

February 3, 2020

Hon. Jay Clayton, Chairman  
Hon. Robert J. Jackson Jr., Commissioner  
Hon. Allison Herren Lee, Commissioner  
Hon. Hester M. Peirce, Commissioner  
Hon. Elad L. Roisman, Commissioner  
Vanessa A. Countryman, Secretary  
U.S. Securities and Exchange Commission  
100 F Street, N.E.  
Washington, D.C. 20549

**RE: Proposed Procedural Requirements and Resubmission Thresholds Under Exchange Act Rule 14a-8 (File Number S7-23-19)**

Dear Chairman Clayton and Commissioners Jackson, Lee, Peirce and Roisman,

On behalf of the undersigned organizations we respectfully submit comments on the regulation proposed by the Securities and Exchange Commission (SEC, Agency) regarding shareholder resolutions. The proposal process is one of the key ways that shareholders engage with corporate managers about emerging issues that impact long term risks and performance. The proposed changes to the shareholder proposal rules would make it harder for investors to access the levers of shareholder democracy and should not be advanced.

We are most concerned about the effect these rules will have on the shareholder proposals filed every year calling on corporations to disclose their political activity to their investors.

Since the U.S. Supreme Court's decision in *Citizens United v. FEC* came down in 2010, corporations have been allowed to spend unlimited undisclosed amounts of money to influence American elections and in turn affect policy outcomes. In his majority opinion in *Citizens United*, Justice Kennedy [assumed](#) that with this new paradigm of spending, there would at least be robust disclosure so that shareholders could assess whether the political activity of their companies presented significant risk. This robust disclosure regime did not exist then and it doesn't exist now.

A company's political activity- both its election spending and lobbying- is relevant to its shareholders because it can present significant reputational risk if not disclosed and managed properly. Many customers and the purchasing public are paying close attention to whether a company's political activity lines up with its corporate values. If there is a disconnect companies can face bad press, boycotts, or targeted social media campaigns.

For example, [AT&T](#) came under public scrutiny after it was revealed that the company paid attorney Michael Cohen--who has since been sentenced to three years in prison for campaign finance violations and fraud--\$600,000 to consult on policy matters without disclosing that information to shareholders. This was following five years of calls from AT&T's shareholders to disclose the full extent of its lobbying activity and oversight policies, including payments for direct and indirect lobbying. Clearly shareholders were right to make this demand. It is important for companies to be transparent in order to prove corporate integrity and reputational soundness.

Corporations are vulnerable on the election spending front as well. For example, in 2018 it was [reported in the press](#) that Florida- based grocery chain Publix and its leadership donated at least \$670,000 to Gubernatorial candidate Adam Putnam who publicly declared himself a "proud NRA

sellout.” Publix’s support of this pro- National Rifle Association candidate caused a public uproar as the revelation came only months after the massacre at Marjorie Stoneman Douglas High School in Parkland, Florida. The students protested the company’s support of Putnam by staging “die- ins” at two stores, which led to the company suspending its political contributions.

Understanding the risks posed by undisclosed political activity, shareholder proposals calling on companies to be honest about their political activity are one of the most frequently filed proposals every year, with [93 filed](#) at the start of the 2019 proxy season.

The shareholder proposal process has been used for successful dialogues between shareholders and management around disclosure. As of 2019, 316 companies in the influential S&P 500 reported to the [CPA- Zicklin Index](#) that they disclose some or all of their election-related spending or that they prohibit such spending. Additionally, investors have filed nearly [400 shareholder proposals](#) on lobbying disclosure since 2011, which have resulted in more than 75 agreements that provide greater transparency around corporate lobbying activity.

The new rules the agency is proposing would halt this important progress and make it incredibly difficult for investors to raise political activity disclosure with their companies. [Recent analysis](#) from the Sustainable Investments Institute, looking at all environmental, social, and governance (ESG) resolutions voted on in corporate elections from 2010 through late 2019 found that about 30% would not have been eligible for resubmission under the new thresholds. Of those proposals, the ones on political activity, human rights, and climate change would have been most impacted. Of those three most affected categories of resolutions, political spending disclosure resolutions are more than 3 times more impacted than the next impacted issue, human rights reporting. [Further analysis](#) found that 40% of political spending disclosure proposals would have been excluded if these rules had been in place from 2004- 2018.

Ultimately, the SEC should move forward with a rule requiring all public corporations to disclose their political spending. Investors want more information about how their corporations engage in politics. That is why 1.2 million comments- the most in the agency’s history- have come into the SEC on this rulemaking petition from diverse stakeholders including the late founder of Vanguard, John Bogle, five state treasurers, a bi- partisan group of former SEC chairs and commissioners, and investment professionals representing \$690 billion in assets.

However, in the absence of that rule, the SEC should absolutely not move forward with rules that make it harder for shareholders to engage with their companies over these issues.

The federal agency tasked with protecting American investors should be encouraging a robust system of checks and balances between the owners of corporate wealth and companies’ management, not shutting down the main path for providing shareholder input. The SEC should be facilitating shareholder democracy, not undermining it. This new set of rules should not be advanced.

Should staff have any questions, please do not hesitate to contact Rachel Curley at signing organization Public Citizen via email at [\[REDACTED\]](#) or via phone at [\[REDACTED\]](#).

Sincerely,

Amazon Watch

American Federation of State, County and Municipal Employees (AFSCME)

Campaign for Accountability

Citizens for Responsibility and Ethics in Washington (CREW)

Fossil Free California

Friends Fiduciary Corporation

Greenpeace USA

Harrington Investments, Inc.

Interfaith Center on Corporate Responsibility

New Progressive Alliance

No Coal in Oakland

Public Citizen

Sierra Club

U.S. Public Interest Research Group

Voices for Progress

Women's Earth and Climate Action Network (WECAN)

YourStake.org