



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

DIVISION OF
CORPORATION FINANCE

December 5, 2014

Gene D. Levoff
Apple Inc.
glevoff@apple.com

Re: Apple Inc.
Incoming letter dated October 31, 2014

Dear Mr. Levoff:

This is in response to your letters dated October 31, 2014 and November 19, 2014 concerning the shareholder proposal submitted to Apple by Shelton Ehrlich. We also have received a letter from the proponent dated November 12, 2014. Copies of all of the correspondence on which this response is based will be made available on our website at <http://www.sec.gov/divisions/corpfin/cf-noaction/14a-8.shtml>. For your reference, a brief discussion of the Division's informal procedures regarding shareholder proposals is also available at the same website address.

Sincerely,

Matt S. McNair
Special Counsel

Enclosure

cc: Shelton Ehrlich

FISMA & OMB Memorandum M-07-16

December 5, 2014

**Response of the Office of Chief Counsel
Division of Corporation Finance**

Re: Apple Inc.
Incoming letter dated October 31, 2014

The proposal requests that the company prepare a report addressing information specified in the proposal relating to the costs associated with the company's use of renewable energy to power its operations.

There appears to be some basis for your view that Apple may exclude the proposal under rule 14a-8(i)(7), as relating to Apple's ordinary business operations. In this regard, we note that the proposal relates to the manner in which the company manages its expenses. Accordingly, we will not recommend enforcement action to the Commission if Apple omits the proposal from its proxy materials in reliance on rule 14a-8(i)(7).

Sincerely,

Matt S. McNair
Special Counsel

**DIVISION OF CORPORATION FINANCE
INFORMAL PROCEDURES REGARDING SHAREHOLDER PROPOSALS**

The Division of Corporation Finance believes that its responsibility with respect to matters arising under Rule 14a-8 [17 CFR 240.14a-8], as with other matter under the proxy rules, is to aid those who must comply with the rule by offering informal advice and suggestions and to determine, initially, whether or not it may be appropriate in a particular matter to recommend enforcement action to the Commission. In connection with a shareholder proposal under Rule 14a-8, the Division's staff considers the information furnished to it by the Company in support of its intention to exclude the proposals from the Company's proxy materials, as well as any information furnished by the proponent or the proponent's representative.

Although Rule 14a-8(k) does not require any communications from shareholders to the Commission's staff, the staff will always consider information concerning alleged violations of the statutes administered by the Commission, including argument as to whether or not activities proposed to be taken would be violative of the statute or rule involved. The receipt by the staff of such information, however, should not be construed as changing the staff's informal procedures and proxy review into a formal or adversary procedure.

It is important to note that the staff's and Commission's no-action responses to Rule 14a-8(j) submissions reflect only informal views. The determinations reached in these no-action letters do not and cannot adjudicate the merits of a company's position with respect to the proposal. Only a court such as a U.S. District Court can decide whether a company is obligated to include shareholders proposals in its proxy materials. Accordingly a discretionary determination not to recommend or take Commission enforcement action, does not preclude a proponent, or any shareholder of a company, from pursuing any rights he or she may have against the company in court, should the management omit the proposal from the company's proxy material.

November 19, 2014

VIA E-MAIL (shareholderproposals@sec.gov)

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: Apple Inc.
Shareholder Proposal of Shelton Ehrlich

Dear Ladies and Gentlemen:

I am writing on behalf of Apple Inc. to respond to Mr. Shelton Ehrlich's letter to the staff dated November 12, 2014, in which he objects to the Company's omission from its 2015 Proxy Materials of his proposal relating to the Company's use of renewable energy. The bases on which the Company proposes to omit the proposal are set forth in our letter to the staff dated October 31, 2014. For ease of reference, capitalized terms used in this letter have the same meanings ascribed to them in our initial letter.

The Proponent's letter does not appear to address the Company's position, supported by numerous no-action letters cited in our initial letter, that the Company's decision to include renewable energy among its sources of energy is a matter of ordinary business. Instead, the Proponent seems to suggest that a proposal requesting a report may not be excluded under Rule 14a-8(i)(7) if the report would relate to past events and would require information that already exists.

The Proponent states several times that the Proposal seeks only a report of the Company's past decisions regarding renewable energy, and does not ask for any information regarding the Company's future plans or expenses. The Proponent states, for example, that the report does not ask the Company to "justify any future investments...but just to describe the basis of its past decisions." The Proponent also states that, "[a]gain, my proposal does not ask about future investments just an explanation of past investments." In fact, however, the Proposal expressly states that the requested report should include an estimate of "the projected costs" of the Company's sources of renewable energy "over the life of the renewable sources." Clearly, the purpose of the Proposal is to influence the Company's future decisions regarding the use and sourcing of energy, particularly renewable energy.

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Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
November 19, 2014
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Whether the Proposal seeks information regarding past or future decisions is, however, beside the point. The Proposal's excludability does not depend on whether the information it seeks "already exists," as the Proponent asserts, or relates only to "past investments." Instead, the Proposal is excludable because, by seeking a shareholder vote on the requested report, the Proposal seeks to involve shareholders in the Company's expenditures on energy, its choice of technologies, and its sources of financing.¹ The Proposal's focus on these matters of ordinary business is underscored by the Proponent's statements, for example, that the Proposal asks the Company to "justify its decision to prefer one form of energy over another" and to "compar[e] what the company did and what it might have done."

As the Company noted in its original request, the considerations involving the choice of one energy type over another are inherently based on complex business considerations that generally are outside the knowledge and expertise of shareholders. While the Company welcomes input and advice from all sources, including shareholders, that does not mean that a subject such as choice of energy sources is a matter on which shareholders as a group are in a position to make an informed judgment. The Company therefore continues to believe that the Proposal may be excluded from its 2015 Proxy Materials in reliance on Rule 14a-8(i)(7).

If you have any questions or need additional information, please feel free to contact me at (408) 974-6931 or by e-mail at glevoff@apple.com.

Sincerely,



Gene D. Levoff
Associate General Counsel,
Corporate Law

cc: Shelton Ehrlich

¹ The Proponent asserts that two letters cited in our initial letter, *Dominion Resources* (Feb. 14, 2014) and *FirstEnergy* (Mar. 8, 2013), suggest that a proposal seeking a report on energy use or technology is excludable under 14a-8(i)(7) only if it focuses on future investments. To the contrary, the proposal in *Dominion Resources*, like the Proposal, sought a report regarding both past decisions and future investments (by asking the board to report on "the risks [the company] faces under its current plan for developing solar generation" and the "benefits of increased solar generation"). In any case, the staff permitted exclusion of the proposals in both cases because they concerned the companies' choice of technologies for use in their operations.

Rule 14a-8(i)(7)

November 12, 2014

VIA E-MAIL (shareholderproposals@sec.gov)

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, NE
Washington DC 20549

Re: Apple Inc.

Shareholder Proposal of Shelton Ehrlich:

Response to Apple's Request (Oct. 31) to Omit Proposal

Dear Ladies and Gentlemen:

I appreciate that SEC rules permit a response to Apple's arguments that my proposal should be omitted from the 2015 proxy materials.

Apple claims that my proposal relates to the Company's ordinary business operations and makes five arguments (A-E).

A. The Proposal Seeks to Micro-Manage the Company By Requiring a Report on Complex Issues.

My proposal does not seek to micro-manage. I ask if Apple can justify its decision to prefer one form of energy over another. During my 40-year professional career in energy investments I would prepare an analysis that showed my recommended investment was superior to the alternatives. In preparing my

proposal to Apple I assumed that they had responsibly done such an analysis and that it would be readily available.

I did not ask that Apple justify any future investments (micro-manage?) but just to describe the basis of its past decisions. This would allow shareholders to judge one aspect of our company's prudence. I did not ask for details on any specific project; I asked for "estimates" of the overall energy investments so that shareholders might judge if these projects were in the best interests of shareholders.

B. The Proposal Relates To The Company's Management of Energy Expenses.

Again, my proposal does not ask about future investments just an explanation of past investments.

When I met with Peter Oppenheimer, then Apple's Chief Financial Officer, in September 2014 to discuss my proposal I understood him to claim that their solar facilities are profitable. That claim must be based on data that already exists. My proposal asks that Apple share an "estimate" with shareholders.

This sentence on page 3 of Apple's letter to you "The Supporting Statement further claims that Tim Cook...recently implied that cost was a secondary consideration in generating or purchasing electricity..."

Attachment 1 is a Los Angeles Times article that confirms my "claim."

<http://articles.latimes.com/2014/mar/01/business/la-fi-tn-apple-tim-cook-shareholders-meeting-20140301>

C. The Proposal Relates To The Company's Choice of Technologies For Use In Use in Its Operations

The examples in support of exclusion, Dominion Resources and First Energy, are not germane to my proposal. In those cases the companies were being asked to justify their future investments. I have requested a simple analysis, albeit in engineering language (that would actually be understood by anyone paying the household electric bill), comparing what the company did and what it might have done. Surely, this analysis exists; it may be scattered in various files but should be easy to collate. When I met with now retired CFO, Oppenheimer, I offered to modify my proposal to make it easier for Apple to prepare the report. He did not accept my offer.

And again, I did not ask that Apple alter its choice of energy technologies. I asked that Apple compare what they did in the period ending in 2013 with the alternatives. I realize that energy costs are a relatively small part of Apple's cost structure but there must be some reason why Apple, at this time, does not want to share this information with shareholders.

When I suggested, in the proposal, that Apple include the non-financial benefits of using solar and wind I was offering the company a way to make obvious arguments that its customers, employees and many investors expect Apple to be the "cleanest" company. It is clear that I was not trying to "involve(s) shareholders in complex matters (that) squarely relate to ordinary business operations."

Regarding the last sentence in "C". The company's shareholders would be in a position to "make informed judgments" as to prudence, if for example, the cost of

renewable power were double the cost of the alternatives. We shareholder's might understand the difference. I don't know that there is a cost difference. Surely, Apple must already know these costs.

D. The Proposal Relates To The Company's Sources of Financing.

Apple is the nation's most valuable company. Is Apple ashamed to make it widely known that it receives subsidies from various governments? And again, I would have agreed to omit that request from my proposal at our September meeting. It was not the central issue of my proposal. I would agree to omit it today.

E. The Proposal Focuses On Ordinary Business Matters Regardless of Whether It Touches Upon A Significant Policy Issue.

The proposal is unlike those discussed in Apple's request to you. Those proposals tried to deduce what the companies intended to do (and may have intended to deter a company action) by requesting a report. My proposal asks Apple to tell the shareholders what it has done so we can see if those decisions were financially prudent and Apple was given the opportunity to show why non-financial considerations might outweigh the, I assume, extra costs of the choices Apple did make.

CONCLUSION

Until recently electricity was produced by a regulated industry. Costs were public knowledge. No harm was done. But, utility practices that discouraged local generation by customers were

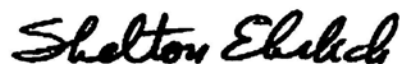
not regulated. Early in my engineering career I worked to share power between my clients and the local electric utilities just as Apple does with its systems. Sometimes there was resistance based on trivial arguments. It took many years for the electricity industry to recognize that the social utility of maximizing system-wide efficiency would not harm their shareholders. Some may read policy implications into my proposal but the report I request does not.

Apple has become, in some small ways, an electric utility. It should act, in this area, as if its past choices are open to scrutiny.

If you have any questions or need additional information, please feel free to contact me at ***FISMA & OMB Memorandum M-07-16*** or by e-mail at

FISMA & OMB Memorandum M-07-16

Sincerely,



Shelton Ehrlich, P.E.

Attachment

Cc: Gene D. Levoff, Apple Inc.

Attachment 1. See yellow highlight

Apple's Tim Cook gets feisty, funny and fiery at shareholders meeting

March 01, 2014 | By Chris O'Brien

Chief Executive Tim Cook speaking onstage at Apple headquarters last year.

(Marcio Jose Sanchez / Associated...)

CUPERTINO, Calif. -- At an annual shareholders meeting Friday that was almost completely devoid of drama, Apple Chief Executive Tim Cook still managed to stun the audience for a moment and bring the room to complete silence.

Sitting on a chair onstage, holding an iPad and some notes, about halfway through a Q&A session, Cook suddenly said something unthinkable for a company that never says a peep about its future plans:

"And now I'm going to unveil some new products here onstage to show you what we've been working on."

The audience was stunned. Mouths hung open. People looked at one another, wondering the same thing: "Did he just say what I thought he said?" Then came the applause and cheers.

Cook quickly brought it to a halt.

"Of course, anyone who knows me knows I'm just joking about that last part," he said, grinning. "Come on. I've got to have some fun!"

Tim Cook. Yankin' his shareholders' chain. Who'd have thought?

"You're sitting pretty close to a lot of the things that are going on," Cook said. "If you could see through the walls...."

It's perhaps a small but telling sign of how comfortable and confident Cook has grown in the two-plus years of having to do the impossible: step into Steve Jobs' shoes.

After the formal part of the shareholders meeting, Cook spent about 45 minutes talking with shareholders who had gathered at Apple's town hall and revealed just a bit more about who he is -- and who he is not.

For instance, one shareholder asked Cook to talk more about the future of the company and his vision for where technology is headed. Jobs used to paint stirring visions of how technology was going to improve the world. Other CEOs like to go onstage and demonstrate their ability to see what's going to happen next.

Not Cook.

"Our mission is not to talk about and sell futures," he said. Cook also made it clear that although Apple has increased its pace of acquiring other companies and isn't afraid to make a big acquisition, he isn't about to get into an arms race with other companies. It seemed to be an oblique reference to Facebook's \$19-billion purchase of messaging app WhatsApp. After rattling off some stats about the growth of iMessage, Apple's own messaging service, Cook said:

"We're not in a race to see how many companies we can acquire. And we're not in a race to pay the most. And we're not in a race to get the headlines."

Unlike Jobs, Cook touted Apple's philanthropy, noting the \$100 million it recently donated to a federal effort to bring more technology to low-income schools. He also mentioned the company's efforts to raise money to fight the global spread of AIDS.

And although Apple has received its share of criticism for working conditions of the people who build its products in China, Cook expressed pride that Apple was trying to be more transparent and self-critical while trying to improve the situation.

"My lifelong heroes are Martin Luther King and Bobby Kennedy," he said. "I get a lot of spears when I talk about this stuff. I don't give a crap. This is something we care

deeply about. I don't think there's a company on Earth that cares more deeply about human rights than Apple does." Cook saved his choicest remarks for shareholder Justin Danhof, director of the National Center for Public Policy Research's Free Enterprise Project.

Danhof had spoken earlier in the meeting, criticizing Apple's connection to trade industry groups that believe people are causing global warming. Later, Danhof asked Cook if he would promise to commit to projects that help the environment or fulfill other social justice aims only if they also help Apple's bottom line.

Cook seemed to be trying not to jump out of his seat.

"When we work on making our devices accessible by the blind, I don't consider the bloody ROI" (return on investment), Cook said.

Bloody!

"When I think about doing the right thing," he said, "I don't think about an ROI."

"If that's a hard line for you," Cook continued, "then you should get out of the stock."

As Danhof sat back down, the audience applauded.

A few other topics Cook addressed:

Brazil, Russia, India and China: Cook said the company was increasingly shifting its focus toward the so-called BRIC countries. He noted that revenue from them had grown from less than \$4 billion in 2010 to more than \$30 billion in 2013. "The U.S. is still very important to us," he said. "But there's a lot more growth coming out of those markets."

On the launch of the iPhone 5s and 5c last fall: "It's great to note that if you look at the mid-tier and the top-tier phone this year, each did better than the mid-tier and the top-tier phone last year."

On putting 64-bit technology in the iPhone 5s: "Who would have thought, for those of you who have been in technology for a long time, that this could ever be done."

On the growth of Apple's software and services to \$16 billion last year: "That's about the size of Starbucks," he said. "That's bigger than CBS, for those of you who are still watching TV."



Rule 14a-8(i)(7)

October 31, 2014

VIA E-MAIL (shareholderproposals@sec.gov)

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: Apple Inc.
Shareholder Proposal of Shelton Ehrlich

Dear Ladies and Gentlemen:

Apple Inc., a California corporation (the “*Company*”), hereby requests confirmation that the staff of the Division of Corporation Finance of the U.S. Securities and Exchange Commission (the “*Commission*”) will not recommend enforcement action to the Commission if, in reliance on Rule 14a-8 under the Securities Exchange Act of 1934, as amended (the “*Exchange Act*”), the Company omits the enclosed shareholder proposal (the “*Proposal*”) and supporting statement (the “*Supporting Statement*”) submitted by Shelton Ehrlich (the “*Proponent*”) from the Company’s proxy materials for its 2015 Annual Meeting of Shareholders (the “*2015 Proxy Materials*”).

Copies of the Proposal and the Supporting Statement, the Proponent’s cover letter submitting the Proposal, and other correspondence relating to the Proposal are attached hereto as Exhibit A.

In accordance with Staff Legal Bulletin No. 14D (Nov. 7, 2008) (“*SLB No. 14D*”), this letter and its exhibits are being delivered by e-mail to shareholderproposals@sec.gov. Pursuant to Rule 14a-8(j), a copy of this letter and its exhibits also is being sent to the Proponent. Rule 14a-8(k) and SLB No. 14D provide that a shareholder proponent is required to send the company a copy of any correspondence which the proponent elects to submit to the Commission or the

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Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
October 31, 2014
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staff. Accordingly, we hereby inform the Proponent that, if the Proponent elects to submit additional correspondence to the Commission or the staff relating to the Proposal, the Proponent should concurrently furnish a copy of that correspondence to the undersigned.

Pursuant to the guidance provided in Section F of Staff Legal Bulletin 14F (Oct. 18, 2011), we ask that the Staff provide its response to this request to the undersigned via email at glevoff@apple.com.

The Company intends to file its definitive 2015 proxy materials with the Commission more than 80 days after the date of this letter.

THE PROPOSAL

On August 22, 2014, the Company received a letter of the same date from Shelton Ehrlich containing the Proposal for inclusion in the Company's 2015 Proxy Materials. The Proposal reads as follows:

RESOLVED,

That the shareholders request the Company prepare a report at reasonable expense and omitting proprietary information estimating the total investment in these renewable sources of electricity in \$/kW and the average cost per kilowatt-hour through 2013 and the projected costs over the life of the renewable sources. If the company chooses, the report may be limited to facilities in the United States. The report should also estimate the subsidies obtained from governments at all levels in reduced investment dollars and/or as a percent reduction in the cost of electricity per kilowatt-hour. If available the report should also compare the cost of power from the renewable electricity sources with the cost of electricity from the power companies serving the communities in which our facilities are located. If it chooses the Company may also include statements of the non-financial benefits of using renewable electricity. The report should be published by December 2015.

BASIS FOR EXCLUSION OF THE PROPOSAL

As discussed more fully below, the Company believes it may omit the Proposal from its 2015 Proxy Materials in reliance on Rule 14a-8(i)(7), because the Proposal relates to the Company's ordinary business operations.

**Rule 14a-8(i)(7) – The Proposal Deals With Matters
Relating To The Company’s Ordinary Business Operations**

Rule 14a-8(i)(7) permits a company to omit from its proxy materials a shareholder proposal that relates to the company’s “ordinary business operations.” According to the Commission, the underlying policy of the ordinary business exclusion is “to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholder meeting.” *Exchange Act Release No. 40018, Amendments to Rules on Shareholder Proposals, [1998 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶86,018, at 80,539 (May 21, 1998) (the “1998 Release”)*.

In the 1998 Release, the Commission described two “central considerations” for the ordinary business exclusion. The first is that certain tasks are “so fundamental to management’s ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight.” The second consideration relates to “the degree to which the proposal seeks to ‘micro-manage’ the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment.” *Id.* at 86,017-18 (footnote omitted).

The Proposal requests that “the Company prepare a report . . . estimating the total investment in . . . renewable sources of electricity . . . and the average cost per kilowatt-hour through 2013 . . .” Noting that the Company “has chosen to obtain some or most of the electricity that powers its operations via renewable sources,” the Proposal also requests that the report “estimate the subsidies obtained from governments at all levels in reduced investment dollars [as well as] compare the cost of power from the renewable electricity sources with the cost of electricity from the power companies serving the communities in which [the Company’s] facilities are located.” The Commission has long held that proposals seeking a report are evaluated by the staff for purposes of Rule 14a-8(i)(7) by considering the underlying subject matter of the proposal. *See* Commission Release No. 34-20091 (Aug. 16, 1983).

The Supporting Statement notes that the Company “has chosen to obtain some or most of the electricity that powers its operations via renewable sources.” The Supporting Statement further claims that Tim Cook, the Chief Executive Officer of the Company, recently implied that “cost was a secondary consideration in generating or purchasing electricity” for the Company’s facilities.

It is clear, therefore, that the focus and underlying subject matter of the Proposal is the Company’s reliance on and its choice of technologies in management of its energy expenses and its use of certain subsidies (i.e. sources of financing) – subjects which, as discussed at length below, are fundamentally matters of the Company’s ordinary business operations.

A. The Proposal Seeks To Micro-Manage The Company By Requiring A Report On Complex Issues

In determining whether a proposal relates to ordinary business operations, the staff considers the degree to which the proposal seeks to “micro-manage” the company. The Proposal is excludable because it seeks to “micro-manage” the Company by probing too deeply into matters of a complex nature upon which the Company’s shareholders, as a group, would not be in a position to make an informed judgment. *See* the 1998 Release.

The Company occupies a unique role as both a producer and user of energy in its operations. Therefore, an integral part of the Company’s business is selecting the best approaches to energy needs. There are a myriad of complex considerations, including but not limited to minimizing the effect on environment, fuel consumption and costs. In determining the best approach to achieve these goals while powering its facilities effectively, management considers a wide range of factors, such as availability and practicality, power costs associated with both traditional and non-traditional forms of generation, costs of construction, effective and anticipated environmental regulations, demand-side management costs, government incentives, operating costs, and recent technological developments, among others.

The considerations involving the choice of one energy type over another are inherently based on complex business considerations that generally are outside the knowledge and expertise of shareholders. By requiring a report on the Company’s “total investment in . . . renewable sources of electricity in \$/kW and the average cost per kilowatt-hour” and “the projected costs over the life of the renewable sources,” the Proposal involves shareholders inappropriately in decisions regarding the generation resources and technologies the Company utilizes in its vast and varied operations worldwide. As a group, the Company’s shareholders would not be in a position to make informed judgments about the specific sources of energy that would best suit the needs of the Company and its shareholders.

The matters that would be addressed by the report requested by the Proposal, which would address the Company’s production and consumption of energy, are precisely the type of “matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment.” *See* the 1998 Release.

B. The Proposal Relates To The Company’s Management Of Energy Expenses

The Proposal is excludable under Rule 14a-8(i)(7) because the Proposal relates to the Company’s management of its energy expenses. The Proposal notes that “it would be useful for shareholders to know more about the costs” of the Company’s decisions to use renewable sources of power. The Supporting Statement also makes clear that the requested report is to allow shareholders to “judge” whether the implication that cost is a secondary factor in decisions regarding energy is “prudent.” To do so, the report requested by the Proposal requires information on the Company’s “total investment in . . . renewable sources of electricity in \$/kW

and the average cost per kilowatt-hour through 2013 and the projected costs over the life of the renewable sources.” The Proposal further asks that the report “compare the cost of power from the renewable electricity sources with the cost of electricity from the power companies” The Company’s management of its energy expenses is a clear matter of ordinary business operations, that is not an appropriate subject for shareholders to “judge.”

The staff has previously allowed exclusion under Rule 14a-8(i)(7) of proposals relating to a company’s management of its energy expenses. For example, in *FLIR Systems, Inc.* (Feb. 6, 2013), the staff permitted the company to exclude a proposal asking the company to issue a report describing the company’s short-term and long-term strategies on energy use management. The Company argued that such a report would “presumably . . . include a review of the sources from which the Company obtains its energy, how energy is used in various production processes, and the management of energy costs at individual facilities on a day-to-day basis”, and as such, implicated the company’s ordinary business operations. The staff agreed with exclusion under Rule 14a-8(i)(7), concluding that the proposal related to ordinary business operations as it concerned the company’s “strategies for managing its energy expenses.” *See also TXU Corp.* (Apr. 2, 2007) (concurring with the exclusion, pursuant to Rule 14a-8(i)(7), of a proposal seeking a report on energy efficiency practices, including an analysis of potential energy savings from increased energy efficiency and the cost of implementing efficiency actions).

As with the proposals in *FLIR Systems* and *TXU Corp.*, the Proposal seeks to impose shareholder oversight on decisions regarding how the Company runs its day-to-day business operations, including management’s decisions regarding energy expenses. Accordingly, the Proposal may be excluded in reliance on Rule 14a-8(i)(7).

C. The Proposal Relates To The Company’s Choice Of Technologies For Use In Its Operations

The Proposal is excludable under Rule 14a-8(i)(7) because the action requested deals with the Company’s decisions concerning its choice of technologies for use in its operations. The Proposal is styled as a request for the Company to prepare a report on the Company’s “total investment in . . . renewable sources of electricity in \$/kW and the average cost per kilowatt-hour”. The Proposal also requests that the report “compare the cost of power from the renewable electricity sources with the cost of electricity from the power companies serving the communities” in which the Company operates.

The staff has consistently permitted the exclusion of shareholder proposals relating to a company’s decisions regarding the processes and technologies to be used in its operations, as relating to that company’s ordinary business operations. In *Dominion Resources, Inc.* (Feb. 14, 2014), for example, the proposal sought the establishment of a team to “review the risks [the company] faces under its current plan for developing solar generation” and development of a report on those risks “as well as benefits of increased solar generation.” The company argued that, although the proposal was structured as a review of risks, it was intended to involve

shareholders in decisions concerning generation resources and technologies that the company would use to produce electricity. In concurring with the exclusion of the proposal, the staff noted that the proposal related to Dominion's ordinary business operations because "the proposal concern[ed] the company's choice of technologies for use in its operations."

Similarly, in *FirstEnergy Corp.* (Mar. 8, 2013), the staff permitted exclusion of a proposal seeking a report on actions the company could take to reduce risk throughout its energy portfolio by diversifying the company's energy resources to include increased energy efficiency and renewable energy resources. In *FirstEnergy*, the company argued that "[a]lthough the [p]roposal [was] styled as a request for the [c]ompany to assemble a report, it simultaneously intend[ed] to influence the [c]ompany's choice of technology and resources used to generate electricity." The staff noted that proposals "that concern a company's choice of technologies for use in its operations are generally excludable under rule 14a-8(i)(7)." *See also AT&T Inc.* (Feb. 13, 2012) (permitting the exclusion of a proposal that requested a report disclosing the financial and reputational risks to the company posed by continuing the use of technology which inefficiently consumed electricity, noting that the proposal related to the technology used in the company's operations and "proposals that concern a company's choice of technologies for use in its operations are generally excludable under Rule 14a-8(i)(7)").

As with the precedent discussed above, the Proposal focuses on the costs associated with its use of existing technologies while simultaneously intending to influence the Company's choice of technologies used in its operations. And, as with the proposals discussed above, the Proposal's subject goes beyond a report on costs in that the subject and the purpose of the Proposal is, in part, for the Company to alter its reliance on renewable energy sources. The Proposal, in fact, requires that "the report should also compare the cost of the power from the renewable electricity sources with the cost of electricity from the power companies serving the communities" in which the Company operates facilities.

To meet its renewable energy goals, the Company is both a producer and a consumer of renewable energy. An integral part of the Company's business is selecting the best approach and the best technologies to power its operations. There are a myriad of complex considerations, only some of which include minimizing the effect on the environment, fuel consumption, and. As such, the Proposal directly relates to the Company's choice of technology.

Requesting a report on the average cost per kilowatt-hour associated with the Company's choice of technology, alongside "statements of the non-financial benefits of renewable electricity" improperly involves shareholders in complex matters that squarely relate to ordinary business operations.

By requiring a report on the average cost per kilowatt-hour through 2013 of its investment in renewable sources of electricity with regard to these facilities, the Proposal involves shareholders inappropriately in decisions regarding the generation resources and technologies the Company utilizes to power its facilities. As a group, the Company's

shareholders would not be in a position to make informed judgments about the specific sources of energy that would best suit the needs of the Company and its shareholders.

D. The Proposal Relates To The Company's Sources Of Financing

In addition, the report requested by the Proposal would “estimate the subsidies obtained from governments at all levels in reduced investment dollars and/or as a percent reduction in the cost of electricity per kilowatt-hour.” Thus, the Proposal requests a discussion of the Company’s sources of financing (i.e. uses of subsidies).

The staff has regularly allowed exclusion under Rule 14a-8(i)(7) of proposals relating to a company’s sources of financing. For example, in *General Electric Co.* (Feb. 15, 2000), the staff permitted the company to exclude a proposal asking the company to prepare a report on the financial benefits received by the company from various “governmental provisions,” including tax abatements and tax credits. In the supporting statement of the proposal, the proponents argued that the company faced risks from relying on certain subsidies that could be deemed to be “corporate welfare.” The staff concurred with the exclusion of the proposal, noting that the exclusion was appropriate under Rule 14a-8(i)(7) “as relating to its ordinary business operations (i.e., a source of financing).”

Similarly, in *Home Depot, Inc.* (Mar. 2, 2011), the staff allowed exclusion of a proposal requesting the company’s board of directors to assess and issue a report regarding the risks created by the actions of the company to avoid or minimize U.S. federal, state and local corporate income taxes. In *Home Depot*, the company argued that, because the proposal requested a report on government programs offering tax incentives to the company and other retailers, the proposal necessarily involved the company’s “sources of financing.” In agreeing that the proposal was excludable, the staff noted that proposals relating to the company’s “tax expenses and sources of financing” are excludable under Rule 14a-8(i)(7) as relating to ordinary business operations.

Moreover, in *Pepsico, Inc. (Recon.)* (Mar. 13, 2003), the staff concurred that the companies could exclude under Rule 14a-8(i)(7) shareholder proposals requesting a report on “each tax break that provides the company more than \$5 million of tax savings.” In *PepsiCo*, the company argued, and the staff apparently agreed, that tax savings, and activities that provide tax incentives, are essentially sources of financing for the company. In agreeing that the proposal was excludable, the staff noted that the disclosures sought by the proposal “relat[ed] to ordinary business operations (i.e. disclosure of the sources of financing).”

For the Company to satisfy the Proposal’s request for an estimate of “subsidies obtained from governments at all levels reduced to investment”, the Company would have to discuss the management’s decisions with regards to the Company’s choice of sources of financing. Similar to the proposals in *Home Depot*, *General Electric* and *Pepsico*, the Proposal requires that the Company discuss benefits associated with its sources of financing. Also, as was the case in

Pepsico, the report will necessarily require the Company's disclosure of certain subsidiaries. As the cited precedents demonstrate, proposals relating to the Company's sources of financing and the disclosure of those sources are excludable under Rule 14a-8(i)(7) as relating to ordinary business matters.

E. The Proposal Focuses On Ordinary Business Matters Regardless Of Whether It Touches Upon A Significant Policy Issue

While the Proposal uses terms such as "renewable electricity energy", the Proposal does not involve a significant policy issue. On the contrary, as discussed at length above, the Proposal relates entirely to ordinary business matters.

The staff has consistently concurred that a proposal may be excluded when it addresses ordinary business matters, even if it touches upon a significant social policy issue. For instance, in *General Electric Co.* (Feb. 10, 2000), the staff permitted exclusion of a proposal requesting that the company (i) discontinue an accounting technique, (ii) not use funds from the GE Pension Trust to determine executive compensation, and (iii) use funds from the trust as intended. The staff noted that, while the Proposal touched on the social policy issue of executive compensation, the entire proposal was excludable under Rule 14a-8(i)(7) because "a portion of the proposal relate[d] to ordinary business matters (i.e., the choice of accounting methods)." *See also Dominion Resources, Inc.* (permitting the exclusion of a proposal relating to use of alternative energy because the proposal related, in part, to ordinary business operations (company's choice of technologies for use in its operations)).

As such, the staff has taken the position that proposals related to day-to-day company activities are excludable, regardless of the fact that those day-to-day activities could be tied to larger social issues. *See, e.g., Assurant, Inc.* (Mar. 17, 2009) (concurring that the company could exclude a proposal calling for a report on the company's plans to address climate change because the proposal related to ordinary business operations "(i.e. evaluation of risk)").

While the staff has found that some recent environmental proposals do transcend ordinary business operations, *see Exxon Mobil Corp.* (Mar. 23, 2007) (adopt quantitative goals for reducing greenhouse gas emissions); *General Electric Co.* (Jan. 31, 2007) (report on global warming), the Proposal does not involve broader environmental issues.

The staff's position in its response to *FirstEnergy Corp.* (Mar. 8, 2013) is noteworthy in this regard. In *FirstEnergy Corp.*, the proposal requested that the board prepare a report on actions that FirstEnergy is taking or could take to reduce risk throughout its energy portfolio by "diversifying the company's energy resources to include increased energy efficiency and renewable energy resources." FirstEnergy argued that the proposal mentioned and focused on the non-environmental aspects of the generation of electricity to such an extent that the proposal could not be characterized as a proposal focused solely on environmental issues, noting that the bulk of the proposal focused on issues that were not necessarily directly related to environmental

concerns (aging infrastructure, the prevalence of renewable generating resources, declining costs of solar power, potential energy cuts to energy consumption, increased budgets for electricity efficiency programs, energy savings, and costs of energy efficiency targets). The staff agreed with the company's view that the proposal could be excluded pursuant to Rule 14a-8(i)(7), as relating to FirstEnergy's ordinary business operations.

Just as the *FirstEnergy Corp.* proposal focused on the non-environmental impact of renewable energy resources, so does the Proposal, which focuses on the costs associated with the Company's strategic decisions regarding the Company's choice of technology, managing its energy costs and sources of financing. As mentioned before, the Proponent is not concerned with the environment, rather, it appears that the Proponent's main concern is that "cost" may not have been the main or the sole criterion in the Company's decision to become a leader in producing and using alternative energy.

As with the letters cited above, even if aspects of the Proposal were deemed to implicate social policy issues (which we do not believe is the case), a majority of the disclosures requested in the report relate to ordinary business operations (such as management's day-to-day decisions regarding the choice of technologies to be used in the Company's operations and the Company's sources of financing). Accordingly, regardless of whether some elements of the Proposal might be deemed to touch upon social policy issues, the ordinary business matters addressed in the Proposal warrant exclusion of the Proposal. *See E*Trade Group, Inc.* (Oct. 31, 2000) (permitting exclusion of a proposal where two out of four items implicated ordinary business matters).

CONCLUSION

For the reasons discussed above, the Company believes that it may omit the Proposal and Supporting Statement from its 2015 Proxy Materials in reliance on Rule 14a-8(i)(7). As such, we respectfully request that the staff concur with the Company's view and not recommend enforcement action to the Commission if the Company omits the Proposal and Supporting Statement from its 2015 Proxy Materials.

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
October 31, 2014
Page 10

If you have any questions or need additional information, please feel free to contact me at (408) 974-6931 or by e-mail at glevoff@apple.com.

Sincerely,

A handwritten signature in black ink, appearing to be 'Gene D. Levoff', written in a cursive style.

Gene D. Levoff
Associate General Counsel,
Corporate Law

Attachments

cc: Shelton Ehrlich

Exhibit A

Copy of the Proposal and Related Correspondence

Mr. Shelton Ehrlich

APPLE INC.
OFFICE OF THE GENERAL COUNSEL

FISMA & OMB Memorandum M-07-16

08-28-14 P03:53 RCVD

August 22, 2014

Corporate Secretary, Apple, Inc.
1 Infinite Loop
MS: 301-4GC
Cupertino, California 95014

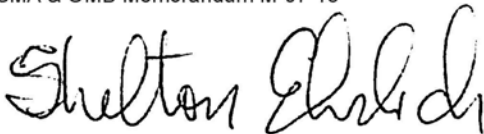
I hereby submit the enclosed shareholder proposal ("Proposal") for inclusion in Apple Inc's (the "company") proxy statement to be circulated to Company shareholders in conjunction with the 2015 annual meeting of shareholders. The Proposal is submitted under Rule 14(a)-8 (Proposals of Security Holders) of the U.S. Securities and Exchange Commission's proxy regulations.

I, Shelton Ehrlich, am the beneficial owner of over 1,000 shares of the Company's common stock that have been held continuously for more than a year prior to this date of submission (adjusting for the 7:1 split). I intend to hold the shares through the date of the Company's next annual meeting of shareholders. Proof of ownership is attached.

If you have any questions or wish to discuss the Proposal, please contact me at
Copies of correspondence or a request for a "no-action" letter
should be sent to me at the above address. My email address is

FISMA & OMB Memorandum M-07-16

FISMA & OMB Memorandum M-07-16



Sincerely,
Shelton Ehrlich

Attachments: 1 - Shareholder Proposal – Renewable Energy Costs
2 - Stock Proof of Ownership

Shareholder Proposal: Renewable Energy Costs

Resolution

WHEREAS, our company has chosen to obtain some or most of the electricity that powers its operations via renewable sources it would be useful for shareholders to know more about the costs of this choice.

RESOLVED, that the shareholders request the Company prepare a report at reasonable expense and omitting proprietary information estimating the total investment in these renewable sources of electricity in \$/kW and the average cost per kilowatt-hour through 2013 and the projected costs over the life of the renewable sources. If the company chooses, the report may be limited to facilities in the United States. The report should also estimate the subsidies obtained from governments at all levels in reduced investment dollars and/or as a percent reduction in the cost of electricity per kilowatt-hour. If available the report should also compare the cost of power from the renewable electricity sources with the cost of electricity from the power companies serving the communities in which our facilities are located. If it chooses the Company may also include statements of the non-financial benefits of using renewable electricity. The report should be published by December 2015.

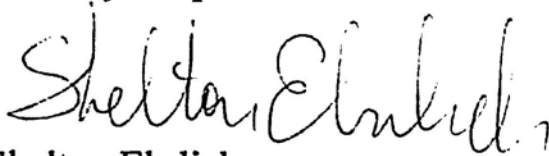
SUPPORTING STATEMENT

In response to a shareholder question during the February, 2014 shareholder meeting Tim Cook, CEO of our company, implied that cost was a secondary consideration in generating or purchasing electricity for our facilities. This report would help shareholders judge whether this is a prudent decision.

Mr. Shelton Ehrlich

FISMA & OMB Memorandum M-07-16

Fidelity chose not to provide the simple statement that I owned the requisite number of shares. You may analyze the Fidelity letter dated 8/21/14, use my trust account statements or look at my personal account. The trust documents show that I owned 40 AAPL in January 2013 and 280 AAPL at the end of July 2014. The personal account shows that I owned about 1,900 shares at an average price of about \$25. If you need further proof of ownership please send an email to ***FISMA & OMB Memorandum M-07-16*** I will be difficult to reach by telephone for several weeks.



Shelton Ehrlich

Personal Investing

P.O. Box 770001
Cincinnati, OH 45277-0045



August 21, 2014

Shelton Ehrlich

FISMA & OMB Memorandum M-07-16

Dear Mr. Ehrlich:

Thank you for contacting Fidelity Investments regarding position holding verification for your Fidelity IRA rollover account ending in 9117 -

FISMA & OMB Memorandum M-07-16

Please accept the below chart as position holding verification for Apple Inc. (AAPL). Please note that this table contains information as of August 20, 2014, and can be subject to change pending any new and subsequent transactions in the same securities. They may not reflect impact from any previous corporate actions. This information is unaudited and is not intended to replace your monthly statement or official tax documents.

Shelton Ehrlich - Fidelity IRA Rollover account ending in 9117 - Apple Inc. (AAPL) Cusip-37833100				
Event Date	Event Date	Event Date	Event Date	Event Date
01/12/2004	Buy	100.000	\$2,386.80	\$23.79
04/29/2004	Sell	100.000	\$2,593.93	\$26.02
05/07/2004	Buy	100.000	\$2,750.00	\$27.42
02/28/2005	Non-Taxable Stock Split	100.000	N/A	N/A
03/20/2006	Buy	100.000	\$6,406.00	\$63.98
05/19/2006	Buy	100.000	\$6,378.00	\$63.70
06/05/2006	Buy	100.000	\$6,021.00	\$60.13
10/06/2006	Buy	100.000	\$7,408.00	\$74.00
04/17/2007	Buy	100.000	\$8,983.00	\$89.75
05/10/2007	Sell	100.000	\$10,791.83	\$108.00
06/04/2007	Sell	200.000	\$24,191.62	\$121.00
07/23/2007	Sell	100.000	\$14,333.78	\$143.42
08/09/2007	Buy	50.000	\$6,464.50	\$129.13
08/10/2007	Buy	50.000	\$6,299.00	\$125.82

Sharon Ehrlich - Fidelity IRA Rollover account ending in 9117 - Apple Inc. (AAPL) Cusip: 37833100				
Event Date	Event Date	Event Date	Event Date	Event Date
08/17/2007	Buy	50.000	\$6,058.00	\$121.00
08/28/2007	Buy	10.000	\$1,277.00	\$126.90
08/28/2007	Buy	20.000	\$2,581.80	\$128.69
09/05/2007	Buy	20.000	\$2,761.40	\$137.67
09/28/2007	Sell	100.000	\$15,393.77	\$154.02
10/11/2007	Sell	100.000	\$15,868.75	\$158.77
10/11/2007	Sell	200.000	\$31,755.50	\$158.78
10/18/2007	Buy	100.000	\$17,158.00	\$171.50
10/19/2007	Buy	100.000	\$17,063.00	\$170.55
11/09/2007	Buy	50.000	\$8,349.00	\$166.82
11/09/2007	Buy	50.000	\$8,508.00	\$170.00
12/18/2007	Sell	66.000	\$11,976.75	\$181.59
12/18/2007	Sell	134.000	\$24,331.34	\$181.58
12/24/2007	Buy	20.000	\$3,949.99	\$197.10
12/27/2007	Buy	20.000	\$3,978.40	\$198.52
12/31/2007	Buy	20.000	\$3,983.00	\$198.75
01/02/2008	Buy	10.000	\$1,970.50	\$196.25
01/04/2008	Buy	10.000	\$1,808.10	\$180.01
01/04/2008	Buy	10.000	\$1,875.50	\$186.75
01/07/2008	Buy	200.000	\$35,008.00	\$175.00
01/08/2008	Buy	10.000	\$1,810.99	\$180.30
01/11/2008	Buy	6.000	\$1,034.00	\$171.00
01/15/2008	Buy	9.000	\$1,525.30	\$168.59
01/16/2008	Buy	10.000	\$1,625.50	\$161.75
01/17/2008	Buy	6.000	\$963.32	\$159.22
01/22/2008	Buy	7.000	\$1,105.88	\$156.84
01/22/2008	Buy	7.000	\$1,122.61	\$159.23
01/22/2008	(Buy - Cancelled)	7.000	\$1,122.61	\$159.23
01/22/2008	Buy	7.000	\$1,097.04	\$156.72
01/23/2008	Buy	7.000	\$944.25	\$133.75
02/25/2008	Buy	9.000	\$1,075.31	\$118.59
04/23/2008	Buy	9.000	\$1,472.83	\$162.76
05/21/2008	Buy	6.000	\$1,077.26	\$178.21

Shefton Ehrlich - Fidelity IRA Rollover account ending in 9117 - Apple Inc. (AAPL) Cusip-37833100				
Event Date	Event Date	Event Date	Event Date	Event Date
08/29/2008	Buy	6.000	\$1,027.28	\$169.88
09/29/2008	Sell	15.000	\$1,784.48	\$119.50
10/06/2008	Sell	27.000	\$2,398.76	\$89.14
10/21/2008	Buy	11.000	\$1,043.64	\$94.15
11/20/2008	Sell	20.000	\$1,627.99	\$81.80
06/17/2011	Buy	3.000	\$968.28	\$320.11
01/25/2012	Sell	3.000	\$1,335.21	\$447.73
08/16/2012	Dividend Reinvest	2.215	\$1,407.15	\$0.00
11/08/2012	Sell	33.000	\$17,990.83	\$545.43
11/15/2012	Dividend Reinvest	2.601	\$1,413.02	\$0.00
12/14/2012	Buy	10.000	\$5,091.05	\$508.31
02/14/2013	Dividend Reinvest	2.861	\$1,358.96	\$0.00
05/16/2013	Dividend Reinvest	3.484	\$1,572.81	\$0.00
08/14/2013	Comp Spc Share	40.000	\$19,990.10	\$499.96
08/14/2013	Specific Share - Sell	2.000	\$999.50	\$499.96
08/14/2013	Specific Share - Sell	2.200	\$1,099.46	\$499.96
08/14/2013	Specific Share - Sell	2.600	\$1,299.36	\$499.96
08/14/2013	Specific Share - Sell	2.800	\$1,399.31	\$499.96
08/14/2013	Specific Share - Sell	3.000	\$1,499.26	\$499.96
08/14/2013	Specific Share - Sell	3.400	\$1,699.16	\$499.96
08/14/2013	Specific Share - Sell	5.000	\$2,498.76	\$499.96
08/14/2013	Specific Share - Sell	5.000	\$2,498.76	\$499.96
08/14/2013	Specific Share - Sell	5.000	\$2,498.76	\$499.96
08/14/2013	Specific Share - Sell	9.000	\$4,497.77	\$499.96
08/15/2013	Dividend Reinvest	3.349	\$1,583.44	\$0.00
11/05/2013	Sell - Call	200.000	\$99,990.31	\$500.00
11/14/2013	Dividend Reinvest	1.654	\$861.66	\$0.00
02/13/2014	Dividend Reinvest	1.622	\$866.70	\$0.00
04/08/2014	Buy	2.000	\$1,052.89	\$522.47
04/28/2014	Comp Spc Share	7.000	\$4,150.44	\$594.07
04/28/2014	Specific Share - Sell	0.622	\$368.80	\$594.07
04/28/2014	Specific Share - Sell	0.654	\$387.77	\$594.07
04/28/2014	Specific Share - Sell	1.000	\$592.92	\$594.07
04/28/2014	Specific Share - Sell	2.349	\$1,392.77	\$594.07

Shelton Ehrlich - Fidelity IR & Rollover account ending in 9117 - Apple Inc. (AAPL) Cusip 37623100				
Event Date	Event Date	Event Date	Event Date	Event Date
04/28/2014	Specific Share - Sell	2,375	\$1,408.18	\$594.07
05/15/2014	Dividend Reinvest	1,559	\$923.79	\$0.00
05/27/2014	Comp Spc Share	2,000	\$1,242.06	\$625.02
05/27/2014	Specific Share - Sell	0,500	\$310.51	\$625.02
05/27/2014	Specific Share - Sell	1,500	\$931.55	\$625.02
06/09/2014	Non-Taxable Stock Split	1,682,070	N/A	N/A
07/14/2014	Comp Spc Share	12,000	\$1,142.34	\$95.86
07/14/2014	Specific Share - Sell	0,007	\$0.67	\$95.86
07/14/2014	Specific Share - Sell	0,580	\$55.21	\$95.86
07/14/2014	Specific Share - Sell	5,000	\$475.97	\$95.86
07/14/2014	Specific Share - Sell	6,413	\$610.49	\$95.86
08/14/2014	Dividend Reinvest	9,516	\$916.70	\$0.00

Mr. Ehrlich, I hope you find this information helpful. For any other issues or general inquiries regarding your account, please contact a Fidelity representative at (877) 907-4429 for assistance.

Sincerely,



Keith Bouchard
High Net Worth Operations

Our File: W614578-18AUG14

Cost Basis, Gain/Loss, and Holding Period Information: NFS will report gross proceeds and certain cost basis and holding period information to you and the IRS on your annual Form 1099-B as required or allowed by law, but such information may not reflect adjustments required for your tax reporting purposes. Taxpayers should verify such information when calculating reportable gain or loss. Fidelity and NFS specifically disclaim any liability arising out of a customer's use of, or any tax position taken in reliance upon, such information. Unless otherwise specified, NFS determines cost basis at the time of sale based on the average cost-single category (ACSC) method for open-end mutual funds and on the first-in, first-out (FIFO) method for all other securities. Consult your tax advisor for further information.