

May 13, 2019

The Honorable Maxine Waters
Chairwoman
House Financial Services Committee
United States House of Representatives
2221 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Patrick McHenry
Ranking Member
House Financial Services Committee
United States House of Representatives
4340 O'Neill House Office Building
Washington, DC 20024

Re: Support for Your Priorities for the House Financial Services Committee

Dear Chairwoman Waters and Ranking Member McHenry:

On behalf of Ceres and the undersigned investors (collectively managing more than \$700 billion), we congratulate you on your appointment as Chairwoman and Ranking Member, respectively, of the House Financial Services Committee (“Committee”). Ceres is a non-profit organization that coordinates the Ceres Investor Network on Climate Risk and Sustainability (the “Ceres Investor Network”), which consists of 169 institutional investors that collectively manage more than \$26 trillion. The Network advances leading investment practices, corporate engagement strategies, and policy solutions to build an equitable and sustainable global economy that reduces financial risks to companies and investors.

As part of the Ceres Investor Network’s work, we engage with policymakers on these issues. Today we write to you to express our support for the current shareholder proposal process as governed by SEC Rule 14a-8. Some have proposed rulemaking to curtail investors’ rights to file proposals by, for example, raising resubmission filing thresholds. Rulemaking along these lines is not necessary and would be detrimental to the existing process that harnesses the power of shareholders seeking to protect their investments by reducing risks for companies, capital markets and society.

Fundamentally, we believe that public companies (and financial markets) operate more effectively and efficiently when shareholders receive adequate material risk disclosure from companies and have legal rights sufficient to help them protect the value of their ownership positions. The current shareholder proposal process provides a practical, formal means for shareholders to advise corporate boards and to aggregate their opinions through voting. It grants shareholders crucial rights that help them to fulfill their fiduciary duties, protecting the portfolios those on whose behalf they are investing from important financial risks.

In November, we submitted a letter to SEC Chairman Clayton on behalf of 39 organizations regarding the SEC’s Roundtable on the Proxy Process. See Appendix A. In each of

the last two years, we have released reports with the Interfaith Center on Corporate Responsibility and the Forum for Sustainable and Responsible Investment about the virtues of the SEC’s existing shareholder proposal process. See Appendices B and C for more information.

Shareholder Participation Protects Investors’ Financial Interests

Preserving retail and institutional investors’ rights to submit shareholder proposals is essential to protecting their financial interests. The shareholder proposal process is a key mechanism through which shareholders can encourage corporate managers to address their concerns about financial risks posed by a variety of issues, and request that they take action to reduce those risks. When investors have a collective voice through proxy voting, they are better able to protect their interests, including those related to pressing environmental, social, and governance factors (“ESG”) such as climate change, data security, human and workers’ rights, and myriad others.

In 2018, the Department of Labor publicly stated that shareholder engagement on ESG issues (which frequently includes shareholder proposals) “may be a prudent approach to protecting the value of a plan’s investments.”¹ This view is not novel; in fact, it comports with robust academic research. The data show that investor input on these issues often addresses the financial strength of portfolio companies.² For more information, see Appendices B and D. In addition, a number of securities regulators, including the SEC, have acknowledged that ESG issues may be material to companies.

The SEC’s current shareholder proposal process enables investors to take measured steps to protect their portfolios from financial risks and promote more responsible and long-term capital growth. Rule 14a-8, for most investors, is a practical and formal vehicle for engaging with corporate management and, accordingly, allows investors to actively participate in matters that directly affect corporate performance and investors’ returns. For more information on the benefits of the shareholder proposal process for increasing shareholder value and the importance of preserving Rule 14a-8 as is, please see Appendix C.

Shareholder Participation Promotes Corporate Accountability and Good Governance

Good governance and corporate accountability are fundamental to efficient and well-functioning public markets. Markets function best when market participants are held accountable, and they are best held accountable by both the rule of law and empowered shareholders. Shareholders are in a key position to advise corporate management because management owes them a fiduciary duty, many shareholders have a well-developed understanding developed over many years of the companies in which they invest, and shareholders’ interests are aligned with good governance. Through the shareholder proposal process, shareholders can help to effect long-term change within individual companies and across industries.

¹ <https://www.dol.gov/agencies/ebsa/employers-and-advisers/guidance/field-assistance-bulletins/2018-01>

² <http://lipperalpha.refinitiv.com/2017/07/10-studies-that-show-how-and-why-esg-investing-works/>

Critics of shareholder involvement claim that investors who engage with companies on ESG issues co-opt shareholder proposals to promote their own idiosyncratic ends, but that is simply untrue. Over the last decade, proposals submitted by the Chevedden, Steiner, and McRitchie families — three leading retail investor filers of shareholder proposals — garnered an average vote of 40 percent, hardly indicative of fringe or self-interested proposals. See Appendix D. The reality is that the shareholder proposal process allows investors to help corporate management prevent, or recover from, mistakes, and to encourage management to make better financial decisions under investors’ watchful eyes. (Nearly all shareholder proposals are precatory, or advisory only — meaning that even majority votes don’t force corporate managers to act.)

Critics also assert that the thresholds to resubmit a proposal are too low, thereby allowing a minority of shareholders to repeatedly propose resolutions that receive low votes. They argue that all investors are harmed because valuable time and resources are diverted to the continuous consideration of misguided proposals. The data, however, do not support this argument. A recent study by the Council of Institutional Investors (CII), based on data from Institutional Shareholder Services (ISS), found that “about 20% of proposals win majority shareholder support on the first attempt” and those that do not reach a majority often lead to successful direct engagement with the company. For example, on average, about a third of climate change-related proposals are withdrawn each year by filers when companies commit to take the action requested in the proposal (based on Ceres data).

The same CII study found that a modest increase in the resubmission thresholds could more than double the number of ineligible proposals, and in the case of a dramatic increase in the thresholds (as shown in the table, produced by Ceres using the ISS data) cut the number of eligible proposals by more than 60%.

	Percent of proposals excluded by current 3/6/10 thresholds	Percent of proposals excluded by proposed 6/15/30 thresholds
First Attempt (current threshold: 3%) (873 total)	10%	29%
Second Attempt (current threshold: 6%) (338 total)	15%	38%
Third Attempt (current threshold: 10%) (134 total)	16%	63%
<i>Figures calculated by Ceres based on Environmental and Social proposals introduced from 2011 - 2018</i>		

Similarly, data covering the years 2011 to 2018 show that shareholders of only 30 companies resubmitted ESG proposals that received less than 20% of the vote for two or more

years (on only 54 occasions). In other words, over this time period, proposals of this type were submitted, on average, fewer than eight times per year and to only 30 of the nearly 4,000 public companies in the United States. This demonstrates that so-called “zombie proposals” are exceedingly rare, making up just 1% of all ESG proposals tracked by ISS. As a result, the proposed increases to the resubmission thresholds are a false solution in search of a problem which does not exist.

As the CII and Ceres analyses show, the current resubmission thresholds are not a waste of company resources and enable shareholder engagement on important measures. Note also that some of the largest asset managers are reluctant to vote for new shareholder proposals, preferring to engage with companies for several years on a topic before voting for a proposal. As a result, increasing the resubmission thresholds will eliminate shareholder proposals before they have a chance to mature and secure higher votes.

Finally, it should also be noted that increasing numbers of institutional investors are supporting proposals to address climate change. During the 2018 proxy season, 46 percent of the largest asset managers operating in the U.S. voted in favor of over half of climate-related shareholder proposals tracked by Ceres. This is up from approximately 33 percent in 2017 — an increase indicative of how seriously institutional investors view the financial risks from climate change. See Appendix E. In other words, asset managers are responding to their fiduciary duty to their clients, who are increasingly concerned about the financial risks posed by climate change, and it is critical that the shareholder resolution process is protected to empower managers to fully exercise that responsibility.

It cannot be overemphasized that nearly all shareholder proposals address financial issues. While it is unfortunate that some of these issues have been unduly politicized, such as the expected impacts of climate change, this in no way diminishes their financial importance. As a result, rolling back the right to file proposals would prevent shareholders from striving to reduce formidable financial risks. According to an article by McKinsey & Company, the business value from sustainability risks can be as high as 70 percent of a firm’s earnings before interest, taxes, depreciation and amortization.³ An investor has the right to use the shareholder proposal process to make the case that a company is not taking sufficient action to address this and other financial risk, and the data show that more and more investors are likely to share this financial concern.

Shareholder Participation Creates More Diverse and Inclusive Corporate Boards

Public companies operate best when they consider viewpoints, both internally and externally, from those with diverse backgrounds, experiences, and areas of expertise. Listening to shareholders and hiring board members whose background and life experience has given them unique and important insights is critical to long-term success and, ultimately, more inclusive financial services and public capital markets. Through the shareholder proposal process, investors have been able to help increase diversity on boards of directors. By adopting such shareholder proposals, public companies have improved their performance. See Appendix C.

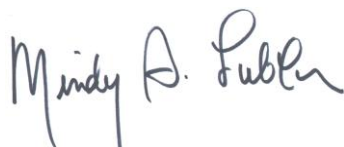
³ <https://mck.co/2JqAZ0S>

We hope shareholders of all sizes will continue to be allowed to suggest, on an advisory basis, these sorts of positive changes to the companies they own through the existing shareholder proposal process. Rulemaking related to Rule 14a-8 is not needed at this time.

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We again congratulate you on your appointments. Please do not hesitate to contact me if you have any questions. Ceres and the Investor Network are available to you and your staff to discuss these issues and to find opportunities to promote greater understanding of the benefits of the existing rules governing shareholder engagement.

Sincerely,



Mindy S. Lubber
CEO and President
Ceres

Adrian Dominican Sisters, Portfolio Advisory Board

As You Sow

Beth Pearce, Vermont State Treasurer

Bon Secours Mercy Health

BostonTrust/Walden Asset Management

Calvert Research and Management

Catholic Health Initiatives

CCLA Investment Management

Christopher Reynolds Foundation

Church Pension Fund

City of Boston

Clean Yield Asset Management

Congregation of St. Joseph

Daughters of Charity, Province of St. Louise

Dignity Health

Domini Impact Investments

First Affirmative Financial Network

Friends Fiduciary Corporation

Illinois State Treasurer Michael Frerichs

Impax Asset Management LLC

Interfaith Center on Corporate Responsibility (ICCR)

Investor Voice

Jantz Management LLC
Jesuit Committee on Investment Responsibility
Jesuit-West Province of the Society of Jesus (U.S.A.)
Jesuits of the US Central and Southern Province
Maryland Province of the Society of Jesus
Mercy Investment Services, Inc.
Miller/Howard Investments, Inc.
Minnesota State Board of Investment
Nancy K. Kopp, Maryland State Treasurer and Chair of the Maryland State Retirement and Pension System.
New York City Office of the Comptroller
Newground Social Investment
NorthStar Asset Management, Inc.
Northwest Coalition for Responsible Investment
Office of the New York State Comptroller
Pax World Funds
Priests of the Sacred Heart, USA Province
Progressive Investment Management
Providence St. Joseph Health
Seattle City Employees' Retirement System
Segal Marco Advisors
Seventh Generation Interfaith Inc
Shareholder Rights Group
The Episcopal Church
The Sustainability Group of Loring, Wolcott & Coolidge
Trillium Asset Management
Trinity Health
USA Midwest Province Jesuits
USA Northeast Province of the Society of Jesus
Zevin Asset Management

CC: Chairman Jay Clayton
Commissioner Elad Roisman
Commissioner Hester Peirce
Commissioner Robert Jackson, Jr.

Enclosures

[Appendix A](#) — Letter to Chairman Jay Clayton re: Rule 14a-8 and Proxy Process Reform
(November 13, 2018)

[Appendix B](#) — “The Business Case for the Current SEC Shareholder Proposal Process”
(April 2017)

[Appendix C](#) — “An Investor Response to the U.S. Chamber’s Proposal to Revise SEC
Rule 14-8” (November 2017)

[Appendix D](#) — Letter to Chairman Jay Clayton re: Decline in IPOs (November 13, 2018)

[Appendix E](#) — “As Climate Change Causes a Maelstrom of Financial Risk and Opportunities, is Your Money Manager Prepared to Weather the Storm?” (March 3, 2019)