)(10) of a proposal requesting a report assessing human rights risks of the company's operations, including the principles and methodology used to make the assessment, the frequency of assessment and how the company would use the assessment's results, where the company had a code of ethics and a code of conduct for suppliers and disclosed on its website the frequency and methodology of its human rights risk assessments); *Verizon Communications Inc.* (Feb. 19, 2019) (permitting exclusion under Rule 14a-8(i)(10) of a proposal requesting that the company's board establish a committee to oversee the company's policies and practices relating to public policy issues, including human rights, where the company's existing committees charters provided committee level oversight of public policy issues and "significant business risk exposures"); *MGM Resorts Int'l* (Feb. 28, 2012) (permitting exclusion under Rule 14a-8(i)(10) of a proposal requesting a report on the company's sustainability policies and performance, including multiple objective statistical indicators, where the company published an annual sustainability report).

* Citations marked with an asterisk indicate Staff decisions issued without a letter.

In this instance, the Company has substantially implemented the Proposal, the essential objective of which is for the Company to assess legal risks related to its diversity, equity and inclusion ("DEI") programs and policies and consider whether to discontinue such programs and policies. The bulk of the supporting statement focuses on alleged legal risks related to corporate DEI programs, noting that due to the U.S. Supreme Court's decision in *SFFA v. Harvard* "the legality of corporate [DEI] programs was called into question and 13 Attorneys General warned that *SFFA* implicated corporate DEI programs" and that certain DEI-related lawsuits have been filed since *SFFA*. The supporting statement also points to certain companies' rolling back their DEI-related program, policies, department and goals in response to alleged legal risks from corporate DEI initiatives. The supporting statement then asserts that "[d]espite . . . the wave of corporate DEI retreats, [the Company] still has a DEI program." Notably, the Proposal does not request any report or disclosure or otherwise indicate what actions would establish that the Company has in fact considered abolishing its DEI program, policies, department and goals.

As described below, the Company already has addressed the underlying concerns and satisfied the essential objective of the Proposal. As with any laws that are applicable to the Company's business, in response to the *SFFA* decision and other legal actions related to DEI programs and policies, the Company considered the application of the decision and the actions and evaluated its DEI programs and policies to determine whether any such programs or policies should be modified or discontinued. Indeed, in his 2024 Letter, Jamie Dimon announced that the Company would "[o]f course . . . conform as the laws evolve," but after "scour[ing] our programs, our words and our actions to make sure they comply," the Company had determined it would be "thoughtfully continuing our diversity, equity and inclusion efforts."

In this regard, as disclosed in the Company's definitive proxy statement for its 2024 annual meeting of shareholders (the "2024 Proxy Statement"), the Board oversees the Company's DEI matters, including the Compensation and Management and Development Committee's ("CMDC") review of DEI programs.[3] The 2024 Proxy Statement also disclosed that "[i]n the past year, Board and committee discussion topics included . . . DEI." For instance, in October 2023, the Company's management presented to the CMDC updates on employee DEI programs, which outlined issues for the CMDC to consider regarding the Company's DEI principles and programs, particularly in light of the evolving legal landscape around DEI initiatives. At the meeting, the CMDC discussed, among other topics, potential legal risks related to the Company's DEI programs and how they inform the Company's approach, with a focus on executive compensation and other HR policies.

[3] *See* 2024 Proxy Statement, available at https://www.sec.gov/Archives/edgar/data/19617/000001961724000273/jpm-20240406.htm.

More recently, in July 2024, the Company's management presented to the full Board updates on the Company's DEI principles and programs (the "Board Presentation"), which outlined issues for the Board to consider regarding the Company's DEI initiatives and strategies, including legal risks. The Board Presentation addressed challenges and risks that the Board should be aware of, including heightened legal and political scrutiny in the DEI space, and specific actions the Company took or was taking in response. Those actions included a risk analysis on the full inventory of the Company's DEI programs in light of the Supreme Court's *SFFA v. Harvard* decision and a reevaluation, redesign and strengthening of a number of the Company's processes related to DEI's operations and controls.

As demonstrated by the management presentations to the Board and CMDC described above as well as the disclosure and public statements in the 2024 Letter and the 2024 Proxy Statement, the Company already has considered whether any of its DEI programs, policies, departments and goals should be modified or discontinued, including in light of the Supreme Court's decision in *SFFA v. Harvard* and related legal risks, and has implemented or is implementing key changes. These considerations could have resulted in a determination by the Board to abolish the Company's DEI programs, policies, department and goals. Instead, the Board decided to continue the Company's DEI efforts in a thoughtful way. Therefore, the Company has satisfied the Proposal's essential objective and its considerations of DEI principles and programs compare favorably with the Proposal's request.

Accordingly, the Proposal has been substantially implemented and may be excluded pursuant to Rule 14a-8(i)(10).

B. The Proposal Should Be Excluded Pursuant to Rule 14a-8(i)(7) Because the Proposal Deals with Matters Relating to the Company's Ordinary Business Operations.

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

The Staff has consistently agreed that shareholder proposals attempting to micromanage a company by probing too deeply into matters of a complex nature upon

which shareholders, as a group, are not in a position to make an informed judgment are excludable under Rule 14a-8(i)(7). *See* 1998 Release; *see also, e.g.*, *Air Products and Chemicals, Inc.* (Nov. 29, 2024); *Johnson & Johnson* (Mar. 1, 2024); *JPMorgan Chase & Co.* (Mar. 22, 2019); *Royal Caribbean Cruises Ltd.* (Mar. 14, 2019); *Walgreens Boots Alliance, Inc.* (Nov. 20, 2018); *RH* (May 11, 2018); *Amazon.com, Inc.* (Jan. 18, 2018, *recon. denied* Apr. 5, 2018). As the Commission has explained, a proposal may probe too deeply into matters of a complex nature if it "involves intricate detail, or seeks to impose specific time-frames or methods for implementing complex policies." 1998 Release. In Staff Legal Bulletin No. 14L (Nov. 3, 2021), the Staff explained that a proposal can be excluded on the basis of micromanagement based "on the level of granularity sought in the proposal and whether and to what extent it inappropriately limits discretion of the board or management."

The Staff also has permitted exclusion on the basis of micromanagement of shareholder proposals urging the adoption of policies that impose specific methods for implementing complex policies. For example, in *Amazon.com, Inc.* (Apr. 7, 2023, *recon. denied* Apr. 20, 2023), the Staff permitted exclusion on the basis of micromanagement of a proposal that would have required the company to adopt a particular methodology for scope 3 greenhouse gas emissions measuring and reporting that was inconsistent with the company's existing approach. In its response, the Staff noted that "the [p]roposal seeks to micromanage the [c]ompany by imposing a specific method for implementing a complex policy disclosure without affording discretion to management." *See also NetApp, Inc.* (July 19, 2024) (permitting exclusion on the basis of micromanagement of a proposal that would have required the company to replace a section of its bylaws with entirely new language prescribed by the proposal concerning the compensation of directors); *The Coca-Cola Co.* (Feb. 16, 2022) (permitting exclusion on the basis of micromanagement of a proposal requesting that the company submit any proposed political statement to shareholders at the next shareholder meeting for approval prior to issuing the subject statement publicly); *JPMorgan Chase & Co.* (Mar. 30, 2018) (permitting exclusion on the basis of micromanagement of a proposal that requested a report on the reputational, financial and climate risks associated with project and corporate lending, underwriting, advising and investing for tar sands production and transportation, noting that the proposal sought to "impose specific methods for implementing complex policies").

In this instance, while the Company has substantially implemented the Proposal's explicit request to "consider abolishing" its DEI initiatives as explained above, to the extent the Proposal could be read as requesting that the Company actually abolish its DEI initiatives, the Proposal seeks to micromanage the Company by imposing a specific method for implementing complex policies. Although the Proposal's resolution clause is couched as a request to "consider" abolishing the Company's DEI efforts, the entire theme of the Proposal is, as the title of the Proposal states, a "request to cease DEI efforts." In this regard, the bulk of the supporting

statement focuses on alleged legal risks related to corporate DEI programs, noting that due to the U.S. Supreme Court's decision in *SFFA v. Harvard* "the legality of corporate [DEI] programs was called into question and 13 Attorneys General warned that *SFFA* implicated corporate DEI programs" and that certain DEI-related lawsuits have been filed since *SFFA*. The supporting statement also points to examples of companies that, in the Proponent's view, "[s]ensibly . . . roll[ed] back their DEI commitments and la[id] off DEI departments." The supporting statement then asserts that "[d]espite . . . the wave of corporate DEI retreats, [the Company] still has a DEI program" and that the Company potentially faces billions of dollars in legal liability from employee lawsuits based on alleged discriminations related to the Company's DEI efforts. Thus, viewed in its entirety, the Proposal could be interpreted as requesting the Company to cease all of its DEI program, policies, department and goals, which would be an attempt to micromanage the Company.

Decisions concerning the implementation and evaluation of the Company's DEI program, policies, department and goals entail complex legal, regulatory, business and other judgments by the Board and management. Specifically, the Board and its committees periodically evaluate the current state of the Company's DEI strategy, to assess the Company's long-standing commitment to equal employment opportunity, to foster an inclusive work environment and to monitor its ability to attract and retain the best talent. As the legal and political landscape around DEI initiatives continues to evolve, decisions concerning whether and how to implement the Company's DEI principles and programs require consideration of even more complex factors. The Proposal also does not define DEI, which the Company deems to include programs related to Military and Veterans affairs, Next Generation for Early Career Professionals, Administrative Professionals and many others not even referenced in the Proposal. The Proposal, however, would specifically limit the ability of the Company's Board and management to make business judgment by requesting the Company to categorically cease all of its DEI efforts. As a result, the Proposal seeks to prescribe a specific method for implementing complex policies and, therefore, probes too deeply into matters of a complex nature upon which stockholders, as a group, are not in a position to make an informed judgment. Therefore, the Proposal attempts to micromanage the Company and is precisely the type of effort that Rule 14a-8(i)(7) is intended to prevent.

Accordingly, the Proposal should be excluded pursuant to Rule 14a-8(i)(7) as relating to the Company's ordinary business operations.

Conclusion

On the basis of the foregoing, the Company respectfully requests the concurrence of the Staff that the Proposal may be excluded from the Company's proxy materials for the 2025 Annual Meeting. If you have any questions or would like any additional information regarding the foregoing, please do not hesitate to contact me at (202) 371-7180. Thank you for your prompt attention to this matter.

Very truly yours,

Brian V. Breheny

Enclosures

cc: John H. Tribolati
Corporate Secretary
JPMorgan Chase & Co.

Ethan Peck
National Center for Public Policy Research

EXHIBIT A

(see attached)

December 6, 2024

Via email to:

John H. Tribolati
Office of the Secretary
JPMorgan Chase & Co.
[redacted]

Dear Mr. Tribolati,

I hereby submit the enclosed shareholder proposal ("Proposal") for inclusion in the JPMorgan Chase & Co. (the "Company") proxy statement to be circulated to Company shareholders in conjunction with the next annual meeting of shareholders. The Proposal is submitted under Rule 14(a)-8 (Proposals of Security Holders) of the United States Securities and Exchange Commission's proxy regulations.

I submit the Proposal as Deputy Director of the Free Enterprise Project of the National Center for Public Policy Research, which has continuously owned Company stock with a value exceeding $2,000 for at least 3 years prior to and including the date of this Proposal and which intends to hold these shares through the date of the Company's 2025 annual meeting of shareholders. A proof of ownership letter is forthcoming.

Pursuant to interpretations of Rule 14(a)-8 by the Securities & Exchange Commission staff, I initially propose as a time for a meeting via teleconference to discuss this proposal December 30 or December 31, 2024, from 1-4 p.m. eastern. If that proves inconvenient, I hope you will suggest some other times within the window proposed by Rule 14(a)-8(b)(iii) to talk. Please feel free to contact me at [redacted] so that we can determine the mode and method of that discussion.

As you know, SEC guidance has admonished corporations against seeking no-action "relief" on grounds that could have been resolved by clear and open correspondence between the parties and

a good-faith willingness on both sides to reach a mutually satisfactory resolution and to implement whatever emendations may have been agreed. We herewith express our openness to consideration in good faith of any specific objections to this proposal that you might wish to raise, and a commitment to work earnestly toward an acceptable adjustment in all instances in which the objections raised are demonstrably supported by SEC regulation, staff guidance, or other relevant explications of specific rules governing the situation at hand.

Copies of correspondence or a request for a “no-action” letter should be sent to me at the National Center for Public Policy Research, [redacted] and emailed to [redacted].

Sincerely,

Ethan Peck

cc: Stefan Padfield, FEP Director
Enclosure: Shareholder Proposal

Request to Cease DEI Efforts

SUPPORTING STATEMENT:

Last year, the US Supreme Court ruled in *SFFA v. Harvard* that discriminating on the basis of race in college admissions violates the equal protection clause of the 14th Amendment.[1] As a result, the legality of corporate Diversity, Equity and Inclusion (DEI) programs was called into question[2] and 13 Attorneys General warned that *SFFA* implicated corporate DEI programs.[3]

This year, those implications widened when the Supreme Court ruled in *Muldrow v. City of St. Louis* that Title VII of the Civil Rights Act protected against discriminatory job transfers.[4] The ruling also lowered the bar for employees to successfully sue their employers for discrimination,[5] and is therefore likely to lead to an increase in discrimination claims.

Since *SFFA*, a number of DEI-related lawsuits have been filed. Starbucks was successfully sued for discrimination by an employee for $25.6 million,[6] and the risk of being sued for such discrimination is rising.[7]

Sensibly, many major companies have responded by rolling back their DEI commitments and laying off DEI departments.[8] Alphabet and Meta cut DEI staff and DEI-related investments;[9] and Microsoft and Zoom laid off their entire DEI teams.[10] Since *Muldrow*, John Deere publicly

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[1] https://www.scotusblog.com/case-files/cases/students-for-fair-admissions-inc-v-president-fellows-of-harvard-college/

[2] https://freebeacon.com/democrats/starbucks-hired-eric-holder-to-conduct-a-civil-rights-audit-the-policies-he-blessed-got-the-coffee-maker-sued/

[3] https://ag.ks.gov/docs/default-source/documents/corporate-racial-discrimination-multistate-letter.pdf?sfvrsn=968abc1a_2

[4] https://www.supremecourt.gov/opinions/23pdf/22-193_q86b.pdf

[5] https://www.skadden.com/insights/publications/2024/06/quarterly-insights/supreme-court-lowers-the-bar; https://www.dailysignal.com/2024/04/17/supreme-court-just-made-easier-sue-employers-dei-policies/

[6] https://www.foxbusiness.com/features/starbucks-manager-shannon-phillips-wins-25-million-lawsuit-fired-white-donte-robinson-rashon-nelson

[7] https://aflegal.org/america-first-legal-files-class-action-lawsuit-against-progressive-insurance-for-illegal-racial-discrimination/; https://aflegal.org/afl-files-federal-civil-rights-complaint-against-activision-for-illegal-racist-sexist-and-discriminatory-hiring-practices-and-sends-letter-to-activision-board-demanding-they-end-unlawful-dei-polici/; https://aflegal.org/america-first-legal-files-federal-civil-rights-complaint-against-kelloggs-warns-management-that-its-violating-fiduciary-duties/

[8] https://techcrunch.com/2024/07/29/dei-backlash-stay-up-to-date-on-the-latest-legal-and-corporate-challenges/

[9] https://www.cnbc.com/2023/12/22/google-meta-other-tech-giants-cut-dei-programs-in-2023.html

[10] https://www.businessinsider.com/microsoft-layoffs-dei-leader-email-2024-7; https://www.bloomberg.com/news/articles/2024-02-06/zoom-dei-workers-fired-in-recent-round-of-job-cuts

halted DEI-related policies[11] after Tractor Supply explicitly stated that it "eliminate[d] DEI roles and retire[d] our current DEI goals;"[12] Lowe's and Ford ended their participation in the Human Rights Campaign's Corporate Equality (CEI);[13] Harley Davidson ceased its DEI efforts;[14] Jack Daniels ended both its DEI efforts and CEI participation;[15] and Boeing got rid of its DEI department.[16]

DEI poses risks to companies, and therefore risks to their shareholders, and therefore further risks to companies for not abiding by their fiduciary duties.

Despite these risks, the *SFFA* and *Muldrow* decisions and the wave of corporate DEI retreats, JPMorgan Chase still has a DEI program,[17] which includes: considering and valuing race and sex in hiring and promotion decisions;[18] employing a "Global Head of DEI;"[19] a "Supplier Diversity" policy that picks suppliers based on their race and sex;[20] employee member groups for some (those arbitrarily deemed "diverse") but not for others;[21] and contributing shareholder money to organizations that advance DEI.[22]

With over 300,000 employees,[23] JPMorgan Chase likely has thousands of employees who are potentially victims of this type of discrimination. If even only a fraction of them file suit, and only some of those prove successful, the cost to the Company could reach billions of dollars.

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[11] https://x.com/JohnDeere/status/1813318977650847944

[12] https://corporate.tractorsupply.com/newsroom/news-releases/news-releases-details/2024/Tractor-Supply-Company-Statement/default.aspx

[13] https://www.nbcnews.com/business/business-news/lowes-becomes-later-paring-back-dei-efforts-rcna168380; https://www.cbsnews.com/news/lowes-dei-harley-davidson-john-deere-tractor-supply/

[14] https://x.com/harleydavidson/status/1825564138032234994

[15] https://www.foxnews.com/lifestyle/jack-daniels-renounces-woke-agenda-latest-iconic-us-brand-bring-sanity-back-business

[16] https://www.bloomberg.com/news/articles/2024-10-31/boeing-dismantles-diversity-team-as-pressure-builds-on-new-ceo

[17] https://www.jpmorganchase.com/impact/diversity-equity-and-inclusion

[18]https://www.jpmorganchase.com/careers/work-with-us; https://www.jpmorganchase.com/impact/diversity-equity-and-inclusion

[19] https://www.linkedin.com/in/thelma-ferguson/

[20] https://www.jpmorganchase.com/about/suppliers/supplier-diversity; https://www.jpmorgan.com/insights/corporate-responsibility/diversity-equity-and-inclusion/supplier-diversity-definition-benefits-and-important-resources

[21] https://www.jpmorganchase.com/careers/work-with-us#networks

[22] https://www.jpmorganchase.com/impact/diversity-equity-and-inclusion

[23] https://www.jpmorgan.com/about-us

RESOLVED:

Shareholders request that the Company consider abolishing its DEI program, policies, department and goals.

January 31, 2025

Via Online Shareholder Proposal Form

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

Re: No-Action Request from JPMorgan Chase & Co. Regarding a Shareholder Proposal by the National Center for Public Policy Research ("Proponent" or "NCPPR")

Ladies and Gentlemen:

This correspondence is in response to the letter of Brian V. Breheny on behalf of JPMorgan Chase & Co. (the "Company") dated January 17, 2025, requesting that your office (the "Commission" or "Staff") take no action if the Company omits Proponent's shareholder proposal (the "Proposal") from its 2025 proxy materials for its 2025 annual shareholder meeting. The following analysis of the Company's arguments makes clear that no basis exists for permitting the Company to exclude the Proposal.

I. **The Company Has Not Substantially Implemented the Proposal**

Considering cessation of *all* DEI programs is substantially different from consideration cessation of *some* DEI programs. Cf., Emily Peck, *Trump admin tells agencies to start firing DEI staffers*, AXIOS (Jan. 24, 2025) (noting "a directive issued earlier this week that ordered department and agency heads to close DEI offices" and that "each agency, department, or commission head shall take action to terminate, to the maximum extent allowed by law, all DEI, DEIA, and 'environmental justice' offices and positions within sixty days").[1] As the author of this reply has written elsewhere:

> Should DEI be saved? While the possibility of reform should not be completely dismissed, it must be kept in mind that it is precisely people like Gaudiano – people who dismiss the reality of DEI divisiveness as "absurd" while retreating behind the utterly worn-out

[1] https://www.axios.com/2025/01/25/trump-dei-workers-fired

> trope of accusing anyone disagreeing with them of being a racist – that would likely be left administering a reformed DEI. We're talking about people like Robin DiAngelo, who think progress is made by teaching that all white people are racist, or Ibram X. Kendi, who – as referenced above – promotes the neo-racist idea that the "only remedy to past discrimination is present discrimination," or even the infamous "progressive" who explained the October 7th massacre by asking us, "What did y'all think decolonization meant?" These are the type of people we are supposed to trust with providing us a reformed DEI? I think not. And given that no one can guarantee these types won't be able to infiltrate a reformed DEI just as they have infiltrated the current DEI, reform seems unlikely.[2]

Accordingly, the fact that "the Company already has considered whether *any* of its DEI programs, policies, departments and goals should be modified or discontinued," Company Letter at 6 (emphasis added), is a far cry from the Company considering whether *all* of its DEI programs, policies, departments and goals should be discontinued. *See also*, Company Letter at 5 ("the Company considered the application of the decision and the actions and evaluated its DEI programs and policies to determine whether *any* such programs or policies should be modified or discontinued") (emphasis added).

The Company clearly knows how to identify its DEI programs, policies, departments and goals, yet nothing in its no-action request suggests that the option of discontinuing *all* those programs, policies, departments and goals was ever evaluated by the board. Surely, it would have been easy for the Company to expressly affirm that the Company's board had formally considered discontinuing *all* its DEI programs, policies, departments and goals if the board had in fact done so. Given that no such affirmation has been provided, the Company cannot claim to have substantially implemented the Proposal.

B. The Proposal Does Not Impermissibly Micromanage the Company

The Company presumably recognizes that the social significance of the Proposal transcends the Company's ordinary business, which is obvious given the media and government attention DEI receives on a seemingly daily basis. See, generally, Emily Peck, *Trump admin tells agencies to start firing DEI staffers*, Axios (Jan. 24, 2025) (cited above). Accordingly, the Company moves right into arguing the Proposal impermissibly micromanages the Company in order to brush aside the Proposal's social significance.

The Company argues that "to the extent the Proposal could be read as requesting that the Company actually abolish its DEI initiatives, the Proposal seeks to micromanage the Company by imposing a specific method for implementing complex policies." The problem for the Company is that the Proposal cannot reasonably be read that way. The resolved clause clearly requests "that the Company *consider* abolishing its DEI program, policies, department and goals" (emphasis added). Furthermore, the "bulk of the supporting statement" that the Company tries to enlist in its effort to convince the Staff that "the Proposal could be interpreted as requesting the Company to

[2] https://nationalcenter.org/ncppr/2025/01/09/stefan-padfield-dei-is-the-problem/

cease all of its DEI program, policies, department and goals" is far more reasonably read as supporting the resolution as it is actually written, which is how the Proposal as a whole should be read. Put another way, everything in the supporting statement is best understood as explaining why shareholders should ask the Company to consider abolishing its DEI program, policies, department and goals.

The Company's argument here would only make sense if the Proposal resolved to amend the bylaws to forbid DEI. Accordingly, even the title of the Proposal, which is itself phrased as a request, does not help the Company here.

From the average shareholder's perspective, the Proposal clearly leaves the ultimate decision keep or eliminate DEI in the hands of management. The Proposal that the Company is urging the Staff to review, which puts that decision in the hands of the shareholders, is a work of fiction.

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

III. Conclusion

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

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

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

Sincerely,

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

cc: Brian V. Breheny