

SheppardMullin

Sheppard Mullin Richter & Hampton LLP
333 South Hope Street, 43rd Floor
Los Angeles, CA 90071-1422
213.620.1780 main
213.620.1398 main fax
www.sheppardmullin.com

213.617.5483 direct
pmenard@sheppardmullin.com

January 27, 2012

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VIA E-MAIL

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

Re: The Cheesecake Factory Incorporated – Shareholder Proposal Submitted by Calvert Investments

Ladies and Gentlemen:

This letter is submitted on behalf of our client, The Cheesecake Factory Incorporated, a Delaware corporation (“TCF”), pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), to notify the staff of the Division of Corporation Finance (the “Staff”) of the Securities and Exchange Commission (the “Commission”) of TCF’s intention to exclude from the proxy materials for its 2012 annual meeting of shareholders (the “2012 Annual Meeting”) a shareholder proposal and statement of support received on December 12, 2011 (the “Proposal”) from Calvert Investments. For the reasons set forth below, TCF intends to exclude the Proposal from its proxy materials in reliance on Rules 14a-8(b), 14a-8(f), 14a-8(c), 14a-8(i)(3) and 14a-8(i)(7). TCF respectfully requests the Staff to confirm that it will not recommend enforcement action to the Commission if TCF excludes the Proposal from the proxy materials for the 2012 Annual Meeting in reliance on Rule 14a-8.

In accordance with Rule 14a-8(j) and Staff Legal Bulletin No. 14D (November 7, 2008), we are filing this letter and its attachments to the Staff by e-mail to shareholderproposals@sec.gov no later than 80 calendar days before the date on which TCF expects to file with the Commission the definitive proxy materials for the 2012 Annual Meeting. TCF expects to file its definitive proxy materials on or about April 20, 2012. I am simultaneously providing by e-mail and facsimile a copy of this letter and its attachments to Calvert Investments as notice of TCF’s intent to omit the Proposal from the proxy materials for the 2012 Annual Meeting. Calvert Investments is hereby requested pursuant to the requirements of Rule 14a-8(k) to provide to the undersigned on behalf of TCF a copy of any correspondence relating to the Proposal simultaneously with submitting the same to the Staff.

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I. The Proposal

The Proposal requests that TCF's shareholders approve the following resolution:

RESOLVED: Shareholders request that the Board of Directors prepare a sustainability report describing corporate policies and programs on workplace diversity and labor relations, product safety, environmental management, and addressing supply-chain risks, specifically vendor standards and compliance mechanisms for its vendors. The report, prepared at reasonable cost and omitting proprietary information, should be published by October 2012.

II. Background

On December 12, 2011, TCF received a letter dated December 8, 2011, a copy of which is attached as Exhibit A, presenting the Proposal for vote at the 2012 Annual Meeting. A copy of the Proposal, consisting of a lengthy "Whereas" clause, the resolution quoted above and a supporting statement, appears as an exhibit to that letter. Although the letter was on the letterhead of Calvert Investments, it was signed by an employee of Calvert Social Index Series, Inc. ("Calvert Social Index") and Calvert Variable Products, Inc ("Calvert Variable Products"), neither of which is a registered holder of TCF stock, and stated that "[a]s long-standing shareholders, we are filing the enclosed [proposal]." The letter purported to present the Proposal on behalf of the Calvert Social Index Fund, the Calvert VP S&P Mid Cap 400 Index Fund and the Calvert VP Russell 2000 Small Cap Index Portfolio (collectively, the "Funds"), none of which is a registered holder of TCF stock. The letter represented that (1) the Funds were beneficial owners of at least \$2,000 of TCF stock, (2) each Fund had held these shares continuously for at least one year, and (3) each Fund intended to continue to own shares in TCF through the date of the 2012 Annual Meeting. The letter further pledged to provide under separate cover supporting documentation of the Funds' ownership of TCF stock.

Under cover of a letter dated December 19, 2011, and signed by an employee of Calvert Investment Management, Inc. ("Calvert Investment Management"), TCF was provided with a letter dated December 15, 2011 from State Street Corp. to Calvert Investment Management setting forth the number of shares of TCF stock held by each of the Funds continuously between December 2, 2010 and December 9, 2011. This letter, together with the accompanying letter of State Street Corp., is attached as Exhibit B. Although this letter was received by TCF's mailroom on December 20, 2011, it was not delivered to TCF's management until December 29, 2011 due to a clerical error.

By letter dated December 22, 2011, a copy of which is attached as Exhibit C, TCF requested Calvert Investments to provide TCF with proof that the Funds satisfied the share ownership requirements of Rule 14a-8 as of the date that they submitted the Proposal. This letter was accompanied by a copy of Rule 14a-8(b)(2). At the time this letter was sent to Calvert Investments, TCF's management was not aware that Calvert Investments had provided the foregoing letter from State Street Corp. and, accordingly, limited its response to the Proposal to a request for proof that the Funds satisfied the share ownership requirements.

Upon delivery to management of the letter of Calvert Investment Management dated December 19, 2011, with the accompanying letter from State Street Corp., TCF promptly requested Calvert Investment Management by letter dated January 3, 2012, a copy of which is attached as Exhibit D, to:

- clearly identify the person submitting the Proposal on behalf of the Funds;
- provide proof that the person submitting the Proposal was, at the time of submitting the Proposal, and continued to be, authorized to submit the Proposal on behalf of the Funds;
- provide a statement from each Fund, or a person authorized to speak on behalf of each Fund, that the Fund intended to own or hold the minimum number of shares of TCF stock required to meet the share ownership requirements of Rule 14a-8 through the date of the 2012 Annual Meeting; and
- provide copies of the investment advisory contracts between Calvert Investment Management and each of the Funds, as well as the constituent documents of the Funds, to demonstrate that Calvert Investment Management had the authority to submit the Proposal and to make the representation concerning investment intent on behalf of the Funds.

Calvert Investment Management failed to respond to TCF's letter dated January 3, 2012.

The letters dated December 8, 2011 and December 19, 2011 intermingle Calvert Investments, Calvert Investment Management, Calvert Social Index and Calvert Variable Products without regard to the separate existence of these legal entities or any explanation as to their relationship to each other or the Funds. Other than the fact that the name of each of these entities and the Funds include the word "Calvert," TCF has no way of knowing whether these entities and the Funds are related or whether any of these entities has the authority to act on behalf of any of the others. For simplicity, these entities are collectively referred to in this letter as "Calvert."

III. Grounds For Exclusion

TCF believes the Proposal may properly be excluded from the proxy materials for the 2012 Annual Meeting pursuant to:

- Rule 14a-8(b) because Calvert failed to establish its authority to submit the Proposal on behalf of the Funds;
- Rule 14a-8(f) because Calvert failed to provide TCF with a statement from each Fund, or a person authorized to speak on behalf of each Fund, that the Fund intends to own or hold the minimum amount of TCF stock required by the rule through the date of the 2012 Annual Meeting;
- Rule 14a-8(c) because the Proposal contains multiple proposals;

- Rule 14a-8(i)(3) because the Proposal is so vague and indefinite as to be misleading; and
- Rule 14a-8(i)(7) because the Proposal deals with matters relating to the Company's ordinary business operations.

IV. Discussion

A. Rule 14a-8(b) — Calvert Has Not Demonstrated that it is Authorized to Submit the Proposal on Behalf of the Funds

To be eligible to submit a proposal under Rule 14a-8(b), a proponent must have continuously held at least \$2,000 in market value, or one percent, of the company's securities entitled to be voted on the proposal at the shareholder meeting for at least one year by the date that the proponent submitted the proposal. As the Staff has made clear, only beneficial owners with an economic interest in the shares that provide the basis for the submission of a shareholder proposal may submit such proposals. See, e.g., *Chesapeake Energy Corporation* (Apr. 13, 2010) (concurring in the exclusion of a co-proponent on the basis that it "had no economic stake or investment interest in the company by virtue of the shares held in its clients' accounts"); *The Western Union Company* (Mar. 10, 2010) (concurring in the exclusion of a proposal on the basis "that the proponent has no economic stake or investment in the company by virtue of the shares held in its clients' accounts").

We respectfully submit that TCF may exclude the Proposal from the proxy materials for the 2012 Annual Meeting based on the foregoing guidance. Calvert has failed to demonstrate that it is eligible to submit the Proposal — either as a shareholder in its own right or on behalf of the Funds. Calvert is not a registered holder of TCF stock nor is it a beneficial owner of TCF stock. Instead, it is submitting the Proposal on behalf of the Funds, which also are not registered holders of TCF stock. Even if the Funds are beneficial owners of TCF stock, Calvert has not demonstrated that it is authorized to submit the Proposal on their behalf.

As noted above, TCF brought these deficiencies to Calvert's attention in TCF's letters dated December 22, 2011 and January 3, 2012. In these deficiency letters, TCF informed Calvert of the minimum share ownership requirements of Rule 14a-8, provided a copy of Rule 14a-8(b)(2), and requested that (1) Calvert resolve the ambiguity as to whether Calvert Investments, Calvert Investment Management, Calvert Social Index or Calvert Variable Product was submitting the Proposal on behalf of the Funds, (2) demonstrate that the Funds satisfied the minimum share ownership requirements of Rule 14a-8, and (3) demonstrate that Calvert was authorized to submit the Proposal on behalf of the Funds. Notwithstanding the fact that TCF clearly identified the deficiencies in Calvert's submissions, Calvert has failed to identify the person submitting the Proposal on behalf of the Funds or to demonstrate that such person was authorized to submit the Proposal on behalf of the Funds. These failures provide TCF with a basis for excluding the Proposal from the proxy materials for the 2012 Annual Meeting.

The requirements of Rule 14a-8 are highly technical. As a result, the Staff has properly required a company seeking to exclude a proposal on the grounds of technical deficiencies to clearly identify the deficiencies and to permit the proponent a reasonable opportunity to correct the deficiencies. TCF fully agrees with the Staff's position that the technical requirements of Rule 14a-8 should not constitute a "gotcha." TCF has clearly identified the deficiencies in the Proposal. Calvert has not only failed to cure the deficiencies but has failed even to respond. It should also be noted that according to its website (www.calvert.com/sri-resolutions.html) the Calvert family of mutual funds includes 43 funds with over \$12.5 billion under management and has sponsored 132 shareholder proposals in the 2009, 2010, 2011 and 2012 proxy seasons. As a sophisticated investor and experienced proponent of shareholder proposals, Calvert should understand the requirements of Rule 14a-8. Calvert's disregard of these requirements and failure to respond to notice of the deficiencies in the Proposal warrant the exclusion of the Proposal from the proxy materials for the 2012 Annual Meeting.

The Staff consistently has permitted the exclusion of a proposal submitted by an investment adviser that manages funds that beneficially own the relevant voting securities, in the absence of proof that the investment adviser is authorized to submit proposals on behalf of the funds it manages. See, e.g., *Chesapeake Energy Corp.* (Apr. 13, 2010); *The Western Union Co.* (Mar. 10, 2010 and Mar. 4, 2008). In each of these letters, the Staff concluded that the failure to provide information demonstrating that an investment adviser was authorized to submit a proposal on behalf of its clients provided a basis for excluding the proposal under Rule 14a-8(b).

Calvert has failed to demonstrate that it is authorized to submit the Proposal on behalf of the Funds, despite TCF's clear and timely request for such proof. Accordingly, in reliance on the interpretive positions reflected in *Chesapeake Energy* and *The Western Union Company*, TCF intends to exclude the Proposal from the proxy materials for the 2012 Annual Meeting.

B. Rule 14a-8(f) — The Funds Have Not Provided a Written Statement That They Intend to Hold the Requisite Amount of Securities Through the Date of the 2012 Annual Meeting

Rule 14a-8(b) requires that a proponent hold the securities that entitle the proponent to submit the shareholder proposal through the date of the meeting and provide the company with a written statement of its intent to do so. To implement this requirement, Rule 14a-8(b)(2) requires the beneficial owner of the voting securities to submit its "own written statement that [it] intend[s] to continue to hold the securities through the date of the meeting of shareholders." In its December 8, 2011 letter, Calvert stated that "each Fund intends to continue to own shares in [TCF] through the date of the 2012 annual meeting of shareholders" (emphasis added), which can be read to mean that each Fund intends to hold as few as two shares of TCF stock rather than the number of shares required to meet the share ownership requirements of Rule 14a-8. Calvert has failed to respond to TCF's request that either (1) each Fund provide a statement that it intends to hold the minimum number shares of TCF stock required to meet the share ownership requirements of Rule 14a-8 through the date of the 2012 Annual Meeting, or (2) if such statement is provided by a third party on behalf of the Funds, that such person demonstrate that it is authorized to make that representation on behalf of the Funds.

The Staff has permitted the exclusion of a proposal where the proponent has failed to provide a statement that it would continue to own the requisite amount of stock through the date of the meeting. See, e.g., *Energen Corp.* (Feb. 22, 2011).

The Proposal is distinguishable from the recent no-action request in *Hanesbrands Inc.* (Jan. 13, 2012) in which the Staff was unable to concur in the exclusion of a proposal requesting the board of directors of Hanesbrands Inc. to issue a report describing the company's vendor standards pertaining to reducing supply chain environmental impacts on water use and related pollution. In *Hanesbrands*, the company sought to exclude the proposal on the grounds that the investment advisor to the proponent had failed to provide the company with a statement from the proponent itself regarding its intent to hold the minimum amount of stock required by Rule 14a-8. By contrast, TCF has merely requested Calvert to demonstrate that it is authorized to make that representation on behalf of each of the Funds. As noted above, Calvert's letters dated December 8, 2011 and December 19, 2011 intermingle Calvert Investments, Calvert Investment Management, Calvert Social Index and Calvert Variable Product without any explanation as to their relationship to each other or the Funds. Other than the fact that the name of each of these entities and the Funds include the word "Calvert," TCF has no way of knowing whether these entities and the Funds are related or whether any of these entities has the authority to act on behalf of any of the others. In contrast to the hypertechnical argument made in *Hanesbrands* (that based on the language of Rule 14a-8(b)(2)(i) the proponent must provide its own written statement that it intends to continue to hold the securities through the date of the meeting), TCF has merely requested Calvert to demonstrate that it is authorized to make that representation on behalf of each of the Funds.

Calvert has failed (1) to correct its initial statement on behalf of each Fund to indicate that the Fund intends to hold the requisite amount of TCF's stock through the date of the 2012 Annual Meeting (rather than merely an unspecified number of shares) or (2) to demonstrate that it is authorized to make that representation on behalf of each Fund despite TCF's clear and timely request for such proof. Accordingly, in reliance on the interpretive position reflected in *Energen*, TCF intends to exclude the Proposal from the proxy materials for the 2012 Annual Meeting in reliance on Rule 14a-8(f).

C. Rule 14a-8(c) – The Proposal Contains Multiple Proposals

Rule 14a-8(c) provides that a stockholder may submit only one proposal for a particular shareholder meeting. The Proposal, however, requests the board of directors of TCF to report on corporate policies and programs relating to myriad disparate aspects of the company's operations. As a result, a shareholder may be obliged to vote in favor of the production of one or more reports he or she would otherwise oppose in order to support the production of a single report he or she might believe to be appropriate. The subject matters of the reports requested by the Proposal – workplace diversity, labor relations, product safety, environmental management, and supply chain management – are unrelated. A shareholder who supports the production of a report on supply chain management in the belief that this subject matter involves significant social policy issues may oppose a report on workplace diversity, labor relations or product safety on the grounds that it would intrude into the day-to-day operations of the

company properly delegated to management and, accordingly, would waste the company's resources and divert the attention of management. By bundling requests for reports on multiple unrelated topics, the Proposal deprives shareholders of the opportunity to communicate to the board of directors their views on the appropriateness of each of the topics. See Exchange Act Release No. 34-31326 (October 16, 1992).

The Staff has consistently recognized that Rule 14a-8(c) permits the exclusion of proposals combining separate and distinct elements that lack a single, well-defined unifying concept, even if the elements are presented as part of a single program and relate to the same general subject matter. See, e.g., *Parker-Hannifin Corp.* (Sept. 4, 2009) (concurring in the exclusion of a "triennial executive pay vote program" consisting of three elements); *PG&E Corp.* (Mar. 11, 2010) (concurring in the exclusion of a proposal requiring multiple actions to mitigate the risks involved in the operation of a power plant); *Duke Energy Corp.* (Feb. 27, 2009) (concurring in the exclusion of a proposal requesting stock ownership guidelines for director candidates, new conflict of interest disclosure and restrictions on director compensation); *General Motors Corp.* (Apr. 9, 2007) (concurring in the exclusion of a proposal seeking shareholder approval for a corporate restructuring consisting of multiple transactions); *Centra Software, Inc.* (Mar. 31, 2003) (concurring in the exclusion of a proposal requesting amendments to the bylaws to require separate meetings of the independent directors and that the chairman of the board not be a company officer or employee); *HealthSouth Corp.* (Mar. 28, 2006) (concurring in the exclusion of multiple proposals related to giving shareholders the power to add directors of their own choosing); *Exxon Mobil Corp.* (Mar. 19, 2002) (concurring in the exclusion of multiple proposals related to the diversification of the board); *Allstate Corp.* (Jan. 29, 1997) (concurring that a submission constituted multiple proposals when it requested that the company adopt cumulative voting and then avoid certain actions alleged to impair the effectiveness of cumulative voting).

Like the proposals in the precedents discussed above, the Proposal requests reports on multiple aspects of the company's operations that are related only by Calvert's vague assertion that they each relate to the amorphous category of "environmental, social and governance performance." Accordingly, because the Proposal requires shareholders to approve or reject all or none of the subject matters to be covered by the report, and in reliance on the interpretive positions cited above, TCF intends to exclude the Proposal from the proxy materials for the 2012 Annual Meeting under Rule 14a-8(c) because it does not relate to a single, well-defined unifying concept.

D. Rule 14a-8(i)(3) – The Proposal Is So Vague and Indefinite as to be Misleading

Rule 14a-8(i)(3) permits a company to exclude from its proxy materials a shareholder proposal if "the proposal or supporting statement is contrary to any of the Commission's proxy rules, including Rule 14a-9, which prohibits materially false or misleading statements in proxy soliciting materials." The Staff has consistently taken the position that vague and indefinite shareholder proposals are inherently misleading and therefore excludable under Rule 14a-8(i)(3) because "neither the stockholders voting on the proposal, nor the company in implementing the proposal

(if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires." Staff Legal Bulletin No. 14B (Sept. 15, 2004). *See also Dyer v. SEC*, 287 F.2d 773, 781 (8th Cir. 1961) ("[I]t appears to us that the proposal, as drafted and submitted to the company, is so vague and indefinite as to make it impossible for either the board of directors or the stockholders at large to comprehend precisely what the proposal would entail."); *Puget Energy, Inc.* (Mar. 7, 2002) (concurring in the exclusion of a proposal requesting that the company's board of directors "take the necessary steps to implement a policy of 'improved corporate governance'"); *Capital One Financial Corp.* (Feb. 7, 2003) (concurring in the exclusion of a proposal under Rule 14a-8(i)(3) where the company argued that its shareholders "would not know with any certainty what they are voting either for or against").

The Proposal uses the term "sustainability" no fewer than ten times, but nowhere defines the term. In fact, the supporting statement requests that the company's report "should include the company's definition of sustainability." Based on the statement in the recital that implementing and disclosing "sustainability practices" can improve TCF's operating results, a shareholder might infer that sustainable practices are those that enable a business to remain profitable, a necessary condition to continuity. Based on the numerous references in the recital to social responsibility, however, a shareholder might infer that sustainable practices are those that minimize the social impact of a company's business activities. The Proposal asks the shareholders to request the board of directors to prepare a "sustainability report," and the board of directors to create a definition of "sustainability," with no guidance as to the standards that are to be applied. Even if it were possible for the board of directors to articulate a standard for "sustainability," and then to apply that standard to its policies and programs, the resulting report would likely be labeled "self-serving" by one or more of the shareholders who expected that they were voting for something altogether different. TCF respectfully submits that the proponent should have provided guidance to the board of directors as to which of the disparate notions of "sustainability" should be used in the report requested in the Proposal.

In reliance on the interpretive positions cited above, TCF intends to exclude the Proposal from the proxy materials for the 2012 Annual Meeting in reliance on Rule 14a-8(i)(3) because the Proposal is so vague and indefinite as to be misleading.

E. Rule 14a-8(i)(7) – The Proposal Deals With Matters Relating to the Company's Ordinary Business Operations

1. Overview of the Ordinary Business Exclusion and the Exception for Significant Policy Issues

Rule 14a-8(i)(7) permits a company to exclude from its proxy materials a shareholder proposal that relates to its "ordinary business operations." The policy underlying the ordinary business exclusion is "to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting." Exchange Act Release No. 34-40018 (May 21, 1998) (the "1998 Release").

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The 1998 Release identified two “central considerations” for the ordinary business exclusion. The first was that “[c]ertain tasks are so fundamental to management’s ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight.” The Commission noted that, “[e]xamples include the management of the workforce, such as the hiring, promotion, and termination of employees, decisions on production quality and quantity, and the retention of suppliers.” The second consideration was “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.” *Id.* (citing Exchange Act Release No. 34-12999 (Nov. 22, 1976)).

In the 1998 Release, the Commission noted that the term “ordinary business” refers to matters that are not necessarily “ordinary” in the common meaning of the word, but instead the term “is rooted in the corporate law concept of providing management with flexibility in directing certain core matters involving the company’s business and operations.”

A proposal will not be deemed to relate to a company's ordinary business operations merely because it requests the company to prepare a report, form a committee, include disclosure in a Commission report or engage in the evaluation of risk. In determining whether such a proposal may be excluded under Rule 14a-8(i)(7), the Staff will consider whether the underlying subject of the report, committee, disclosure or risk assessment involves a matter of ordinary business. If it does, the proposal will be excludable. Staff Legal Bulletin 14E (October 27, 2009).

In the 1998 Release, the Commission recognized that “proposals relating to [ordinary business] matters but focusing on sufficiently significant social policy issues (e.g., significant discrimination matters) generally would not be considered to be excludable.” In determining whether the subject matter of a proposal is a significant policy issue, the Staff considers the proposal and the supporting statement as a whole. Staff Legal Bulletin 14C (June 28, 2005).

In applying these principles, the Staff has refused to permit the exclusion of proposals requesting reports regarding the effects of a company's operations on the environment. For example, in both *Chesapeake Energy Corp.* (April 13, 2010) and *Ultra Petroleum Corp.* (March 26, 2010), the Staff refused to concur with the exclusion of proposals requesting that each company prepare a report summarizing the effects of the company's fracturing operations on the environment because the proposals “focuse[d] primarily on the environmental impacts” of the company's operations. Likewise, in *SunTrust Banks, Inc.* (Jan. 13, 2010), the Staff did not permit the exclusion of a proposal that requested a “sustainability report describing strategies to address the environmental and social impacts of [the company's] business, including strategies to address climate change.”

However, when a proposal is focused on risks to the company, rather than social policy, it is excludable. For example, in *JP Morgan & Chase Co.* (Mar. 12, 2010) the Staff considered a proposal that requested a report “assessing the impact of [mountain top removal coal mining by JPMorgan's] clients on the environment” and the “adoption of a policy barring future [JP Morgan] financing of companies engaged in [mountain top removal coal mining].” The Staff permitted JPMorgan to exclude the proposal because it impacted JPMorgan's ordinary business

operations, such as its "decision to extend credit or provide other types of financial services to particular types of customers." See also *Wal-Mart Stores, Inc.* (Mar. 21, 2011) (concurring in the exclusion of a proposal requesting a report on the risks created by actions to avoid or minimize taxes); *UnitedHealth Group Incorporated* (Mar. 16, 2011) (concurring in the exclusion of a proposal requesting a report on how the company is responding to regulatory, legislative and public pressures to ensure affordable health care coverage and measures taken to contain the price increases associated with health care premiums); *ExxonMobil Corporation* (Mar. 3, 2011) (concurring in the exclusion of a proposal requesting a report on U.S. government subsidies that reduced the costs of doing business and any associated reputational risks); *PepsiCo., Inc.* (Mar. 3, 2011) (concurring in the exclusion of a proposal requesting a report on various public policy issues); *Pepco Holdings, Inc.* (Feb. 18, 2011) (concurring in the exclusion of a proposal requesting a report on market opportunities for non-commercial renewable solar power); *Pfizer Inc.* (Feb. 16, 2011) (concurring in the exclusion of a proposal requesting a report on the risks created by actions to avoid or minimize taxes); *The Home Depot, Inc.* (Mar. 2, 2011) (concurring in the exclusion of a proposal requesting a report on the risks created by actions to avoid or minimize taxes); *PetSmart, Inc.* (Apr. 8, 2009) (concurring in the exclusion of a proposal requesting a report on the feasibility of phasing out the sale of live animals); *Foundation Coal Holdings, Inc.* (Mar. 11, 2009) (concurring in the exclusion of a proposal requesting a report on how the company is responding to rising regulatory and public pressure to significantly reduce the social and environmental harm associated with carbon dioxide emissions from its operations and from the use of its primary products); *CONSOL Energy Inc.* (Feb. 23, 2009) (concurring in the exclusion of a proposal requesting a report on how the company is responding to rising regulatory and public pressure to significantly reduce the social and environmental harm associated with carbon dioxide emissions from its operations and from the use of its primary products); *Alpha Natural Resources, Inc.* (Feb. 17, 2009) (concurring in the exclusion of a proposal requesting a report on how the company is responding to rising regulatory and public pressure to significantly reduce the social and environmental harm associated with carbon dioxide emissions from its operations and from the use of its primary products); *General Electric Co.* (Jan. 9, 2009) (concurring in the exclusion of a proposal requesting a report on the costs and benefits of divesting the company's nuclear energy investment and instead investing in renewable energy); *Walgreen Co.* (Oct. 13, 2006) (concurring in the exclusion of a proposal requesting a report as to the extent to which the company's private label cosmetics and personal care products contain harmful chemicals that accumulate in the body or persist in the environment); *Newmont Mining Corp.* (Feb. 5, 2005) (concurring in the exclusion of a proposal requesting management to review its policies concerning waste disposal at certain of its mining operations, with a particular reference to potential and public health risks incurred by the company).

2. The Focus of the Proposal is on Ordinary Business Operations, Not Significant Policy

The Staff has consistently permitted the exclusion of proposals that focus on a company's day-to-day business activities regardless of the fact that such day-to-day activities implicate larger social issues.

The Proposal requests the board of directors of TCF to report on specific aspects of the company's operations – workplace diversity, labor relations, product safety, environmental management, and supply-chain issues, specifically vendor standards and compliance mechanisms for vendors. The recital to the proposed shareholder resolution argues that implementing and disclosing TCF's practices with respect to these specific areas of operations can reduce the cost of goods sold, lower operating expenses, manage risks, and protect TCF's brand value.

Unlike the proposals in *Chesapeake Energy Corp.* and *Ultra Petroleum Corp.*, which focused primarily on the environmental impacts of the company's operations, the Proposal is focused on the impact of TCF's policies and programs on TCF's financial results, rather than the social impact of such policies and programs. The effect of TCF's policies and programs relating to workplace diversity, labor relations, product safety, environmental management, vendor standards and vendor compliance on TCF's results of operations are issues at the very core of TCF's day-to-day operations and are not appropriate subjects for direct shareholder oversight.

3. *The Proposal Seeks Direct Shareholder Oversight of, and to Micro-Manage, Day-to-Day Business Operations*

The Proposal seeks direct shareholder oversight of, and to micro-manage, basic components of TCF's day-to-day business operations. Assessing the impact on TCF's operations of such subjects as workplace diversity, labor relations, product safety, environmental management, vendor standards and vendor compliance, and adjusting the company's policies and practices with regard to each of these subjects, involve both (1) fundamental management functions and (2) complex issues upon which shareholders, as a group, are not qualified to make an informed judgment. Indeed, most of the business activities on which the Proposal requests a report are included in the examples provided by the Commission in the 1998 Release as not being suitable for shareholder oversight, namely workforce management, production quality and supplier retention. The requested report would require a detailed explanation of how TCF manages its workforce, product production, quality control, food safety, and purchasing of raw materials, thereby encompassing virtually every aspect of TCF's business. The preparation of this report would be expensive, divert critical management resources from TCF's day-to-day operations, and involve issues that the average shareholder would not have sufficient expertise to understand. In effect, the Proposal is based on the assumption that either (1) the Commission's disclosure requirements under Form 10-K are inadequate to provide the information required by the average shareholder to make an informed investment decision or (2) TCF has failed to comply with these requirements. The requested report involves precisely the direct shareholder oversight and micro-management of the basic components of TCF's day-to-day business operations that the Commission and the Staff have consistently prohibited in the 1998 Release, Staff Legal Bulletins 14C and 14E and the interpretive positions taken in response to the no-action requests summarized above.

4. The Proposal Relates to TCF's Compliance with Applicable Law

The Staff has consistently permitted the exclusion of proposals that relate to a company's compliance with applicable law on the grounds that legal compliance is part of ordinary business operations. See e.g., *Johnson & Johnson* (Feb. 22, 2010) (concurring in the exclusion of a proposal requesting the company to verify the employment status of employees using specified procedures); *FedEx Corporation* (July 14, 2009) (concurring in the exclusion of a proposal requesting an independent committee to report on compliance of the company and its contractors with laws governing classification of employees); *Verizon Communications Inc.* (Jan. 7, 2008) (concurring in the exclusion of a proposal requesting that the board of directors adopt policies to ensure the company and its contractors do not engage in illegal trespass actions and report on policies for preventing and handling illegal trespass incidents); *Ford Motor Company* (Mar. 19, 2007) (concurring in the exclusion of a proposal requesting appointment of an independent legal advisory commission to investigate alleged violations of law); *Bank of America Corporation* (Jan. 11, 2007) (concurring in the exclusion of a proposal requesting creation of a position to review whether the company adequately defends and upholds the economy and security of the U.S.); *The AES Corporation* (Jan. 9, 2007) (concurring in the exclusion of a proposal requesting creation of oversight committee to monitor compliance with applicable laws, rules and regulations of federal, state and local governments); *Monsanto Corp.* (Nov. 3, 2005) (concurring in the exclusion of a proposal requesting establishment of oversight committee for compliance with code of ethics and applicable federal, state and local rules and regulations); *Humana Inc.* (Feb. 25, 1998) (concurring in the exclusion of a proposal requesting that the board of directors appoint a committee of outside directors to oversee the company's corporate anti-fraud compliance program to investigate possible corporate misconduct and report to shareholders the findings of its review); *General Electric Co.* (Jan. 4, 2005) (concurring in the exclusion of a proposal requesting a report detailing the company's broadcast television stations' activities to meet public interest obligations); and *Allstate Corp.* (Feb. 16, 1999) (concurring in the exclusion of a proposal requesting an independent shareholder committee to investigate issues of illegal activity by the company).

The recital to the Proposal argues that TCF's response to regulations, including those involving product safety and employment discrimination, can damage TCF's brand value. TCF's business is subject to extensive labor, health, safety and environmental regulations, all as discussed in considerable detail in its Annual Reports on Form 10-K. The monitoring, assessment of and compliance with regulatory requirements is an important and complex component of TCF's day-to-day business operations. TCF has implemented comprehensive procedures to review and make risk assessments, and detect and report violations, of laws, regulations and policies. The fact that some of these laws, regulations and policies may implicate significant policy issues does not mean that the compliance procedures themselves constitute significant policy issues. To insert shareholders into what are otherwise routine management decisions would interfere with management's core function of overseeing TCF's compliance programs.

5. *The Proposal Relates to TCF's Relationships with its Vendors*

The manner in which TCF imposes vendor standards and monitors compliance by its vendors with these standards and internal policies are matters that are fundamental to the day-to-day management of TCF's operations. The fact that some of these policies may parallel significant policy issues does not mean that the standards, policies or compliance procedures themselves constitute significant policy issues. To insert shareholders into what are otherwise routine management decisions would interfere with management's core functions of overseeing TCF's compliance programs and managing its relationships with its vendors.

The Commission has consistently permitted companies to exclude shareholder proposals pursuant to Rule 14a-8(i)(7) that interfere with a company's business relationships with its suppliers. See, e.g., *Alaska Air Group, Inc.* (Mar. 8, 2010) (concurring in the exclusion of a proposal requesting a report disclosing maintenance and security standards used by contract repair stations and the company's procedures for overseeing maintenance performed by contract repair stations); *Dean Foods Company* (Mar. 9, 2007) (concurring in the exclusion of a proposal requesting an independent committee review the company's policies to protect the company's brands and reputation and address consumer criticism).

TCF contracts with hundreds of vendors at any given time. The contractual relationship between TCF and its vendors govern matters as varied as product and performance specifications, quality standards, food and product safety, financial cost, and delivery requirements, among other issues. The dynamics of these relationships require the balancing of a wide array of business, cultural, legal, internal and external factors, none of which can be reviewed in isolation from the other factors. Like the proposals in *Alaska Air Group* and *Dean Foods Company*, by requiring a report "addressing supply-chain risks, specifically vendor standards and compliance mechanisms for its vendors," the Proposal impermissibly seeks direct shareholder oversight and micro-management of a fundamental aspect of TCF's day-to-day operations on which shareholders would not be equipped to make an informed judgment.

Because the Proposal focuses on matters relating to TCF's ordinary business operations, rather than on significant policy issues, TCF intends to exclude the Proposal from the proxy materials for the 2012 Annual Meeting in reliance on Rule 14a-8(i)(7).

V. **Conclusion**

It is TCF's position that Calvert and the Funds are ineligible to submit the Proposal because (i) Calvert failed to demonstrate that it is authorized to submit the Proposal on behalf of the Funds, and (ii) the Funds failed to provide a written statement of their intent to hold the requisite amount of TCF stock through the date of the 2012 Annual Meeting. Assuming for the sake of argument that Calvert and the Funds are not ineligible, the Proposal may be excluded because (i) the Proposal contains multiple proposals, (ii) the Proposal is so vague and indefinite as to be misleading, and (iii) the Proposal deals with matters relating to TCF's ordinary business operations. As a result, and based on the facts and the interpretative positions discussed above, TCF believes that it may exclude the Proposal from its 2012 proxy materials pursuant to

SheppardMullin

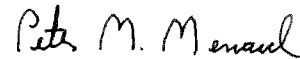
Office of Chief Counsel
Division of Corporation Finance
January 27, 2012
Page 14

Rules 14a-8(b), 14a-8(f), 14a-8(c), Rule 14a-8(i)(3) and 14a-8(i)(7). By this letter, TCF respectfully requests confirmation that the Staff will not recommend enforcement action to the Commission if TCF excludes the Proposal from the proxy materials for the 2012 Annual Meeting.

By copy of this letter, TCF is notifying Calvert Investments of TCF's intention to omit the Proposal from the proxy materials for the 2012 Annual Meeting.

In accordance with Staff Legal Bulletin 14F (October 18, 2011), please send your response to this letter to the undersigned by e-mail at pmenard@sheppardmullin.com. If you have any questions regarding this request or desire additional information, please contact me at (213) 617-5483.

Very truly yours,



Peter M. Menard

for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

Attachments

cc: Debby Zurzolo, Esq.
Ivy Wafford Duke, Esq.
Bennett Freeman
Stu Dalheim

EXHIBIT A



RECEIVED

1430 Montgomery Avenue, Bethesda, MD 20814
301-951-4800 / www.calvert.com

DEC 12 2011

LEGAL DEPT.

December 8, 2011

Ms. Debby Zurzolo
Executive Vice President, Corporate Secretary and General Counsel
The Cheesecake Factory Incorporated
26901 Malibu Hills Road
Calabasas Hills, CA 91301

Dear Ms. Zurzolo:

Calvert Investment Management, Inc. ("Calvert"), a registered investment advisor, provides investment advice for the 43 mutual funds sponsored by Calvert Investments, Inc., including 22 funds that apply sustainability criteria. As of December 7, 2011, Calvert had over \$12.5 billion in assets under management.

The Calvert Social Index Fund, the Calvert VP S&P MidCap 400 Index Portfolio and the Calvert VP Russell 2000 Small Cap Index Portfolio ("Funds") are beneficial owners of at least \$2,000 in market value of securities entitled to be voted at the next shareholder meeting (supporting documentation to follow under separate cover). Furthermore, each Fund has held these securities continuously for at least one year, and each Fund intends to continue to own shares in the Company through the date of the 2012 annual meeting of shareholders.

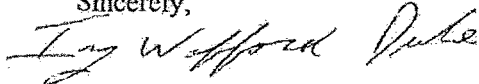
We are notifying you, in a timely manner, that we are presenting the enclosed shareholder proposal for vote at the upcoming stockholders meeting. We submit it for inclusion in the proxy statement in accordance with Rule 14a-8 under the Securities Exchange Act of 1934 (17 C.F.R. § 240.14a-8).

As long-standing shareholders, we are filing the enclosed, requesting that the Board of Directors provide a sustainability report to shareholders, prepared at reasonable cost and omitting propriety information, describing corporate policies and programs on workplace diversity and labor relations, product safety, environmental management, and addressing supply-chain risks, specifically vendor standards and compliance mechanisms for its vendors and suppliers. While we appreciate the conference call with the company on December 6, 2011, we were not satisfied with the outcome.

If prior to the annual meeting you agree to the request outlined in the resolution, we believe that this resolution would be unnecessary. Please direct any correspondence to Mike Lombardo, at 301-961-4756, or contact him via email at mike.lombardo@calvert.com.

We appreciate your attention to this matter and look forward to working with you.

Sincerely,



Ivy Wafford Duke, Esq.

Assistant Vice President and Assistant Secretary, Calvert Social Index Series, Inc. and Calvert Variable Products, Inc.

Enclosures: Resolution Text

Cc: Bennett Freeman, Senior Vice President for Sustainability Research and Policy, Calvert Investment Management, Inc.

Stu Dalheim, Director of Shareholder Advocacy, Calvert Investment Management, Inc.

Mike Lombardo, Senior Sustainability Analyst and Manager, Index, Calvert Investment Management, Inc.

Ellen Kennedy, Senior Sustainability Analyst, Calvert Investment Management, Inc.

Jill Peters, Vice President, Investor Relations, The Cheesecake Factory Incorporated

Sustainability Report Resolution
The Cheesecake Factory Incorporated - 2012 Annual Meeting

WHEREAS: Investors increasingly seek disclosure of companies' social and environmental practices in the belief that they impact shareholder value. Many investors believe companies that are good employers, environmental stewards, and corporate citizens, are more likely to generate stronger financial returns, better respond to emerging issues, and enjoy long-term business success.

Mainstream financial companies are continuing to recognize the links between environmental, social and governance ("ESG") performance and shareholder value. As such, the availability of ESG performance data is growing through a wide range of data providers, such as Bloomberg. Also, investment firms like Goldman Sachs and Deutsche Asset Management are increasingly incorporating corporate social and environmental practices into their investment decisions. Furthermore, the United Nations' Principles for Responsible Investment, a set of guidelines that can be adopted by institutional investors addressing ESG issues, has approximately 920 signatories representing \$30 trillion assets under management as of July 2011.

There has been an increase in corporate management of ESG issues and corporate sustainability reporting. According to a 2011 survey, 95% of the Global Fortune 250 companies now release corporate responsibility data, which is an increase of 11% since 2008 (KPMG International Survey of Corporate Responsibility Reporting 2011).

Food retailers have significant sustainability impacts related to product safety, environment, workforce, and supply-chain management. In the restaurant industry, companies like Starbucks have taken the lead in addressing these key impacts through comprehensive sustainability reporting. Our Company does not provide sustainability reporting. As investors, we believe that implementing and disclosing sustainability practices can help a company manage and reduce the cost of goods sold, through energy and transportation efficiencies, or employee diversity programs that may reduce turnover, thus, lowering overall operating expenses.

Sustainability disclosure also helps investors understand how the company is addressing emerging regulatory or reputational risks, such as product safety breaches, discrimination lawsuits by employees, or supply chain risks, all of which can have a damaging impact on the brand value of a company.

Managing these sustainability opportunities and risks is increasingly becoming a competitive advantage.

RESOLVED: Shareholders request that the Board of Directors prepare a sustainability report describing corporate policies and programs on workplace diversity and labor relations, product safety, environmental management, and addressing supply-chain risks, specifically vendor standards and compliance mechanisms for its vendors. The report,

prepared at reasonable cost and omitting proprietary information, should be published by October 2012.

SUPPORTING STATEMENT: The report should include the company's definition of sustainability and a company-wide review of company policies, practices, and metrics related to long-term social and environmental sustainability.

We recommend that The Cheesecake Factory Incorporated use the Global Reporting Initiative's Sustainability Reporting Guidelines to prepare the report. The Global Reporting Initiative (www.globalreporting.org) is an international organization developed with representatives from the business, environmental, human rights, and labor communities.

EXHIBIT B



RECEIVED

4550 Montgomery Avenue, Bethesda, MD 20814
301.951.4800 / www.calvert.com

DEC 20 2011

LEGAL DEPT.

December 19, 2011

Ms. Debby Zurzolo
Executive Vice President, Corporate Secretary and General Counsel
The Cheesecake Factory Incorporated
26901 Malibu Hills Road
Calabasas Hills, CA 91301

Dear Ms. Zurzolo:

I am writing to follow up on the shareholder proposal submitted to The Cheesecake Factory in regards to sustainability reporting that Calvert Investment Management, Inc. submitted on December 8, 2011.

Please see the enclosed letter from State Street Corp., which shows The Calvert Social Index Fund, the Calvert VP S&P MidCap 400 Index Portfolio and the Calvert VP Russell 2000 Small Cap Index Portfolio ("Funds") are each a beneficial owner of at least \$2,000 in market value of securities entitled to be voted at the next shareholder meeting. Furthermore, the Funds each held these securities continuously for at least one year at the time the shareholder proposal was submitted, and it is the Funds' intention to continue to own shares in the Company through the date of the 2012 annual meeting of shareholders.

Please contact me immediately by phone at (301)-961-4756 or email mike.lombardo@calvert.com if you have any further questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Stu Dalheim".

Stu Dalheim
Vice President, Shareholder Advocacy

Enclosures:
State Street Letter



STATE STREET

Investment Services
P.O. Box 5607
Boston, MA 02110

December 15, 2011

Calvert Investment Management, Inc.
4550 Montgomery Avenue, Suite 1000N
Bethesda, MD 20814

To Whom It May Concern:

This letter is to confirm that as of December 9, 2011 the Calvert Funds listed below held the indicated amount of shares of the stock of Cheesecake Factory, Inc. (Cusip 163072101). Also the funds held the amount of shares indicated continuously between 12/2/2010 & 12/9/2011.

Fund		Cusip	Shares as of 12/9/2011	Shares held continuously since 12/2/2010
D872	Calvert Social Index Fund	163072101	930	930
D895	Calvert VP S&P Mid Cap 400 Index Portfolio	163072101	9,327	9,099
D896	Calvert VP Russell 2000 Small Cap Index Portfolio	163072101	4,746	4,746

Please feel free to contact me if you need any further information.

Sincerely,

Brian McAnem
Assistant Vice President
State Street Corp

EXHIBIT C

The Cheesecake Factory®

Debby Zurzolo
Executive Vice President/General Counsel; Secretary

Via Federal Express

December 22, 2011

Ms. Ivy Wafford Duke, Esq.
Assistant Vice President
Calvert Social Index Series, Inc.
4550 Montgomery Avenue
Bethesda, MD 20814

Re: Shareholder Proposal for 2012 Annual Meeting

Dear Ms. Duke:

We received your letter dated December 8, 2011, on December 12, 2011, by which you submitted a shareholder proposal for consideration at the 2012 annual meeting of the stockholders of The Cheesecake Factory Incorporated (the "Company").

Rule 14a-8 under the Securities Act of 1934 provides, among other things, that to be eligible to submit a proposal, a proponent must have continuously held at least \$2,000 in market value, or 1% of the company's securities entitled to vote on the proposal at the meeting for at least one year by the date he submits the proposal. Although your letter states that you meet these share ownership requirements, with "supporting documentation to follow under separate cover," we were unable to independently verify that you meet these criteria, and we have not received your supporting documentation as of the date of this letter. Accordingly, if we are to consider further whether your proposal is eligible for inclusion in the agenda of the annual meeting, we require proof from you that you meet the share ownership criteria. Please note that Rule 14a-8(b)(2), a copy of which is enclosed, specifies the ways in which you must prove your eligibility.

Pursuant to Rule 14a-8, you must provide us with the required evidence no later than 14 calendar days from the date you receive this letter. If we have not received such evidence by that date, we will exclude your proposal.

Very truly yours,


Debby Zurzolo

Rule 14a-8(b)(2) under the Securities Act of 1934

- b. Question 2: Who is eligible to submit a proposal, and how do I demonstrate to the company that I am eligible?
1. In order to be eligible to submit a proposal, you must have continuously held at least \$2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the meeting for at least one year by the date you submit the proposal. You must continue to hold those securities through the date of the meeting.
 2. If you are the registered holder of your securities, which means that your name appears in the company's records as a shareholder, the company can verify your eligibility on its own, although you will still have to provide the company with a written statement that you intend to continue to hold the securities through the date of the meeting of shareholders. However, if like many shareholders you are not a registered holder, the company likely does not know that you are a shareholder, or how many shares you own. In this case, at the time you submit your proposal, you must prove your eligibility to the company in one of two ways:
 - i. The first way is to submit to the company a written statement from the "record" holder of your securities (usually a broker or bank) verifying that, at the time you submitted your proposal, you continuously held the securities for at least one year. You must also include your own written statement that you intend to continue to hold the securities through the date of the meeting of shareholders; or
 - ii. The second way to prove ownership applies only if you have filed a Schedule 13D, Schedule 13G, Form 3, Form 4 and/or Form 5, or amendments to those documents or updated forms, reflecting your ownership of the shares as of or before the date on which the one-year eligibility period begins. If you have filed one of these documents with the SEC, you may demonstrate your eligibility by submitting to the company:
 - A. A copy of the schedule and/or form, and any subsequent amendments reporting a change in your ownership level;
 - B. Your written statement that you continuously held the required number of shares for the one-year period as of the date of the statement; and
 - C. Your written statement that you intend to continue ownership of the shares through the date of the company's annual or special meeting.

EXHIBIT D

The Cheesecake Factory®

Debby Zurzolo
Executive Vice President, General Counsel and Secretary

BY E-MAIL AND FEDERAL EXPRESS

January 3, 2012

Calvert Investments
4550 Montgomery Avenue
Bethesda, MD 20814

Re: Shareholder Proposal for 2012 Annual Meeting

Ladies and Gentlemen:

I am in receipt of your letter dated December 19, 2011, which purportedly provided proof of your eligibility pursuant to Rule 14a-8 promulgated by the Securities and Exchange Commission under the Securities Act of 1934, as amended, to submit the shareholder proposal that accompanied your letter of December 8, 2011.

As you can appreciate, compliance with the technical requirements of Rule 14a-8 is necessary before we include any shareholder proposal in the agenda for our 2012 annual meeting of shareholders, and we again direct your attention to Rule 14a-8, a copy of which is enclosed herewith. You may also wish to review SEC Staff Legal Bulletin No. 14F issued on October 18, 2011, a copy of which is enclosed for your convenience, for guidance as to the share ownership requirements of Rule 14a-8.

Your letter of December 19, 2011 was accompanied by a letter dated December 15, 2011 from State Street to Calvert Investment Management, Inc., stating the number of shares of The Cheesecake Factory, Inc. (the "Company") held continuously between 12/2/2010 and 12/9/2011 by each of Calvert Social Index Fund, Calvert VP S&P Mid Cap 400 Index Portfolio and Calvert VP Russell 2000 Small Cap Index Portfolio (the "Funds"). The State Street letter does not establish that Calvert Investments (the name on your letterhead), or Calvert Investment Management, Inc. (the entity identified in your letter of December 19, 2011 as having submitted a shareholder proposal on December 8, 2011 on behalf of the Funds), or Calvert Social Index Series, Inc. or Calvert Variable Products, Inc. (an employee of which funds signed the letter of December 8, 2011) owns or holds any shares of the Company. We believe that to date you have not provided sufficient evidence to establish your eligibility under Rule 14a-8 to submit a shareholder proposal for inclusion in the agenda for our 2012 annual meeting of shareholders. Please clearly identify the person submitting the shareholder proposal on behalf of the Funds and provide proof that such person was at the time of submitting such proposal, and continues to be, authorized to submit the proposal on behalf of the Funds.

The Cheesecake Factory Incorporated, 26901 Malibu Hills Road, Calabasas Hills, CA 91301
E-mail: DJZurzolo@thecheesecakefactory.com; Telephone: 818-871-3000

Calvert Investments
January 3, 2012
Page 2

In your letter of December 19, 2011, you state that "it is the Funds' intention to continue to own shares in the Company through the date of the 2012 annual meeting of shareholders." (Emphasis added) We believe that this statement also is insufficient to comply with the requirements of Rule 14a-8(b)(2). To correct this deficiency, please provide a statement from each Fund, or from a person authorized to provide such a statement on behalf of that Fund, that the Fund intends to hold the minimum number of shares required to meet the share ownership requirements of the Rule through such date. Your attention is directed to Rule 14a-8(f)(2). If such statement is provided by a person who claims authority to act or speak on behalf of a Fund with respect to the Fund's intention to continue to meet the share ownership requirements of Rule 14a-8 through the date of the Company's 2012 annual meeting, please also provide proof of that authority.

Please also provide us with copies of the investment advisory contracts between Calvert Investment Management, Inc. and each of the Funds, as well as the constituent documents of the Funds where necessary to document the authority of Calvert Investment Management, Inc. to act or speak on behalf of a Fund.

If we do not receive satisfactory corrections of the above deficiencies and the additional documentation within 14 days following your receipt of this letter, we will seek appropriate relief from the SEC Staff. This letter should not be read as a reflection on the substance of the purported shareholder proposal, but is intended to assist in complying with the technical requirements of Rule 14a-8.

If you would like to discuss this further, please call me at (818) 871-3000.

Very truly yours,



Debby Zurzolo,
Executive Vice President,
Secretary and General
Counsel

cc: Stu Dalheim
Vice President, Shareholder Advocacy
Calvert Investments

Ivy Wafford Duke, Esq.
Assistant Vice President and Assistant Secretary,
Calvert Social Index Series, Inc. and Calvert Variable Products, Inc.

Rule 14a-8 under the Securities Act of 1934 -- Proposals of Security Holders

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

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

- b. **Question 2: Who is eligible to submit a proposal, and how do I demonstrate to the company that I am eligible?**
 1. In order to be eligible to submit a proposal, you must have continuously held at least \$2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the meeting for at least one year by the date you submit the proposal. You must continue to hold those securities through the date of the meeting.

 2. If you are the registered holder of your securities, which means that your name appears in the company's records as a shareholder, the company can verify your eligibility on its own, although you will still have to provide the company with a written statement that you intend to continue to hold the securities through the date of the meeting of shareholders. However, if like many shareholders you are not a registered holder, the company likely does not know that you are a shareholder, or how many shares you own. In this case, at the time you submit your proposal, you must prove your eligibility to the company in one of two ways:
 - i. The first way is to submit to the company a written statement from the "record" holder of your securities (usually a broker or bank) verifying that, at the time you submitted your proposal, you continuously held the securities for at least one year. You must also include your own written statement that you intend to continue to hold the securities through the date of the meeting of shareholders; or

 - ii. The second way to prove ownership applies only if you have filed a Schedule 13D, Schedule 13G, Form 3, Form 4 and/or Form 5, or amendments to those documents or updated forms, reflecting your ownership of the shares as of or before the date on which the one-year eligibility period begins. If you have filed one of these documents with

the SEC, you may demonstrate your eligibility by submitting to the company:

- A. A copy of the schedule and/or form, and any subsequent amendments reporting a change in your ownership level;
 - B. Your written statement that you continuously held the required number of shares for the one-year period as of the date of the statement; and
 - C. Your written statement that you intend to continue ownership of the shares through the date of the company's annual or special meeting.
- c. Question 3: How many proposals may I submit: Each shareholder may submit no more than one proposal to a company for a particular shareholders' meeting.
- d. Question 4: How long can my proposal be? The proposal, including any accompanying supporting statement, may not exceed 500 words.
- e. Question 5: What is the deadline for submitting a proposal?
1. If you are submitting your proposal for the company's annual meeting, you can in most cases find the deadline in last year's proxy statement. However, if the company did not hold an annual meeting last year, or has changed the date of its meeting for this year more than 30 days from last year's meeting, you can usually find the deadline in one of the company's quarterly reports on Form 10-Q, or in shareholder reports of investment companies under Rule 270.30d-1 of this chapter of the Investment Company Act of 1940. In order to avoid controversy, shareholders should submit their proposals by means, including electronic means, that permit them to prove the date of delivery.
 2. The deadline is calculated in the following manner if the proposal is submitted for a regularly scheduled annual meeting. The proposal must be received at the company's principal executive offices not less than 120 calendar days before the date of the company's proxy statement released to shareholders in connection with the previous year's annual meeting. However, if the company did not hold an annual meeting the previous year, or if the date of this year's annual meeting has been changed by more than 30 days from the date of the previous year's meeting, then the deadline is a reasonable time before the company begins to print and send its proxy materials.
 3. If you are submitting your proposal for a meeting of shareholders other than a regularly scheduled annual meeting, the deadline is a reasonable time before the company begins to print and send its proxy materials.
- f. Question 6: What if I fail to follow one of the eligibility or procedural requirements explained in answers to Questions 1 through 4 of this section?
1. The company may exclude your proposal, but only after it has notified you of the problem, and you have failed adequately to correct it. Within 14 calendar days of receiving your proposal, the company must notify you in writing of any procedural or eligibility deficiencies, as well as of the time frame for your

*The Cheesecake Factory Incorporated, 26901 Malibu Hills Road, Calabasas Hills, CA 91301
E-mail: DJurzolo@thecheesecakefactory.com; Telephone: 818-871-3000*

response. Your response must be postmarked, or transmitted electronically, no later than 14 days from the date you received the company's notification. A company need not provide you such notice of a deficiency if the deficiency cannot be remedied, such as if you fail to submit a proposal by the company's properly determined deadline. If the company intends to exclude the proposal, it will later have to make a submission under Rule 14a-8 and provide you with a copy under Question 10 below, Rule 14a-8(j).

2. If you fail in your promise to hold the required number of securities through the date of the meeting of shareholders, then the company will be permitted to exclude all of your proposals from its proxy materials for any meeting held in the following two calendar years.
- g. Question 7: Who has the burden of persuading the Commission or its staff that my proposal can be excluded? Except as otherwise noted, the burden is on the company to demonstrate that it is entitled to exclude a proposal.
- h. Question 8: Must I appear personally at the shareholders' meeting to present the proposal?
1. Either you, or your representative who is qualified under state law to present the proposal on your behalf, must attend the meeting to present the proposal. Whether you attend the meeting yourself or send a qualified representative to the meeting in your place, you should make sure that you, or your representative, follow the proper state law procedures for attending the meeting and/or presenting your proposal.
 2. If the company holds its shareholder meeting in whole or in part via electronic media, and the company permits you or your representative to present your proposal via such media, then you may appear through electronic media rather than traveling to the meeting to appear in person.
 3. If you or your qualified representative fail to appear and present the proposal, without good cause, the company will be permitted to exclude all of your proposals from its proxy materials for any meetings held in the following two calendar years.
- i. Question 9: If I have complied with the procedural requirements, on what other bases may a company rely to exclude my proposal?
1. Improper under state law: If the proposal is not a proper subject for action by shareholders under the laws of the jurisdiction of the company's organization;

Not to paragraph (i)(1)

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

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

Not to paragraph (i)(2)

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

3. Violation of proxy rules: If the proposal or supporting statement is contrary to any of the Commission's proxy rules, including Rule 14a-9, which prohibits materially false or misleading statements in proxy soliciting materials;
4. Personal grievance; special interest: If the proposal relates to the redress of a personal claim or grievance against the company or any other person, or if it is designed to result in a benefit to you, or to further a personal interest, which is not shared by the other shareholders at large;
5. Relevance; If the proposal relates to operations which account for less than 5 percent of the company's total assets at the end of its most recent fiscal year, and for less than 5 percent of its net earning and gross sales for its most recent fiscal year, and is not otherwise significantly related to the company's business;
6. Absence of power/authority: If the company would lack the power or authority to implement the proposal;
7. Management functions: If the proposal deals with a matter relating to the company's ordinary business operations;
8. Relates to election: If the proposal relates to a nomination or an election for membership on the company's board of directors or analogous governing body or a procedure for such nomination or election;
9. Conflicts with company's proposal: If the proposal directly conflicts with one of the company's own proposals to be submitted to shareholders at the same meeting.

Note to paragraph (i)(9)

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