NYU | STERN

MARIA PATTERSON
Clinical Associate Professor of Business
Business & Society Program

Leonard N. Stern School of Business
Kaufman Management Center
44 West Fourth Street, Room 7-148
New York, NY 10012

P: [redacted]
F: [redacted]
[redacted]
www.stern.nyu.edu

January 30, 2020

Vanessa A. Countryman
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: File No. S7-23-19

I am writing in opposition to the Securities and Exchange Commission's proposed rule changes regarding the Procedural Requirements and Resubmission Thresholds under Exchange Act Rule 14a-8, Release No. 34-87458, File No. S7-23-19.

I am a Clinical Associate Professor at New York University's Leonard N. Stern School of Business where I teach courses involving the social impact of business, business ethics, the relationship between law and business, and corporate political influence. I am a retired lawyer, having practiced in the areas of corporate litigation and bankruptcy for over 30 years.

The proposed rule changes would inappropriately limit corporate democracy by stifling the ability of shareholders to use the proxy process to put important proposals forward, thus informing other shareholders about problem areas that can affect the corporation's long-term profitability and financial health. Of particular concern is how the rules would inhibit proposals directed at disclosure of political spending. Allowing shareholders to use the proxy process to make such proposals is an important part of robust risk management.

Enlightened and thoughtful corporate directors and officers realize that with political spending comes risk. Customers, employees, and other stakeholders can be put off, to put it mildly, by the way the corporation exercises its influence through its money. We saw that in the 2018 elections with the sharp criticism Intel, AT&T, Aetna, and Walmart faced for their contributions to certain controversial candidates.

Those directors and officers also recognize that good management of a company's political spending – and sound risk management – requires adoption of robust disclosure and accountability policies. Mandated disclosure and accountability policies, therefore, are a way of avoiding political spending that blows up in the corporation's face.

NYU | STERN

MARIA PATTERSON
Clinical Associate Professor of Business
Business & Society Program

Leonard N. Stern School of Business
Kaufman Management Center
44 West Fourth Street, Room 7-148
New York, NY 10012

P: 212 992 6845
F: 212 995 3554

mpatters@stern.nyu.edu
www.stern.nyu.edu

In addition, informing a company's shareholders how it is spending what is ultimately their money is good business and the right thing to do. As a result, many corporations have voluntarily agreed to disclose their spending. An annual benchmarking of company political disclosure and accountability policies by the Zicklin Center for Business Ethics Research at The Wharton School at the University of Pennsylvania and the Center for Political Accountability, released last fall, highlighted 73 companies in the S&P 500 with the best policies. They included AT&T, Microsoft, Prudential Financial, Alphabet, and Edison International.

However, there remain corporations that are not so forward thinking. And, possibly, some in corporate leadership positions prefer to hide that information from shareholders because of a concern that the spending is more in line with leadership's political views than with the interests of the corporation. This is where the ability of shareholders to put forward proposals on disclosure of political spending comes in, and anything that inhibits that ability can inhibit good risk management.

The proxy proposal is an essential part of shareholder democracy. As the SEC release states, requiring companies to include shareholder proposals along with management's "facilitates shareholders' traditional ability under state law to present their own proposals for consideration . . . and it facilitates the ability of all shareholders to consider and vote on such proposals." The proposed rules, however, would undermine this facilitation for no good reason other than the desire to save a small amount of money and some management and shareholder time.

The proposed increase in the $2,000 threshold for stock ownership to $15,000 if held for at least two years and $25,000 if held for at least one year is purportedly designed to ensure that a shareholder with a proposal has a real economic stake or investment interest in a company. However, that approach presumes that a real stake or interest is a function of an absolute dollar amount and overlooks the fact that $2,000, for those with moderate means, may represent a much more significant investment than for a wealthy shareholder. The release states that the Commission is "mindful" of that concern, but, if so, the record is exceptionally thin on why increasing the number by over seven times is necessary.

Of even more concern are the limitations on when a proposal can be submitted. The Commission suggests that it is a good idea to limit a shareholder to one proposal a year, whether submitted directly or through a representative. The mere fact that some shareholders are motivated by many concerns should not be a reason to stifle their voice. In fact, few shareholders are sufficiently concerned with corporate governance questions to educate themselves on various issues and prepare and submit proposals. Further, motivated shareholders often work with like-minded groups to maximize their impact. This is how democracy works, whether in the political or the corporate sphere.

NYU | STERN

MARIA PATTERSON
Clinical Associate Professor of Business
Business & Society Program

Leonard N. Stern School of Business
Kaufman Management Center
44 West Fourth Street, Room 7-148
New York, NY 10012

P: 212 992 6845
F: 212 995 3554

mpatters@stern.nyu.edu
www.stern.nyu.edu

Coupled with the increase in the thresholds required before a proposal could be resubmitted, the Commission's approach is parsimonious with respect to shareholder democracy. It may very well be that the most forward-thinking shareholder proposals are the ones that take time to build momentum, and it would be harmful to the long-term interests of companies to squelch such proposals in the interests of saving some management and shareholder time and amounts of money that amount to rounding errors for many companies. Indeed, shareholder proposals can serve as an early warning system to companies of issues that need be addressed. As noted in the proposed rule, climate-change proposals took many years to build momentum, and now we have BlackRock's letter arguing that "[c]limate change has become a defining factor in companies' long-term prospects." Good ideas take time to gain traction, and the Commission should not act to inhibit that process.

In conclusion, there is no demonstrated need for the changes, and they would inhibit shareholder democracy and good risk management of political spending in particular.

Very truly yours,

Maria M. Patterson