Trinity Health
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Vanessa A. Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Via email **rule-comments@sec.gov**

Re: File Number S7-20-22

Proposed Rule Substantial Implementation, Duplication, and Resubmission of Shareholder Proposals Under Exchange Act Rule 14a-8

Trinity Health appreciates the opportunity to respond to the U.S. Securities and Exchange Commission's (SEC) proposed rule, *Substantial Implementation, Duplication, and Resubmission of Shareholder Proposals Under Exchange Act Rule 14a-8* (File Number S7-20-22)

Trinity Health is one of the largest not-for-profit, Catholic health care systems in the nation. It is a family of 115,000 colleagues and nearly 26,000 physicians and clinicians caring for diverse communities across 25 states. Nationally recognized for care and experience, the Trinity Health system includes 88 hospitals, 131 continuing care locations, the second largest PACE program in the country, 125 urgent care locations and many other health and well-being services. Based in Livonia, Michigan, its annual operating revenue is $20.2 billion with $1.2 billion returned to its communities in the form of charity care and other community benefit programs.

In partnership with the Interfaith Center on Corporate Responsibility (ICCR), the Investor Environmental Health Network (IEHN), and Investors for Opioid and Pharmaceutical Accountability (IOPA), Trinity Health uses its ownership of shares in corporations to engage companies on their policies and that impact communities' health and well-being. This activity includes the filing of shareholder proposals.

We strongly support the SEC's proposed amendments to the shareholder proposal rule, which serve to modify and clarify elements of the rule relating to when a proposal can be excluded as substantially implemented, as well as specify when a proposal substantially duplicates another proposal for purposes of duplication exclusion, and also amend the resubmission exclusion.

The way that the SEC currently decides whether to exclude a proposal on the basis of substantial implementation has impacted negatively Trinity Health's ability to communicate with other shareholders. A prime example is a proposal that Trinity Health filed for inclusion in Pfizer Inc's 2018 proxy statement. The proposal stated:

> RESOLVED that shareholders of Pfizer Inc. ("Pfizer") ask the Board of Directors to report to shareholders by December 31, 2018, at reasonable cost and omitting confidential or proprietary information, on the risks to Pfizer from rising pressure to contain U.S. prescription drug prices, including the likelihood and potential impact of those risks as applied to Pfizer, the steps Pfizer is taking to mitigate or manage those risks and the Board's oversight role. The report should address risks created by payer cost-effectiveness analysis, patient access concerns, outcomes-based pricing, and price sensitivity of prescribers, payers and patients.

Pfizer was successful in its No Action request[1] to omit the proposal, and one of its arguments was that it had substantially implemented the proposal, citing its most recent 10-K and 10-Q filings. However, Pfizer's disclosures did not address risks related to payer cost-effectiveness analysis, nor discuss risks arising from patient access concerns, despite the importance of such concerns in the public debate over high drug prices. Besides Pfizer's identification of risks being incomplete, no company-specific information was provided in its No Action request to shed light on the likelihood and potential impact of particular risks. Neither did Pfizer disclose whether the Board or any Board committee has responsibility for overseeing risks related to pricing.

We believe that if the proposed new standard on substantial implemented had been in effect at that time, SEC staff would have seen that Pfizer's rationale for its No Action request did not demonstrate that the company had implemented the essential elements of the proposal, and would have found that the exclusion of the proposal on substantial implementation grounds was not appropriate. The SEC's 2018 decision on our proposal harmed our ability to communicate with fellow shareholders so that they could vote on an issue so important to shareholders and consumers.

We support the SEC's proposed new standard to allow exclusion only if the company has "already implemented the essential elements of the proposal." The proposed new standard refocuses the Staff on the specific actions requested in the proposal. To identify the "essential elements" of a proposal, the Staff would look at the proposal's degree of specificity and "stated primary objectives," which limits companies' ability to reframe proposals in order to exclude them.

Thank you for the opportunity to comment in support of the proposed rule, which supports the rights of investors to file proposals while making the process more objective and predictable.

Sincerely,

Catherine Rowan

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Trinity Health

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[1] https://www.sec.gov/divisions/corpfin/cf-noaction/14a-8/2018/trinityhealth030118-14a8.pdf