1 February 2020

Via email: rule-comments@sec.gov

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

RE: Proposed Rule on Procedural Requirements and Resubmission Thresholds under Exchange Act Rule 14a-8; File Number S7-23-19

Dear Ms. Countryman:

As an individual shareholder, I wish to provide this comment letter on the "Proposed Rule on Procedural Requirements and Resubmission Thresholds under Exchange Act Rule 14a-8" (File Number S7-23-19). The shareholder proposal process is one of the most visible and verifiable ways in which investors can participate in shareholder democracy and the practice of responsible shareholder ownership. This proposed rule, by changing submission and resubmission thresholds, among multiple other alterations, will make it significantly more difficult for individual investors to get critical ESG issues on the meeting agendas of publicly traded companies. Other proposed rule changes, particularly the momentum rule and the prohibition of share aggregation, also increase the weakening of this process.

Investors—including the "main street individual investor" that the SEC has said is a priority—have a multi-decade history of raising critical issues at American companies. Such issues have included board diversity, executive compensation, reduction of greenhouse gas emissions, safety and health of the planet and its habitants, and implementation of nondiscrimination policies. These proposals encourage companies to address issues that can erode shareholder value, increase reputational risk and harm communities.

Investors have not sought these changes. By amending Rule 14a-8, the Commission is taking the power away from investors to participate in the corporate affairs of the companies in which they invest. I firmly believe this will ultimately lead to an erosion of faith in the financial markets as the proposed rule changes essentially send the message to individual investors that "we want your money but not your input unless you are a larger investor."

Specifically, with respect to the rule proposal that would raise ownership thresholds for submission of shareholder proposals, the Commission proposes to institute a tiered system where shareholders would only be permitted to submit proposals if they satisfy one of the following conditions: (a) the shareholder owns at least $25,000 of company shares for at least one year; (b) the shareholder owns at least $15,000 of company shares for at least two years; or (c) the shareholder owns at least $2,000 of company shares for at least three years. By raising the ownership thresholds in this manner, shareholders are put in an untenable position of choosing between diversifying their investment portfolios or owning a more concentrated position in a handful of companies to enable them to participate meaningfully in company affairs. For most investors, there would no longer be the opportunity to accomplish both portfolio diversification and shareholder engagement unless positions are held for at least three years, which is often not suitable or desirable for many investors.

With respect to the measure regarding resubmission of shareholder proposals, the Commission proposes to raise the thresholds for resubmission of shareholder proposals to 5% support for initial resubmission, 15% for resubmission for a second time, and 25% for resubmission for a third time. Proposals that fail to meet such resubmission thresholds would not be eligible for consideration for the next three years. In addition, the Commission proposes to institute a momentum threshold whereby a proposal would be prohibited from being resubmitted for the next three years if it does not achieve 50% approval after the third resubmission and subsequently loses at least 10% support after the third resubmission. This would lead to an anomalous result whereby a proposal that receives 49% support after the third resubmission would be prohibited from being resubmitted again if it subsequently loses support and has only 44% approval. A proposal that receives 25% support would still be permitted to be resubmitted if it only garners an additional three percent of support to 28%. Raising such resubmission thresholds in this fashion will invariably lead to exclusion of many valuable proposals.

The Commission has put forward the argument that raising the proposed thresholds would result in an immaterial change in the number of excluded proposals. However, as other commenters have pointed out, certain important proposals that took a longer time to approve would not have been considered because of the proposed higher resubmission thresholds. It is clear that public sentiment towards corporate responsibility has changed over time, and it is expected to continue to gather momentum. Yet, the proposal would prohibit resubmission for three years if public opinion does not change fast enough, which will ultimately negatively impact the value of company shares held by individual investors.

Rule 14a-8 is working for investors. The revisions put forward are unacceptable. The SEC should protect investors' ability to help hold publicly traded companies accountable rather than creating higher thresholds and more complex rules.

Thank you for your consideration of these comments.

Sincerely,

Joyce Kutz

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