



January 17, 2024

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

RE: Proposed Rulemaking on Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change To Amend the NYSE Listed Company Manual To Adopt Listing Standards for Natural Asset Companies  
Release No. 34-98665  
File No. SR-NYSE-2023-09

Dear Secretary Countryman:

On behalf of the Oregon Farm Bureau (OFB), I write to express our opposition to this proposal and express concerns our members have raised. Additionally, we request clarification on the public notice issued by the Securities and Exchange Commission on October 4, 2023, titled "Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change To Amend the NYSE Listed Company Manual To Adopt Listing Standards for Natural Asset Companies" (the "Proposed Rule").

OFB is Oregon's largest agricultural organization representing and advocating for nearly 6,500 family farm and ranch members and nearly 65,000 total members who live and work in every county of the state. Our members have raised many concerns and seek clarification on this unique proposal.

The Proposed Rule defines a Natural Asset Company ("NAC") as "a corporation whose primary purpose is to actively manage, maintain, restore (as applicable), and grow the value of natural assets and their production of ecosystem services. In addition, where doing so is consistent with the company's primary purpose, the company will seek to conduct sustainable revenue-generating operations. Sustainable operations are those activities that do not cause any material adverse impact on the condition of the natural assets under a NAC's control and that seek to replenish the natural resources being used...."

We were surprised to learn that the basis for the Proposed Rule cites agriculture as "contributing to the loss of natural habitat and soil degradation." We have a decidedly

different view, but request that you add clarity and confirm the following relating to the Proposed Rule's impact on independent landowner's rights, including:

- 1) A NAC has no enhanced or elevated property rights relative to any other property owner or leaseholder; for example, the rights of an unaffiliated, non-NAC farmer or rancher who diverts water from a river system for the purpose of growing food or fiber upstream or downstream of a NAC asset is not affected by the Proposed Rule.
- 2) Relative to a similarly situated lessee or license-holder on federal lands, the Proposed Rule offers NACs no enhanced or elevated rights to access water flowing through federal lands or to dictate or restrict water access rights upstream or downstream of those federal lands.
- 3) The Proposed Rule does not provide NACs elevated rights to bind any other landowner or leaseholder to conform to its decision making on what constitutes a "material adverse impact" or to mitigate a potential material adverse impact.
- 4) The Proposed Rule affords NACs no elevated or special rights, over and above those available to any other business or landowner to impose its ill-informed sustainability prerogatives.

We note that the Proposed Rule would prevent NACs from participating in "unsustainable activities" by stating: "The NAC will be prohibited from engaging directly or indirectly in unsustainable activities. These are defined as activities that cause any material adverse impact on the condition of the natural assets under its control, and that extract resources without replenishing them (including, but not limited to, traditional fossil fuel development, mining, unsustainable logging, or perpetuating industrial agriculture). The NAC will be prohibited from using its funds to finance such unsustainable activities." Because "perpetuating industrial agriculture" is described as an unsustainable activity, we ask that you further clarify the following:

- 5) Under the Proposed Rule, what is the definition of "industrial agriculture" and why is "perpetuating industrial agriculture" considered unsustainable? In fact, industrial, commercial, and family based agriculture have been around producing food and fiber for the world for centuries, hardly unsustainable.
- 6) Does mere participation in an "industrial agriculture" enterprise constitute "perpetuating" an unsustainable activity, or is something more required for industrial agriculture to be considered unsustainable?
- 7) Please define the terms "sustainable" and "unsustainable" as it pertains to this rule.
- 8) Referencing the questions outlined above, if a farmer or rancher diverts water from a river for the purposes of growing food or fiber, the Proposed Rule appears to suggest the water resource would be deemed "extract[ed]" without being "replenish[ed]"; would this water diversion be an example of a "material adverse impact" on the river? What consideration is given to the benefits derived from the diversion of water?

The Commission further seeks feedback on the "licensing arrangement for NACs as proposed and the sufficiency of the proposal regarding such licensing or other legal

arrangements that a NAC would be permitted to enter into.” The Proposed Rule appears to authorize NACs to license a variety of management activities and rights affecting land, including mineral rights, water rights, or air rights running with the land, whether private or public, but does not provide thorough treatment of licensing of federal lands in the United States. Accordingly, we ask that you clarify:

- a. If such licenses on federal lands would depend upon or otherwise be linked to the Bureau of Land Management’s proposal of April 3, 2023, to create “conservation leases” on federal lands; and
- b. What other existing or proposed authorities for “licensing” activities (or absence or cessation of activity) on federal lands, if any, are contemplated under the Proposed Rule?

With respect to private lands, the proposal does not address states’ governance of real property ownership and transfers within their respective boundaries. According to the National Agricultural Law Center, “approximately twenty-four states specifically forbid or limit nonresident aliens, foreign businesses and corporations, and foreign governments from acquiring or owning an interest in agricultural land within their state.” While this is currently not the case in Oregon, we seek clarity that the Proposed Rule would do nothing to impair state laws impacting the foreign ownership of land, or other local and state laws such as “right to farm” statutes.

As outlined above, the Proposed Rule raises significant practical and policy issues that impact the management and control of our nation’s natural resources and our farming and ranching communities. Additionally, it broadly casts as “unsustainable” the industry that feeds our nation and the world. Until these questions can be satisfactorily answered and until we are certain that this novel approach to management won’t impact other landowners or local economies and communities, OFB will stand in opposition to the Proposed Rule. OFB encourages the Commission to carefully consider and respond to the questions raised here as it reviews the potential impacts of this Proposed Rule and further recommends the Commission avoid non-evidence-based assertions concerning agricultural sustainability going forward.

Respectfully submitted,



Greg Addington  
Executive Director