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

DIVISION OF
CORPORATION FINANCE

December 17, 2018

Shelley J. Dropkin
Citigroup Inc.
dropkins@citi.com

Re: Citigroup Inc.

Dear Ms. Dropkin:

This letter is in regard to your correspondence dated December 17, 2018 concerning the shareholder proposal (the "Proposal") submitted to Citigroup Inc. (the "Company") by CtW Investment Group (the "Proponent") for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders. Your letter indicates that the Proponent has withdrawn the Proposal and that the Company therefore withdraws its December 14, 2018 request for a no-action letter from the Division. Because the matter is now moot, we will have no further comment.

Copies of all of the correspondence related to this matter 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,

Kasey L. Robinson
Special Counsel

cc: Richard Clayton
CtW Investment Group
richard.clayton@ctwinvestmentgroup.com

Shelley J. Dropkin
Managing Director
Deputy Corporate Secretary
and General Counsel,
Corporate Governance

Citigroup Inc.
388 Greenwich Street
17th Floor
New York, NY 10013

T 212 793 7396
dropkins@citi.com

December 17, 2018

BY E-MAIL [shareholderproposals@sec.gov]

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

Re: Stockholder Proposal to Citigroup Inc. from CtW Investment Group

Ladies and Gentleman:

This letter relates to a proposal (the "Proposal") submitted to Citigroup Inc. (the "Company") by CtW Investment Group (the "Proponent"). In a letter dated December 14, 2018, the Company requested that the Staff of the Division of Corporation Finance concur that the Company could exclude the Proposal from its proxy materials for its 2019 annual meeting of stockholders pursuant to Rule 14a-8 of the rules and regulations promulgated under the Securities Exchange Act of 1934.

Enclosed as Enclosure 1 is a letter from Dieter Waizenegger, Executive Director of the Proponent, dated December 17, 2018, stating that the Proponent is withdrawing the Proposal. In reliance upon this letter, the Company hereby withdraws its December 14, 2018 no-action request relating to the Proposal.

If you have any comments or questions concerning this matter, please contact me at (212) 793-7396.

Very truly yours,

Shelley J. Dropkin
Deputy Corporate Secretary and
General Counsel, Corporate Governance

cc: Richard Clayton
Director of Research
CtW Investment Group
1900 L St. NW, Suite 900
Washington, DC 20036

ENCLOSURE 1
LETTER FROM CTW INVESTMENT GROUP

CtW Investment Group

December 17, 2018

Shelly J. Dropkin
Deputy Corporate Secretary and
General Counsel, Corporate Governance
Citigroup, Inc.
388 Greenwich St., 17th Floor
New York, NY 10013

Dear Ms. Dropkin,

We hereby withdraw our previously submitted shareholder resolution for Citigroup's 2019 Annual Meeting.

If you have any questions, please contact Richard Clayton, Director of Research, at (202) 721-6038 or richard.clayton@ctwinvestmentgroup.com.

Sincerely,

Dieter Waizenegger
Executive Director, CtW Investment Group

1900 L Street NW, Suite 900 Washington, DC 20036
202-721-6060
www.ctwinvestmentgroup.com

CtW Investment Group

December 17, 2018

Shelly J. Dropkin
Deputy Corporate Secretary and
General Counsel, Corporate Governance
Citigroup, Inc.
388 Greenwich St., 17th Floor
New York, NY 10013

Dear Ms. Dropkin,

We hereby withdraw our previously submitted shareholder resolution for Citigroup's 2019 Annual Meeting.

If you have any questions, please contact Richard Clayton, Director of Research, at (202) 721-6038 or richard.clayton@ctwinvestmentgroup.com.

Sincerely,

Dieter Waizenegger
Executive Director, CtW Investment Group

1900 L Street NW, Suite 900 Washington, DC 20036
202-721-6060
www.ctwinvestmentgroup.com

Shelley J. Dropkin
Managing Director
Deputy Corporate Secretary
and General Counsel,
Corporate Governance

Citigroup Inc.
388 Greenwich Street
17th Floor
New York, NY 10013

T 212 793 7396
dropkins@citi.com

December 14, 2018

BY E-MAIL [shareholderproposals@sec.gov]

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

Re: Stockholder Proposal to Citigroup Inc. from CtW Investment Group

Ladies and Gentlemen:

Citigroup Inc. (the "Company"), in accordance with Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), is filing this letter with respect to the stockholder proposal and supporting statement (the "Proposal") submitted by CtW Investment Group (the "Proponent") in a letter dated November 13, 2018. The Proponent seeks inclusion of the Proposal in the proxy materials that the Company intends to distribute in connection with its 2019 annual meeting of stockholders (the "2019 Proxy Materials"). A copy of the Proposal and all correspondence with the Proponent related to the initial submission of the Proposal are attached hereto as Enclosure A.

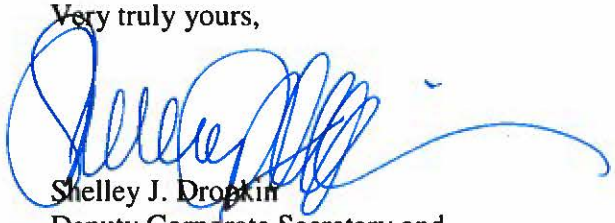
In accordance with Staff Legal Bulletin No. 14D (Nov. 7, 2008) ("SLB No. 14D"), this letter and its attachments are being submitted to the Securities and Exchange Commission (the "Commission") by e-mail to shareholderproposals@sec.gov. Pursuant to Rule 14a-8(j), this letter is being filed with the Commission no later than 80 days before the Company intends to file its 2019 Proxy Materials. The Company intends to commence printing its Notice and Access materials on or about February 28, 2019 and to file its 2019 Proxy Materials on or about March 6, 2019. A copy of this letter and its attachments also is being sent on this date to the Proponent in accordance with Rule 14a-8(j) to inform the Proponent of the Company's intention to omit the Proposal from the 2019 Proxy Materials. For purposes of the following analysis, references to the Company shall include the Company's direct and indirect subsidiaries.

Rule 14a-8(k) and SLB No. 14D provide that the Proponent is required to send the Company a copy of any correspondence the Proponent elects to submit to the Commission or the staff of its Division of Corporation Finance (the "Staff"). Accordingly, we are hereby informing the Proponent that if the Proponent elects to submit additional correspondence to the Commission or the Staff with respect to this Proposal, a copy of that correspondence should be furnished concurrently to the Company.

The Company hereby requests confirmation that the Staff will not recommend enforcement action if, in reliance on Rule 14a-8 of the Exchange Act, the Company omits the Proposal from its 2019 Proxy Materials.

Should the Staff disagree with the conclusions set forth in the attached letter, or should any additional information be desired in support of the Company's position, we would appreciate the opportunity to confer with the Staff concerning these matters prior to the issuance of the Staff's response. Please do not hesitate to contact the undersigned at (212) 793-7396.

Very truly yours,



Shelley J. Dropkin
Deputy Corporate Secretary and
General Counsel, Corporate Governance

cc: Richard Clayton
Director of Research
CtW Investment Group
1900 L St. NW, Suite 900
Washington, DC 20036

ENCLOSURE A
THE PROPOSAL AND RELATED CORRESPONDENCE (IF ANY)

CtW Investment Group

November 13, 2018

Shelley J. Dropkin
Deputy Corporate Secretary
Citigroup, Inc.
601 Lexington Ave.
19th Floor
New York, NY 10022
Fax: (212) 793 7600
Email: dropkins@citi.com

Dear Ms. Dropkin:

On behalf of the CtW Investment Group ("CtW"), I hereby submit the enclosed shareholder proposal ("Proposal") for inclusion in Citigroup, Inc. ("Company") proxy statement to be circulated to Company shareholders in conjunction with the next 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.

CtW is the beneficial owner of approximately 60 shares of the Company's common stock, which been held continuously for more than a year prior to this date of submission. The Proposal requests that the Board adopt a policy that in will not engage in any inequitable employment practices, which are:

- Mandatory arbitration of employment-related claims,
- Non-compete agreements with employees,
- Agreements with other companies not to recruit each others' employees, and
- Non-disclosure agreements entered into in connection with arbitration or settlement of claims that any Citigroup employee engaged in unlawful discrimination or harassment.

CtW intends to hold the shares through the date of the Company's next annual meeting of shareholders. The record holder of the stock will provide the appropriate verification of the Fund's beneficial ownership by separate letter. Either the undersigned or a designated representative will present the Proposal for consideration at the annual meeting of shareholders.

If you have any questions or wish to discuss the Proposal, please contact Richard Clayton, Director of Research, at (202) 721-6038 or richard.clayton@ctwinvestmentgroup.com. Copies of correspondence or a request for a "no-action" letter should be forwarded to Mr. Clayton in care of the CtW Investment Group, 1900 L St. NW, Suite 900, Washington, DC 20036.

Sincerely,

Dieter Waizenegger
Executive Director, CtW Investment Group

RESOLVED that shareholders of Citigroup Inc. ("Citigroup") urge the Board of Directors to adopt a policy that Citigroup will not engage in any Inequitable Employment Practice. "Inequitable Employment Practices" are mandatory arbitration of employment-related claims, non-compete agreements with employees, agreements with other companies not to recruit each others' employees and non-disclosure agreements ("NDAs") entered into in connection with arbitration or settlement of claims that any Citigroup employee engaged in unlawful discrimination or harassment.

SUPPORTING STATEMENT

In recent years, companies have increasingly relied on a suite of contractual arrangements involving their employees, Inequitable Employment Practices, that burden the economy, impede labor mobility and prevent the discovery and redress of misconduct. As a result, there is a robust public debate over their use, including responses by legislators, regulators and state attorneys general.

"No-poaching" pacts, in which companies agree not to recruit each others' employees, introduce labor market inefficiencies and inhibit innovation. Federal legislation has been introduced to ban them, and 11 attorneys general are investigating fast food franchisees' agreements.

Companies increasingly seek to impose non-compete restrictions, originally designed for higher-level knowledge workers, on entry-level workers. The Obama Administration opposed this expansion, and measures to curb it have been introduced in Congress and many states. Non-compete provisions stifle innovation and entrepreneurship, harming the broader economy. In December 2017, Citigroup left an agreement that had allowed brokers to take basic client information when moving to a competitor, thereby reducing the amount of non-compete litigation.

Mandatory arbitration and NDAs undermine public policy by limiting remedies for wrongdoing and keeping misconduct secret. Mandatory arbitration precludes employees from suing in court for wrongs like wage theft, discrimination and harassment, and requires them to submit to private arbitration, which has been found to favor companies and discourage claims. Recent high-profile sexual harassment cases involving Fox News and Uber highlighted the impact of arbitration clauses. In December 2017, a bill to end mandatory arbitration of sexual harassment claims bill was introduced in Congress. All 56 state and territorial attorneys general urged Congressional leaders to support it.

The secrecy NDAs provide can allow a toxic culture to flourish, increasing the severity of eventual consequences and harming employee morale. NDAs were allegedly used to keep sexual harassment by Harvey Weinstein and Bill O'Reilly

secret. Some, including Citigroup's former diversity head, have speculated that NDAs and mandatory arbitration have kept harassment on Wall Street from coming to light.

Washington state recently banned the use of NDAs in sexual harassment cases and similar legislation has been proposed in New York, California and Pennsylvania. Federal legislation has been introduced to limit employers' ability to secure NDAs upfront and require employers to disclose information about sexual harassment claims.

Our Proposal asks Citigroup to commit not to use any of the Inequitable Employment Practices, which we believe will encourage focus on human capital management and improve accountability. We urge shareholders to vote for this Proposal.

amalgamated bank

November 14, 2018

Attention: Rohan Weerasinghe, Corporate Secretary
Citigroup Inc.
388 Greenwich Street
New York, New York 10013

Dear Mr. Weerasinghe:

Please be advised that Amalgamated Bank holds 60 shares of Citigroup, Inc. ("Company") common stock beneficially for the CTW Investment Group (CTW), the proponent of a shareholder proposal submitted to the Company on November 14, 2018, in accordance with Rule 14(a)-8 of the Securities and Exchange Act of 1934. The requisite shares of the Company's stock held by CTW have been held for at least one year from the date of submission of the proposal on November 14, 2018, shares having been held continuously for more than a year. CTW intends to hold those shares through the date of the Company's 2019 annual shareholders' meeting.

Amalgamated Bank serves as custodian and record holder for CtW Investment Group. The above-mentioned shares are registered in a nominee name of Amalgamated Bank. The shares are held by the Bank through DTC Account #2352.

Sincerely,

James Lingberg
Chief Trust Officer

275 Seventh Avenue
New York, NY 10001
amalgamatedbank.com

Paula F. Jones
Assistant Secretary
& Associate General Counsel,
Corporate Governance

Citigroup Inc
388 Greenwich Street
17th Floor
New York, NY 10013

T 212 793 3863
jonesp@citi.com

VIA UPS and Email

November 19, 2018

CtW Investment Group
1900 L Street, N.W., Suite 900
Washington, DC 20036
Attention: Richard Clayton, Director of Research

Dear Mr. Clayton:

Citigroup Inc. ("Citi") has received your stockholder proposal for submission to Citigroup stockholders at the Annual Meeting in April 2019. Earlier this year CtW Investment Group failed to present its stockholder proposal -- requesting a report on lobbying and grassroots lobbying contributions -- at Citi's 2018 Annual Meeting. Rule 14a-8(h)(3) permits a company to exclude, for two years, any shareholder proposals from a proponent who fails to appear and put forward the proposal at the annual meeting. Attached is a copy of Rule 14a-8(h)(3) and a copy of Citi's 8-k reporting the voting results of the 2018 Annual Meeting.

Very truly yours,

Paula F. Jones
Assistant Secretary and
Associate General Counsel, Corporate Governance

Enclosures

ENCLOSURE 1

RULE 14A-8 OF THE SECURITIES EXCHANGE ACT OF 1934

information after the termination of the solicitation.

(e) The security holder shall reimburse the reasonable expenses incurred by the registrant in performing the acts requested pursuant to paragraph (a) of this section.

NOTE 1 TO § 240.14A–7. Reasonably prompt methods of distribution to security holders may be used instead of mailing. If an alternative distribution method is chosen, the costs of that method should be considered where necessary rather than the costs of mailing.

NOTE 2 TO § 240.14A–7. When providing the information required by § 240.14a–7(a)(1)(ii), if the registrant has received affirmative written or implied consent to delivery of a single copy of proxy materials to a shared address in accordance with § 240.14a–3(e)(1), it shall exclude from the number of record holders those to whom it does not have to deliver a separate proxy statement.

[57 FR 48292, Oct. 22, 1992, as amended at 59 FR 63684, Dec. 8, 1994; 61 FR 24657, May 15, 1996; 65 FR 65750, Nov. 2, 2000; 72 FR 4167, Jan. 29, 2007; 72 FR 42238, Aug. 1, 2007]

§ 240.14a–8 Shareholder proposals.

This section addresses when a company must include a shareholder's proposal in its proxy statement and identify the proposal in its form of proxy when the company holds an annual or special meeting of shareholders. In summary, in order to have your shareholder proposal included on a company's proxy card, and included along with any supporting statement in its proxy statement, you must be eligible and follow certain procedures. Under a few specific circumstances, the company is permitted to exclude your proposal, but only after submitting its reasons to the Commission. We structured this section in a question-and-answer format so that it is easier to understand. The references to "you" are to a shareholder seeking to submit the proposal.

(a) *Question 1:* What is a proposal? A shareholder proposal is your recommendation or requirement that the company and/or its board of directors take action, which you intend to present at a meeting of the company's shareholders. Your proposal should state as clearly as possible the course of action that you believe the company should follow. If your proposal is placed on the company's proxy card, the company must also provide in the form of proxy means for shareholders to specify by boxes a choice between approval or disapproval, or abstention. Unless otherwise indicated, the word "proposal" as used in this section refers both to your proposal, and to your corresponding statement in support of your proposal (if any).

(b) *Question 2:* Who is eligible to submit a proposal, and how do I demonstrate to the company that I am eligible? (1) In order to be eligible to submit a proposal, you must have continuously held at least $2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the meeting for at least one year by the date you submit the proposal. You must continue to hold those securities through the date of the meeting.

(2) If you are the registered holder of your securities, which means that your name appears in the company's records as a shareholder, the company can verify your eligibility on its own, although you will still have to provide the company with a written statement that you intend to continue to hold the securities through the date of the meeting of shareholders. However, if like many shareholders you are not a registered holder, the company likely does not know that you are a shareholder, or how many shares you own. In this case, at the time you submit your proposal, you must prove your eligibility to the company in one of two ways:

(i) The first way is to submit to the company a written statement from the "record" holder of your securities (usually a broker or bank) verifying that, at the time you submitted your proposal, you continuously held the securities for at least one year. You must also include your own written statement that you intend to continue to hold the securities through the date of the meeting of shareholders; or

(ii) The second way to prove ownership applies only if you have filed a Schedule 13D (§ 240.13d–101), Schedule 13G (§ 240.13d–102), Form 3 (§ 249.103 of this chapter), Form 4 (§ 249.104 of this chapter) and/or Form 5 (§ 249.105 of this

chapter), or amendments to those documents or updated forms, reflecting your ownership of the shares as of or before the date on which the one-year eligibility period begins. If you have filed one of these documents with the SEC, you may demonstrate your eligibility by submitting to the company:

(A) A copy of the schedule and/or form, and any subsequent amendments reporting a change in your ownership level;

(B) Your written statement that you continuously held the required number of shares for the one-year period as of the date of the statement; and

(C) Your written statement that you intend to continue ownership of the shares through the date of the company's annual or special meeting.

(c) *Question 3:* How many proposals may I submit? Each shareholder may submit no more than one proposal to a company for a particular shareholders' meeting.

(d) *Question 4:* How long can my proposal be? The proposal, including any accompanying supporting statement, may not exceed 500 words.

(e) *Question 5:* What is the deadline for submitting a proposal? (1) If you are submitting your proposal for the company's annual meeting, you can in most cases find the deadline in last year's proxy statement. However, if the company did not hold an annual meeting last year, or has changed the date of its meeting for this year more than 30 days from last year's meeting, you can usually find the deadline in one of the company's quarterly reports on Form 10-Q (§249.308a of this chapter), or in shareholder reports of investment companies under §270.30d-1 of this chapter of the Investment Company Act of 1940. In order to avoid controversy, shareholders should submit their proposals by means, including electronic means, that permit them to prove the date of delivery.

(2) The deadline is calculated in the following manner if the proposal is submitted for a regularly scheduled annual meeting. The proposal must be received at the company's principal executive offices not less than 120 calendar days before the date of the company's proxy statement released to shareholders in connection with the previous year's annual meeting. However, if the company did not hold an annual meeting the previous year, or if the date of this year's annual meeting has been changed by more than 30 days from the date of the previous year's meeting, then the deadline is a reasonable time before the company begins to print and send its proxy materials.

(3) If you are submitting your proposal for a meeting of shareholders other than a regularly scheduled annual meeting, the deadline is a reasonable time before the company begins to print and send its proxy materials.

(f) *Question 6:* What if I fail to follow one of the eligibility or procedural requirements explained in answers to Questions 1 through 4 of this section? (1) The company may exclude your proposal, but only after it has notified you of the problem, and you have failed adequately to correct it. Within 14 calendar days of receiving your proposal, the company must notify you in writing of any procedural or eligibility deficiencies, as well as of the time frame for your response. Your response must be postmarked, or transmitted electronically, no later than 14 days from the date you received the company's notification. A company need not provide you such notice of a deficiency if the deficiency cannot be remedied, such as if you fail to submit a proposal by the company's properly determined deadline. If the company intends to exclude the proposal, it will later have to make a submission under §240.14a-8 and provide you with a copy under Question 10 below, §240.14a-8(j).

(2) If you fail in your promise to hold the required number of securities through the date of the meeting of shareholders, then the company will be permitted to exclude all of your proposals from its proxy materials for any meeting held in the following two calendar years.

(g) *Question 7:* Who has the burden of persuading the Commission or its staff that my proposal can be excluded? Except as otherwise noted, the burden is on the company to demonstrate that it is entitled to exclude a proposal.

(h) *Question 8:* Must I appear personally at the shareholders' meeting to present the proposal? (1) Either you, or your representative who is qualified

under state law to present the proposal on your behalf, must attend the meeting to present the proposal. Whether you attend the meeting yourself or send a qualified representative to the meeting in your place, you should make sure that you, or your representative, follow the proper state law procedures for attending the meeting and/or presenting your proposal.

(2) If the company holds its shareholder meeting in whole or in part via electronic media, and the company permits you or your representative to present your proposal via such media, then you may appear through electronic media rather than traveling to the meeting to appear in person.

(3) If you or your qualified representative fail to appear and present the proposal, without good cause, the company will be permitted to exclude all of your proposals from its proxy materials for any meetings held in the following two calendar years.

(i) *Question 9:* If I have complied with the procedural requirements, on what other bases may a company rely to exclude my proposal? (1) Improper under state law: If the proposal is not a proper subject for action by shareholders under the laws of the jurisdiction of the company's organization;

NOTE TO PARAGRAPH (i)(1): Depending on the subject matter, some proposals are not considered proper under state law if they would be binding on the company if approved by shareholders. In our experience, most proposals that are cast as recommendations or requests that the board of directors take specified action are proper under state law. Accordingly, we will assume that a proposal drafted as a recommendation or suggestion is proper unless the company demonstrates otherwise.

(2) *Violation of law:* If the proposal would, if implemented, cause the company to violate any state, federal, or foreign law to which it is subject;

NOTE TO PARAGRAPH (i)(2): We will not apply this basis for exclusion to permit exclusion of a proposal on grounds that it would violate foreign law if compliance with the foreign law would result in a violation of any state or federal law.

(3) *Violation of proxy rules:* If the proposal or supporting statement is contrary to any of the Commission's proxy rules, including § 240.14a-9, which prohibits materially false or misleading statements in proxy soliciting materials;

(4) *Personal grievance; special interest:* If the proposal relates to the redress of a personal claim or grievance against the company or any other person, or if it is designed to result in a benefit to you, or to further a personal interest, which is not shared by the other shareholders at large;

(5) *Relevance:* If the proposal relates to operations which account for less than 5 percent of the company's total assets at the end of its most recent fiscal year, and for less than 5 percent of its net earnings and gross sales for its most recent fiscal year, and is not otherwise significantly related to the company's business;

(6) *Absence of power/authority:* If the company would lack the power or authority to implement the proposal;

(7) *Management functions:* If the proposal deals with a matter relating to the company's ordinary business operations;

(8) *Director elections:* If the proposal:

(i) Would disqualify a nominee who is standing for election;

(ii) Would remove a director from office before his or her term expired;

(iii) Questions the competence, business judgment, or character of one or more nominees or directors;

(iv) Seeks to include a specific individual in the company's proxy materials for election to the board of directors; or

(v) Otherwise could affect the outcome of the upcoming election of directors.

(9) *Conflicts with company's proposal:* If the proposal directly conflicts with one of the company's own proposals to be submitted to shareholders at the same meeting;

NOTE TO PARAGRAPH (i)(9): A company's submission to the Commission under this section should specify the points of conflict with the company's proposal.

(10) *Substantially implemented:* If the company has already substantially implemented the proposal;

NOTE TO PARAGRAPH (i)(10): A company may exclude a shareholder proposal that would provide an advisory vote or seek future advisory votes to approve the compensation of executives as disclosed pursuant

to Item 402 of Regulation S-K (§229.402 of this chapter) or any successor to Item 402 (a "say-on-pay vote") or that relates to the frequency of say-on-pay votes, provided that in the most recent shareholder vote required by §240.14a-21(b) of this chapter a single year (i.e., one, two, or three years) received approval of a majority of votes cast on the matter and the company has adopted a policy on the frequency of say-on-pay votes that is consistent with the choice of the majority of votes cast in the most recent shareholder vote required by §240.14a-21(b) of this chapter.

(11) *Duplication:* If the proposal substantially duplicates another proposal previously submitted to the company by another proponent that will be included in the company's proxy materials for the same meeting;

(12) *Resubmissions:* If the proposal deals with substantially the same subject matter as another proposal or proposals that has or have been previously included in the company's proxy materials within the preceding 5 calendar years, a company may exclude it from its proxy materials for any meeting held within 3 calendar years of the last time it was included if the proposal received:

(i) Less than 3% of the vote if proposed once within the preceding 5 calendar years;

(ii) Less than 6% of the vote on its last submission to shareholders if proposed twice previously within the preceding 5 calendar years; or

(iii) Less than 10% of the vote on its last submission to shareholders if proposed three times or more previously within the preceding 5 calendar years; and

(13) *Specific amount of dividends:* If the proposal relates to specific amounts of cash or stock dividends.

(j) *Question 10:* What procedures must the company follow if it intends to exclude my proposal? (1) If the company intends to exclude a proposal from its proxy materials, it must file its reasons with the Commission no later than 80 calendar days before it files its definitive proxy statement and form of proxy with the Commission. The company must simultaneously provide you with a copy of its submission. The Commission staff may permit the company to make its submission later than 80 days before the company files its definitive proxy statement and form of proxy, if the company demonstrates good cause for missing the deadline.

(2) The company must file six paper copies of the following:

(i) The proposal;

(ii) An explanation of why the company believes that it may exclude the proposal, which should, if possible, refer to the most recent applicable authority, such as prior Division letters issued under the rule; and

(iii) A supporting opinion of counsel when such reasons are based on matters of state or foreign law.

(k) *Question 11:* May I submit my own statement to the Commission responding to the company's arguments?

Yes, you may submit a response, but it is not required. You should try to submit any response to us, with a copy to the company, as soon as possible after the company makes its submission. This way, the Commission staff will have time to consider fully your submission before it issues its response. You should submit six paper copies of your response.

(l) *Question 12:* If the company includes my shareholder proposal in its proxy materials, what information about me must it include along with the proposal itself?

(1) The company's proxy statement must include your name and address, as well as the number of the company's voting securities that you hold. However, instead of providing that information, the company may instead include a statement that it will provide the information to shareholders promptly upon receiving an oral or written request.

(2) The company is not responsible for the contents of your proposal or supporting statement.

(m) *Question 13:* What can I do if the company includes in its proxy statement reasons why it believes shareholders should not vote in favor of my proposal, and I disagree with some of its statements?

(1) The company may elect to include in its proxy statement reasons why it believes shareholders should vote against your proposal. The company is allowed to make arguments reflecting its own point of view, just as you may

express your own point of view in your proposal's supporting statement.

(2) However, if you believe that the company's opposition to your proposal contains materially false or misleading statements that may violate our antifraud rule, §240.14a–9, you should promptly send to the Commission staff and the company a letter explaining the reasons for your view, along with a copy of the company's statements opposing your proposal. To the extent possible, your letter should include specific factual information demonstrating the inaccuracy of the company's claims. Time permitting, you may wish to try to work out your differences with the company by yourself before contacting the Commission staff.

(3) We require the company to send you a copy of its statements opposing your proposal before it sends its proxy materials, so that you may bring to our attention any materially false or misleading statements, under the following timeframes:

(i) If our no-action response requires that you make revisions to your proposal or supporting statement as a condition to requiring the company to include it in its proxy materials, then the company must provide you with a copy of its opposition statements no later than 5 calendar days after the company receives a copy of your revised proposal; or

(ii) In all other cases, the company must provide you with a copy of its opposition statements no later than 30 calendar days before its files definitive copies of its proxy statement and form of proxy under §240.14a–6.

[63 FR 29119, May 28, 1998; 63 FR 50622, 50623, Sept. 22, 1998, as amended at 72 FR 4168, Jan 29, 2007; 72 FR 70456, Dec. 11, 2007; 73 FR 977, Jan 4, 2008; 76 FR 6045, Feb. 2, 2011; 75 FR 56782, Sept. 16, 2010]

§240.14a–9 False or misleading statements.

(a) No solicitation subject to this regulation shall be made by means of any proxy statement, form of proxy, notice of meeting or other communication, written or oral, containing any statement which, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier communication with respect to the solicitation of a proxy for the same meeting or subject matter which has become false or misleading.

(b) The fact that a proxy statement, form of proxy or other soliciting material has been filed with or examined by the Commission shall not be deemed a finding by the Commission that such material is accurate or complete or not false or misleading, or that the Commission has passed upon the merits of or approved any statement contained therein or any matter to be acted upon by security holders. No representation contrary to the foregoing shall be made.

(c) No nominee, nominating shareholder or nominating shareholder group, or any member thereof, shall cause to be included in a registrant's proxy materials, either pursuant to the Federal proxy rules, an applicable state or foreign law provision, or a registrant's governing documents as they relate to including shareholder nominees for director in a registrant's proxy materials, include in a notice on Schedule 14N (§240.14n–101), or include in any other related communication, any statement which, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier communication with respect to a solicitation for the same meeting or subject matter which has become false or misleading.

NOTE The following are some examples of what, depending upon particular facts and circumstances, may be misleading within the meaning of this section.

a. Predictions as to specific future market values.

b. Material which directly or indirectly impugns character, integrity or personal reputation, or directly or indirectly makes charges concerning improper, illegal or immoral conduct or associations, without factual foundation

8-K 1 tv492242_8k.htm FORM 8-K

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

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported) **April 24, 2018**

Citigroup Inc.

(Exact name of registrant as specified in its charter)

Delaware	**1-9924**	**52-1568099**
(State or other jurisdiction of incorporation)	(Commission File Number)	(IRS Employer Identification No.)
388 Greenwich Street, New York, New York (Address of principal executive offices)		**10013** (Zip Code)

(212) 559-1000
(Registrant's telephone number, including area code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR §230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR §240.12b-2).

Emerging growth company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

CITIGROUP INC.
Current Report on Form 8-K

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

On April 24, 2018, the stockholders of Citigroup Inc. (Citigroup), upon recommendation of Citigroup's Board of Directors, approved an amendment to the Citigroup 2014 Stock Incentive Plan (the 2014 Plan), which was first approved by stockholders on April 22, 2014. The amendment to the 2014 Plan increases the authorized number of shares available for grant under the 2014 Plan by 15 million.

The amendment to the 2014 Plan is described in proposal 4 in Citigroup's Proxy Statement for the 2018 Annual Meeting of Stockholders (Proxy Statement). The Proxy Statement also includes a summary description of the 2014 Plan, as proposed to be amended. The descriptions of the 2014 Plan, as amended, contained herein and in the Proxy Statement are qualified in their entirety by reference to the full text of the 2014 Plan set forth in Exhibit 10.1 to this Form 8-K.

Item 5.07 Submission of Matters to a Vote of Security Holders.

Citigroup's 2018 Annual Meeting of Stockholders was held on April 24, 2018. At the meeting:

(1) 16 persons were elected to serve as directors of Citigroup;

(2) the selection of KPMG LLP to serve as the independent registered public accounting firm of Citigroup for 2018 was ratified;

(3) an advisory vote on Citigroup's 2017 executive compensation was approved;

(4) a proposal to amend the Citigroup 2014 Stock Incentive Plan to authorize additional shares was approved;

(5) a stockholder proposal requesting a Human and Indigenous Peoples' Rights Policy was not approved;

(6) a stockholder proposal requesting that our Board take the steps necessary to adopt cumulative voting was not approved;

(7) a stockholder proposal requesting an amendment to Citi's proxy access bylaw provisions pertaining to the aggregation limit and the number of candidates was not approved;

(8) a stockholder proposal requesting that the Board adopt a policy prohibiting the vesting of equity-based awards for senior executives due to a voluntary resignation to enter government service was not approved; and

(9) a stockholder proposal requesting that the Board amend Citi's bylaws to give holders in the aggregate of 15% of Citi's outstanding common stock the power to call a special meeting was not approved.

Set forth below, with respect to each such matter, are the number of votes cast for or against, the number of abstentions and the number of broker non-votes.*

		FOR	AGAINST	ABSTAINED	BROKER NON-VOTES
(1)	Election of Directors				
	Nominees				
	Michael L. Corbat	1,913,805,957	5,280,354	3,725,244	265,751,544
	Ellen M. Costello	1,915,810,674	4,711,631	2,289,249	265,751,545
	John C. Dugan	1,915,477,748	4,995,261	2,338,547	265,751,543
	Duncan P. Hennes	1,887,252,004	33,211,196	2,348,357	265,751,542
	Peter B. Henry	1,914,761,229	5,778,995	2,271,332	265,751,543
	Franz B. Humer	1,903,377,352	17,140,468	2,293,737	265,751,542
	S. Leslie Ireland	1,915,329,179	5,140,188	2,342,183	265,751,549
	Renée J. James	1,878,603,760	40,349,873	3,857,927	265,751,539
	Eugene M. McQuade	1,904,274,394	14,620,935	3,916,223	265,751,547
	Michael E. O'Neill	1,888,276,155	32,166,738	2,368,662	265,751,544
	Gary M. Reiner	1,887,963,263	30,882,216	3,966,082	265,751,538
	Anthony M. Santomero	1,914,888,149	5,518,955	2,404,456	265,751,539
	Diana L. Taylor	1,895,191,194	23,859,241	3,761,107	265,751,557
	James S. Turley	1,883,702,609	35,150,842	3,958,114	265,751,534
	Deborah C. Wright	1,915,299,811	5,197,010	2,314,735	265,751,543
	Ernesto Zedillo Ponce de Leon	1,911,808,125	8,567,439	2,435,994	265,751,541
(2)	Ratification of Independent Registered Public Accounting Firm for 2018	2,115,446,106	70,078,103	3,038,890	
(3)	Advisory approval of Citi's 2017 Executive Compensation	1,818,649,895	100,205,324	3,953,360	265,754,520
(4)	Proposal to approve an amendment to the Citigroup 2014 Stock Incentive Plan authorizing additional shares	1,820,570,492	99,038,351	3,199,736	265,754,520
(5)	Stockholder proposal requesting a Human and Indigenous Peoples' Rights Policy	109,262,427	1,763,911,842	49,634,317	265,754,513
(6)	Stockholder proposal requesting that our Board take the steps necessary to adopt cumulative voting	128,350,623	1,789,612,583	4,845,354	265,754,539
(7)	Stockholder proposal requesting an amendment to Citi's proxy access bylaw provisions pertaining to the aggregation limit and the number of candidates	623,245,757	1,293,235,440	6,327,370	265,754,532

(8)	Stockholder proposal requesting that the Board adopt a policy prohibiting the vesting of equity-based awards for senior executives due to a voluntary resignation to enter government service	676,779,993	1,241,148,777	4,858,457	265,775,872
(9)	Stockholder proposal requesting that the Board amend Citi's bylaws to give holders in the aggregate of 15% of Citi's outstanding common stock the power to call a special meeting	957,537,767	960,913,571	4,357,245	265,754,516

**** Note that a stockholder proposal requesting a report on lobbying and grassroots lobbying contributions was not properly presented at the Annual Meeting.***

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

Exhibit Number	
10.1	Citigroup 2014 Stock Incentive Plan (as amended and restated effective April 24, 2018)

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Dated: April 30, 2018

CITIGROUP INC.

By: /s/ Rohan Weerasinghe
Rohan Weerasinghe
General Counsel and Corporate Secretary

ENCLOSURE B
STATEMENT OF INTENT TO EXCLUDE STOCKHOLDER PROPOSAL

THE PROPOSAL

The Proposal provides as follows:

> RESOLVED that shareholders of Citigroup Inc. ("Citigroup") urge the Board of Directors to adopt a policy that Citigroup will not engage in any Inequitable Employment Practice. "Inequitable Employment Practices" are mandatory arbitration of employment-related claims, non-compete agreements with employees, agreements with other companies not to recruit each others' employees and non-disclosure agreements ("NDAs") entered into in connection with arbitration or settlement of claims that any Citigroup employee engaged in unlawful discrimination or harassment.

BASES FOR EXCLUSION

The Company believes that the Proposal may be properly excluded from the 2019 Proxy Materials in reliance on:

- Rule 14a-8(h)(3) because neither the Proponent nor its qualified representative presented the Proponent's stockholder proposal at the Company's 2018 annual meeting of stockholders as contained in the Company's 2018 proxy statement;
- Rule 14a-8(i)(7) because the Proposal deals with a matter relating to the Company's ordinary business operations;
- Rule 14a-8(i)(2) because the Proposal would, if implemented, cause the Company to violate applicable law;
- Rule 14a-8(i)(6) because the Company lacks the power or authority to implement the Proposal;
- Rule 14a-8(i)(3) because the Proposal is inherently vague and indefinite and thus contrary to Rule 14a-9; and
- Rule 14a-8(i)(10) because the Company has substantially implemented the essential elements of the Proposal.

RELEVANT FACTUAL SUMMARY

On November 6, 2017, the Company received a stockholder proposal requesting a report on the Company's lobbying expenditures from the Proponent (the "Prior Proposal") for consideration at the Company's 2018 annual meeting of stockholders (the "2018 Annual Meeting"). On March 14, 2018, the Company distributed to its stockholders its proxy statement for the 2018 Annual Meeting, which included the Prior Proposal as the third stockholder proposal among six stockholder proposals (and was identified on the proxy statement as "Proposal 7") to be considered at the 2018 Annual Meeting.

The Company sent two emails, on April 5, 2018 and April 16, 2018, to Emma Bayes of the Proponent, in order to secure the name of the Proponent's representative at the 2018 Annual Meeting. On April 16, 2018, Ms. Bayes responded "Sorry for the slow reply. We are still working on this, but will certainly have someone to present it. I will give you the name in the next few days." On April

20, 2018, Ms. Bayes informed the Company that Glenn Johnson would be presenting the Prior Proposal on behalf of the Proponent at the 2018 Annual Meeting. The Company had been earlier advised by a representative of the AFL-CIO Reserve Fund that Mr. Johnson would also be presenting a stockholder proposal submitted by the AFL-CIO Reserve Fund (identified in the proxy statement as "Proposal 9"), for consideration at the 2018 Annual Meeting (the "AFL-CIO Proposal").

At the 2018 Annual Meeting, when Michael E. O'Neill, Chairman of the Board of the Company, and Rohan S. Weerasinghe, General Counsel and Corporate Secretary of the Company, called out Mr. Johnson's name in connection with the Prior Proposal and engaged directly with Mr. Johnson regarding the Prior Proposal, Mr. Johnson identified himself as the representative of the AFL-CIO Reserve Fund, responsible for presenting the AFL-CIO Proposal, and expressly stated that he was not presenting the Prior Proposal and he was not a representative of the Proponent. The relevant exchange among Messrs. Johnson, O'Neill and Weerasinghe is excerpted below (the relevant portion of the transcript of the 2018 Annual Meeting is attached as Exhibit A to this letter):

Mr. O'Neill:	Next item is a stockholder proposal requesting a report on lobbying and grassroots. Is Glenn Johnson present? Sorry, I missed that. I still can't hear you. Would you come to the Microphone?
Mr. Johnson:	The proposal on #9,[1] the Reserve -- AFL-CIO Reserve Fund?
Mr. Weerasinghe:	Sorry. Are you Glenn Johnson? Are you not presenting this proposal then on lobbying? You are not, is that correct?
Mr. Johnson:	Correct.
Mr. O'Neill:	I guess, I've been given the wrong information. Is there someone that would like to propose the lobbying?[2] If not, Mr. Weerasinghe, I guess that proposal is not there for the meeting, right?
Mr. Weerasinghe:	It's not [properly][3] presented before the meeting as a result of no proponent being present.
Mr. Johnson:	Well, I support the proposal. I move that we consider it – concerning this proposal for the meeting.
Mr. Weerasinghe:	So Glenn Johnson, are you representing the proponent here?
Mr. Johnson:	No, but I support the proposal.
Mr. Weerasinghe:	Why don't we move on to the next item, Mr. Chairman?

To summarize the exchange, after Mr. Johnson stated that he was not presenting the Prior Proposal at the 2018 Annual Meeting, Mr. O'Neill asked all those in attendance at the 2018 Annual

[1] At the 2018 Annual Meeting, the Prior Proposal was the third stockholder proposal (and proposal #7 at that meeting) at and the AFL-CIO Proposal was the fifth stockholder proposal (and proposal #9 at that meeting).

[2] Although not reflected in the official transcript, Mr. O'Neill, as he did with other questions he posed to the audience at the 2018 Annual Meeting, paused after asking this question. During this pause, he scanned the audience looking for any individual that identified herself or himself as a representative of the Proponent or someone willing to speak on behalf of the Proponent.

[3] The insertion of the word "properly" is to correct an error in the official transcript of the Company's 2018 Annual Meeting, which incorrectly quoted Mr. Weerasinghe as stating that "It's not probably presented before the meeting as a result of no proponent being present".

Meeting if there was anyone who would present the Prior Proposal. Mr. O'Neill waited for someone to respond to his question and no one responded. Mr. Weerasinghe announced that he did not believe the Prior Proposal was properly presented at the 2018 Annual Meeting. Mr. Weerasinghe then asked Mr. Johnson one last time whether he was representing the Proponent for purposes of presenting the Prior Proposal. Mr. Johnson again stated that he was not representing the Proponent.

Following the exchange with Mr. Johnson, and after no one at the 2018 Annual Meeting answered Mr. O'Neill's call to present the Prior Proposal, Mr. O'Neill moved on to the next proposal without the Prior Proposal ever being presented at the 2018 Annual Meeting.

Later in the 2018 Annual Meeting, Mr. O'Neill introduced the AFL-CIO Proposal. As noted above, the Company was previously informed that Mr. Johnson would present this stockholder proposal. At the meeting, Mr. O'Neill called on Mr. Johnson and he confirmed that he was representing the AFL-CIO Reserve Fund and would present the AFL-CIO Proposal. Mr. Johnson then proceeded to present the AFL-CIO Proposal—discussing the underlying reasoning behind it and urging stockholders to vote in favor of it.

At the conclusion of the meeting, in summarizing the preliminary voting results for proposals under consideration, Mr. Weerasinghe characterized the Prior Proposal as "not properly presented at this meeting" because there was no representative of the Proponent in attendance at the Annual Meeting to present the Prior Proposal. None of the attendees at the 2018 Annual Meeting, including Mr. Johnson, objected to the characterization of the Prior Proposal as not having been properly presented or otherwise objected that the vote would not be counted. The Company filed its Current Report on Form 8-K on April 24, 2018, stating the results of the voting at the 2018 Annual Meeting, which did not include information regarding the Prior Proposal as it was not properly presented and, therefore, not considered by stockholders at the Annual Meeting. Additionally, on April 26, 2018, Paula F. Jones, the Company's Associate General Counsel—Corporate Governance, responded to Ms. Bayes' email requesting that the Company treat the Prior Proposal as having been properly presented and report the results in the Form 8-K. Ms. Jones informed Ms. Bayes by e-mail that the Prior Proposal had not been properly presented and as a result, the vote was not recorded. Ms. Jones also provided a description of the dialogue at the 2018 Annual Meeting and an explanation as to why the Prior Proposal had not been properly presented. Ms. Bayes provided no further correspondence to the Company on this matter.

ANALYSIS

I. The Proposal May Be Excluded Pursuant to Rule 14a-8(h)(3) Because Neither the Proponent nor Its Qualified Representative Presented the Proponent's Stockholder Proposal at the Company's 2018 Annual Meeting of Stockholders as Contained in the Company's 2018 Proxy Statement.

We hereby respectfully request that the Staff grant no-action relief to support the Company's omission of the Proposal from its 2019 Proxy Materials pursuant to Rule 14a-8(h)(3) because the Proponent failed, without good cause, to present the Proponent's Prior Proposal at the 2018 Annual Meeting.

In connection with the Prior Proposal:

- Neither the Proponent nor a properly authorized representative of the Proponent

attended the 2018 Annual Meeting to present the Prior Proposal.

- Even if the Staff finds that a properly authorized representative of the Proponent attended the 2018 Annual Meeting, any such representative did not sufficiently present the Prior Proposal.

Additionally, the Company respectfully requests, pursuant to Rule 14a-8(h)(3), that the Staff grant no-action relief to the Company to omit any proposal made by the Proponent from the Company's proxy materials for all meetings of stockholders held in 2019 and 2020.

Rule 14a-8(h)(1) provides that a stockholder proponent must attend the stockholders' meeting to present its stockholder proposal or, alternatively, the proponent must send a representative who is qualified under state law to present the proposal on the proponent's behalf. If a proponent or its qualified representative fails, without good cause, "to appear and present the proposal" included in a company's proxy materials, pursuant to Rule 14a-8(h)(3), a company will be permitted to exclude all of such stockholder's proposals from the company's proxy materials for any meetings held in the following two calendar years.

The Staff has consistently determined that the failure of a proponent or its representative to present a proposal constitutes grounds for a company to exclude proposals from that proponent for the next two years. *See, e.g.*, *Aetna Inc.* (Feb. 1, 2017); *DTE Energy Company* (Dec. 14, 2016); *Expeditors International of Washington, Inc.* (Dec. 29, 2016); *Verizon Communications Inc.* (Nov. 6, 2014); *State Street Corp.* (Feb. 3, 2010); *Entergy Corp.* (Jan. 12, 2010); *Comcast Corp.* (Feb. 25, 2008); *Eastman Kodak Co.* (Dec. 31, 2007) (in each case, affirming that a stockholder proposal may be excluded if that proponent or its representative failed to appear and present their stockholder proposal in the previous year).

A. Neither the Proponent nor a Properly Authorized Representative of the Proponent Attended the 2018 Annual Meeting to Present the Prior Proposal.

The Staff has consistently granted no-action relief where both a proponent and the proponent's representative failed to make an appearance at an annual meeting. *See, e.g.*, *Aetna Inc.* (Feb. 1, 2017); *Expeditors International of Washington, Inc.* (Dec. 29, 2016); *Verizon Communications Inc.* (Nov. 6, 2014). The Staff has determined that this defect is not cured even where the proposal is actually presented at the meeting by an unrelated attendee and voted upon by the stockholders because presentation by an unauthorized spokesperson results in an improperly presented proposal. *See, e.g.*, *Safeway Inc.* (Mar. 7, 2002); *Eastman Chemical Co.* (Feb. 27, 2001); *Entergy Corp.* (Feb. 9, 2001). In the instant case, the Proponent failed to appear at the 2018 Annual Meeting and was not represented by an authorized representative.

We respectfully request that the Staff concur in our view that the Proponent did not take the necessary and proper steps to designate and authorize someone to represent the Proponent and present the Prior Proposal at the 2018 Annual Meeting. Although the Proponent informed the Company that Mr. Johnson was designated and authorized to present the Prior Proposal at the 2018 Annual Meeting, the Company has not been provided any evidence that Mr. Johnson accepted, or was even aware of, this designation, or, if he did accept the designation prior to the 2018 Annual Meeting, his conduct at the meeting demonstrated that he revoked any acceptance of such designation and authorization, thereby eliminating himself as a representative of the Proponent.

The Proponent may show evidence that Mr. Johnson had, prior to the 2018 Annual Meeting, accepted and understood his role as the representative of the Proponent for purposes of presenting the Prior Proposal. Mr. Johnson's affirmative and unequivocal statement that he was not the Proponent's authorized representative at the 2018 Annual Meeting, however, clearly demonstrates that he never accepted the designation or, if he did, he revoked it at the 2018 Annual Meeting.

Mr. Johnson's mere physical presence at the 2018 Annual Meeting, even with the Company's knowledge that the Proponent believes he is its representative, does not distinguish this matter from the many other situations that the Staff has considered where a representative of a proponent failed to attend meetings entirely. The fact that someone was at the 2018 Annual Meeting that the Proponent knows does not make that person the Proponent's representative unless that person acknowledges and accepts the role of representative and, importantly, completes the necessary and required duties of a representative. Mr. Johnson denied being the representative of the Proponent and no one else at the 2018 Annual Meeting self-identified as a representative of the Proponent. Mr. Johnson did not present the Prior Proposal at the 2018 Annual Meeting and no one else did.

In *Sprint-Nextel Corporation* (Mar. 13, 2013), the Staff refused to grant no-action relief where the proponent's representative appeared to be unaware that he was the proponent's representative, but then subsequently agreed that he was the representative and offered support for the proposal, although he did not read or present the proposal. The present case is different in a critical way. In *Sprint-Nextel*, the individual eventually accepted the role as representative of the proponent. In this instant case, Mr. Johnson was asked three times whether he was the Proponent's representative, and each time Mr. Johnson unequivocally stated that he was not the Proponent's representative. Mr. Johnson merely stated his own personal support for the Prior Proposal. The Staff has consistently found that the failure of a proponent or an authorized representative to attend the annual meeting, as required by Rule 14a-8(h)(1), is not cured by someone supporting the proposal or even presenting the proposal at the annual meeting. *See, e.g.*, *Safeway Inc.* (Mar. 7, 2002); *Eastman Chemical Co.* (Feb. 27, 2001); *Entergy Corp.* (Feb. 9, 2001).

Mr. O'Neill, the Company's Chairman, even addressed all attendees at the 2018 Annual Meeting as a group and asked if any other individuals were there to present the Prior Proposal. No one accepted the role. Notably, when the Corporate Secretary and General Counsel of the Company announced that the Prior Proposal was not properly presented, no one emerged as the Proponent's representative nor was any objection raised.

Additionally, Mr. Johnson's representation of the AFL-CIO Reserve Fund and presentation of the AFL-CIO Proposal that followed the Prior Proposal at the 2018 Annual Meeting demonstrates his complete understanding of the role and purpose of a proponent's representative at an annual meeting. Within minutes of denying that he was the representative of the Proponent, Mr. Johnson affirmatively identified himself as the representative of the AFL-CIO Reserve Fund and responsible for presenting the AFL-CIO Proposal. Mr. Johnson then went on to present the AFL-CIO Proposal.

Thus, we respectfully request that the Staff concur in our view that the lack of appearance to present the Prior Proposal by the Proponent or an authorized representative at the 2018 Annual Meeting supports exclusion of the Proposal under Rule 14h-(a)(3).

B. Even if the Proponent's Representative Was Properly Authorized, He Did Not Sufficiently Present the Prior Proposal.

As noted above, the Staff has frequently granted no-action relief under Rule 14a-8(h)(3) in cases where no authorized representative appears and such absence results in the failed presentation of a proposal. The Staff has also concurred that a company may exclude a stockholder proposal under Rule 14a-8(h)(3) because a proponent or its qualified representative, without good cause, failed to properly present a proposal at either of the company's previous two years' annual meetings. *See, e.g.*, *Southwest Airlines Co.* (Feb. 23, 2012); *Hubbell Inc.* (Jan. 7, 2004) and *PACCAR Inc.* (Feb. 11, 2000) (in each case, where the representative was in attendance but did not present the proposal after prompting); *Raytheon Co.* (Jan. 22, 2003) (where the representative was in attendance and presented other proposals but did not present the instant one).

Although it is clear that Mr. Johnson was not the authorized representative of the Proponent at the 2018 Annual Meeting, assuming the Staff concludes that he was properly authorized (which we do not believe is supported by the facts), we ask the Staff to concur in our view that Mr. Johnson failed to properly present the Prior Proposal. As noted in the Company's correspondence with the Proponent subsequent to the 2018 Annual Meeting, attached as Exhibit B, the Company reminded the Proponent that it should be "aware of the requirements for the proper presentation of proposals as this proposal has appeared on our ballot numerous times and has been properly presented." In fact, the Proponent has previously submitted several stockholder proposals for inclusion in the Company's annual proxy statement, which further illustrates that the Proponent understands the requirements to properly submit and present a stockholder proposal.

The Commission has outlined the purpose of the requirement for a proponent to present a proposal at an annual meeting of stockholders. In connection with a predecessor to Rule 14a-8(h)(3), the Commission stated that the requirement for a proponent to appear at the stockholders' meeting and present the proposal was to "provide […] some degree of assurance that the proposal not only will be presented for action at the meeting (the management has no responsibility to do so), but also that someone will be present to knowledgeably discuss the matter proposed for action and answer any questions which may arise from the shareholders attending the meeting." Exchange Act Release No. 12999 (Nov. 22, 1976). In proposing amendments to Rule 14a-8 to allow a stockholder's representative who is qualified under state law to present the proposal on behalf of the stockholder, the Commission continued to recognize the importance of a "well-informed" presentation of a stockholder proposal at the meeting. Exchange Act Release No. 19135 (Oct. 14, 1982) ("1982 Release"). Specifically, in the 1982 Release, the Commission noted that these amendments "should provide greater assurance that the proposal will be presented at the meeting and that the proposal will be presented by a well-informed person. It must be emphasized, however, that it would continue to be the proponent's responsibility, not his representative's, to insure that the proposal is presented."

Mr. Johnson's mere expression of personal support for the Prior Proposal without further elaboration or reference to the substance failed to constitute the knowledgeable discussion expected of a representative as contemplated by Rule 14a-8(h)(1). Such an inadequate presentation is tantamount to no presentation of the Prior Proposal and the record confirms this treatment by the Company. Mr. Johnson's presentation of the AFL-CIO Proposal following the exchange on the Prior Proposal again presents a useful comparison by demonstrating that Mr. Johnson was aware of the components of adequate presentation of a proposal. In *Sprint-Nextel*, the presentation of the proposal

was very brief, but the Staff determined that it was adequate under Rule 14a-8(h)(3). Additionally, in *Marriott International, Inc.* (avail. Jan. 10, 2017), the representative read a statement in support of his represented proposal, which was not specific to the proposal represented but was topically relevant. Importantly, in both *Sprint-Nextel* and *Marriot*, however, the proponents were represented at the meeting, so, at each meeting, there was someone identified by the proponent who was "well-informed" and could "knowledgeably discuss the matter proposed for action and answer any questions which may arise from the shareholders attending the meeting" as is intended by the requirement in Rule 14a-8(h)(1). There was no such person at the 2018 Annual Meeting. No one was identified as the representative of the Proponent. No one was identified as knowledgeable about the Proponent's views. No one could respond to any questions regarding the Prior Proposal on behalf of the Proponent. The requirement in 14a-8(h)(1) to present the proposal at the meeting is not satisfied when someone at the meeting simply expresses support for the proposal.

It should be noted that at the 2018 Annual Meeting both the Chairman and the Corporate Secretary gave Mr. Johnson sufficient opportunity to present the Prior Proposal. Sending a misinformed representative would not provide good cause for a proponent's failure to present a proposal.

Accordingly, we respectfully request that the Staff concur in our view that even if the Proponent's representative was properly authorized, he did not sufficiently present the Prior Proposal at the 2018 Annual Meeting, which supports exclusion of the Proposal under Rule 14h-(a)(3).

II. The Proposal May Be Excluded Pursuant to Rule 14a-8(i)(7) Because it Deals with Matters Relating to the Company's Ordinary Business Operations.

Under Rule 14a-8(i)(7), a stockholder proposal may be excluded from a company's proxy materials if the proposal "deals with matters relating to the company's ordinary business operations." In Exchange Act Release No. 34-40018 (May 21, 1998) (the "1998 Release"), the Commission stated that the policy underlying the ordinary business exclusion rests on two central considerations. The first recognizes 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 stockholder 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 stockholders, as a group, would not be in a position to make an informed judgment. *Id.*

For the reasons set forth below, we respectfully request that the Staff concur in our view that the Proposal may be excluded under Rule 14a-8(i)(7) as it implicates the Company's ordinary business operations.

A. The Proposal Is Excludable Because It Relates to the Management of the Company's Workforce.

The Proposal is excludable as relating to the Company's ordinary business operations because it relates to the Company's management of its workplace practices, which is fundamental to management's ability to run a company on a day-to-day basis. The Staff has long recognized that proposals that attempt to govern business conduct involving internal operating policies and practices and the terms thereof (ranging from benefit plans to ethics, conflict of interest and other policies concerning employees) may be excluded pursuant to Rule 14a-8(i)(7) because they infringe on management's core functions. *See, e.g.*, *FedEx Corp.* (Jul. 7, 2016) (concurring in the exclusion of a proposal relating to the terms of the company's employee retirement plans); *Costco Wholesale Corp.*

(Sept. 26, 2014) (concurring in the exclusion of a proposal relating to the company's policies concerning its employees, specifically, a revised Code of Conduct that includes an anti-discrimination policy); *Willis Group Holdings Public Limited Co.* (Jan. 18, 2011) (concurring in the exclusion of a proposal relating to the terms of the company's ethics policy under Rule 14a-8(i)(7)); *Honeywell International Inc.* (Feb. 1, 2008) (concurring in the exclusion of a proposal relating to the company's terms of its conflicts of interest policy).

In addition, as noted in the 1998 Release, "the management of the workforce, such as the hiring, promotion, and termination of employees" is a matter that is "so fundamental to management's ability to run a company on a day-to-day basis that [it] could not, as a practical matter, be subject to direct shareholder oversight." The Staff has consistently concurred with exclusion of proposals relating to management of the workforce, including those related to hiring and terminating employees. *See, e.g.*, *Apple, Inc.* (Nov. 16, 2015) (allowing the exclusion of a proposal asking Apple's compensation committee to adopt new compensation principles responsive to the U.S.'s "general economy, such as unemployment, working hour[s] and wage inequality"); *Merck & Co. Inc.* (Mar. 6, 2015) (proposal to fill entry level positions only with outside candidates excludable under Rule 14a-8(i)(7) where the Staff noted that "the proposal relates to procedures for hiring and promoting employees. Proposals concerning a company's management of its workforce are generally excludable under rule 14a-8(i)(7)"); *Starwood Hotels & Resorts Worldwide, Inc.* (Feb. 14, 2012) (proposal that, by a certain date, management verify United States citizenship for certain workers excludable under Rule 14a-8(i)(7), noting that "[p]roposals concerning a company's management of its workforce are generally excludable under rule 14a-8(i)(7)"); *National Instruments Corp.* (Mar. 5, 2009) (proposal to adopt detailed succession planning policy is excludable); *Wilshire Enterprises, Inc.* (Mar. 27, 2008) (proposal to replace the current chief executive officer is excludable); *Wells Fargo & Company* (Feb. 22, 2008) (proposal not to employ individuals who had been employed by a credit rating agency during the previous year excludable); and *Consolidated Edison, Inc.* (Feb. 24, 2005) (concurring that a proposal requesting the termination of certain supervisors could be excluded as it related to "the termination, hiring, or promotion of employees"). In *United Technologies* (Feb. 19, 1993), the Staff stated the following:

> As a general rule the staff views proposals directed at a company's employment policies and practices with respect to its non-executive workforce to be uniquely matters relating to the conduct of the company's ordinary business operations. Examples of the categories of proposals that have been deemed to be excludable on this basis are: employee health benefits, general compensation issues not focused on senior executives, management of the workplace, employee supervision, labor-management relations, employee hiring and firing, conditions of the employment and employee training and motivation.

The Proposal seeks to direct the management of the Company's entire workforce through the requirement that the Company adopt a policy prohibiting, without exception, certain lawful employment practices related to employee hiring and firing, conditions of employment and labor-management relations.[4] Specifically, the Proposal would require the Board of Directors of the

[4] The Company recognizes, of course, that not all non-poaching agreements are lawful, and that such agreements must comply with applicable law, as most recently reinforced in the guidance jointly issued by the U.S. Department of Justice and Federal Trade Commission. *U.S. Dep't of Justice, Antitrust Div. & Fed. Trade Comm., Antitrust Guidance For Human Resource Professionals* (Oct. 2016). The Proposal, however, is overly broad. It seeks to

Company (the "Board") to adopt a policy that the Company will not: (i) require mandatory arbitration of employment-related claims, (ii) enter into non-compete agreements with employees, (iii) enter into agreements with other companies not to recruit each other's employees or (iv) enter into non-disclosure agreements in connection with arbitration or settlement of claims related to employee discrimination or harassment. The policy that the Proponent is advocating would apply to all employees and would not be limited to the Company's executive workforce.

The types of arrangements outlined in the Proposal are inextricably linked to the Company's policies for hiring and terminating employees, and, more generally, the way the Company manages its workforce. The matters previously considered by the Staff, as set forth above, are no different than the matters that would be impacted by the policy edict outlined in the Proposal. If implemented, the Proposal would prevent management at various levels in the Company from making the very particularized employment-related decisions that are a fundamental part of day-to-day business. For example, the Company's U.S. arbitration policy is an inextricable part of the Company's internal dispute resolution process for raising and addressing employment related concerns that arise in the ordinary course of business, and include those relating to employee performance and workplace conduct. By way of further example, deciding whether a non-compete provision should apply to the departure of a particular employee in a particular jurisdiction, or what the precise terms of the Company's agreement with a departing employee should be, is a highly fact specific judgment. As further evidence that the Proposal seeks to directly impact the management of the Company's workforce, the stated goal of the Proposal is to "encourage [the Company to] focus on *human capital management*" (emphasis added).

B. The Proposal Is Excludable Because It Micromanages the Company's Business By Mandating an Intricate Policy Change.

The Proposal is excludable as relating to the Company's ordinary business operations because it attempts to micromanage the Company's business by mandating an intricate policy change of its employment practices. In connection with defining the scope of Rule 14a-8(i)(7), the Commission stated that the degree to which a proposal "micromanages" would be assessed by looking at whether the proposal is "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." The Commission identified that a proposal could "probe too deeply" where "the proposal involves intricate detail, or seeks to impose specific time-frames or methods for implementing complex policies." *See* 1998 Release. The Staff recently reiterated its view and application of this standard of assessing whether a proposal micromanages in Staff Legal Bulletin No. 14J (Oct. 23, 2018) ("SLB No. 14J"). The Proposal clearly involves intricate details and seeks to impose specific methods to address what the Proponent considers complex employment policies.

The Company is a global financial institution, employing over 205,000 individuals and operating in over 160 countries. The relationship between the Company and its employees in multiple and varied jurisdictions constitutes a critical component of its day-to-day management. Decisions concerning employee relations and workplace conditions, such as decisions regarding the strategies the Company may deploy with respect to terms of employment and addressing employment-related claims (including by former employees), are multi-faceted, complex and based

---

prohibit all forms of non-poaching agreements, including those that are reasonably necessary to a larger and legitimate collaboration or that are otherwise considered to be lawful under the guidance.

on a range of factors. *See, e.g.*, *Chevron Corp.* (Mar. 19, 2013) (excluding a proposal as relating to the company's ordinary business operations (*i.e.*, litigation strategy) where the proposal requested that the company review its "legal initiatives against investors"); *CMS Energy Corp.* (Feb. 23, 2004) (excluding a proposal requiring the company to void any agreements with two former members of management and initiate action to recover all amounts paid to them, where the Staff noted that the proposal related to the "conduct of litigation"). These are fundamental business matters for the Company's management and require an understanding of the business implications that could result from changes made to workforce policies.

The decisions the Company makes with respect to establishing and modifying employment practices are made at a local, national, regional and organization-wide level. These decisions are complex and nuanced, taking into account local law, national and regional norms, industry best practices and the values and culture of the Company. The Company would not indiscriminately institute a wide-ranging policy change such as the one demanded in the Proposal without reviewing the impact of the change and potential alternatives. Specifically, the Company would consult with local and regional experts both inside and outside the Company and, in some instances, seek the input of its employees. Ultimately, any broad-based policy change would have varied application, including, potentially, exceptions mandated by local law, established practices or other requirements, across the numerous business lines, employee classifications and geographies represented by the Company's workforce. The complexity of this type of assessment is simply beyond the knowledge and expertise of the stockholders of the Company.

Accordingly, because the Proposal seeks to affect the relationship between the Company and its employees by asking the Company to end certain employment practices, which are generally lawful and well-accepted practices in most jurisdictions, the Proposal affects the Company's day-to-day business operations and we respectfully request that the Staff concur in our view that it is therefore excludable under Rule 14a-8(i)(7).

C. The Proposal May Be Excluded Pursuant to Rule 14a-8(i)(7) Because It Relates to General Employee Compensation.

The Proposal may also be excluded because it deals with compensation of non-executive employees. The Staff has consistently permitted the exclusion of proposals addressing the compensation of non-executive employees, as relating to the company's ordinary business operations. *See* SLB No. 14J (stating that "[c]onsistent with this guidance, proposals that relate to general employee compensation and benefits are excludable under Rule 14a-8(i)(7)"); *See, e.g.*, *CVS Health Corp.* (Mar. 1, 2017) (concurring in the exclusion of a proposal to adopt and publish principles for minimum wage reform, "noting that the proposal relates to general compensation matters, and does not otherwise transcend day-to-day business matters); *Microsoft Corp.* (Sept. 17, 2013) (concurring in the exclusion of a proposal asking the board to limit the average individual total compensation for senior management, executives and "all other employees the board is charged with determining compensation for" to one hundred times the average individual total compensation paid to the remaining full-time, non-contract employees of the company); *ENGlobal Corp.* (Mar. 28, 2012) (concurring in the exclusion of a proposal that sought to amend the company's equity incentive plan, noting that "the proposal relates to compensation that may be paid to employees generally and is not limited to compensation that may be paid to senior executive officers and directors"); *General Electric Co.* (Jan. 6, 2011) (concurring in the exclusion of a proposal asking the board for a "breakdown" containing specified information about two of the company's pension plans as "the

proposal relate[d] to compensation that may be paid to employees generally"); *Amazon.com, Inc.* (Mar. 7, 2005) (concurring in the exclusion of a proposal requesting that the board adopt and disclose a new policy on equity compensation, and cancel a certain equity compensation plan potentially affecting all employees).

Additionally, in determining whether a compensation-related proposal may be excluded as relating to ordinary business, the Staff has applied a bright-line test: a proposal may be excluded if it "relate[s] to general employee compensation matters" but not if it "concern[s] only senior executive and director compensation." Staff Legal Bulletin No. 14A (Jul. 12, 2002) (emphasis in original). A number of Staff letters state that a proposal that relates to a compensation matter will be excludable as relating to ordinary business if the proposal applies to any person who is not a senior executive officer or a director. *See The Goldman Sachs Group* (Mar. 8, 2010) (proposal applied to named executive officers and the 100 most highly-compensated employees); *3M Company* (Mar. 6, 2008) (proposal related to compensation of "high-level 3M employees"); *Comshare, Inc.* (Sept. 5, 2001) (proposal requested that the "Board improve disclosure of its strategy for awarding stock options to top executives and directors," but also implicated the stock option plan available to general employees).

In this case, the Proposal urges the Board to adopt a policy that, without exception, the Company will not, among other things, enter into non-competition agreements with its employees. Such arrangements, although infrequently made, are individually negotiated terms of employment or termination of employment that an employee agrees to in return for valuable, negotiated consideration. For example, in connection with negotiating the terms of a resignation or termination, a company may agree to provide specific consideration which is conditioned on the employee agreeing not to compete with the company for a specific period of time. Depending on the individual employee's particular circumstances, these arrangements may be more advantageous to the employee than the ability to immediately compete with the Company. Prohibiting the Company from including non-compete provisions as part of employment and separation arrangements will have a direct impact on compensation decisions.

For these reasons, it is clear that the Proposal is asking shareholders to vote on a matter relating to general employee compensation matters—an outcome that the Staff has consistently not supported as within the scope of a matter proper for stockholder consideration. Thus, we respectfully request that the Staff concur in our view that the Proposal may be excluded under Rule 14a-8(i)(7) as relating to the Company's general employee compensation, and therefore ordinary business matters.

D. The Proposal Is Excludable Because It Relates to the Company's Ordinary Business Operations and Does Not Identify or Relate to a "Sufficiently Significant Social Policy Issue."

The Commission indicated in the 1998 Release that proposals that relate to ordinary business matters, but that focus on "sufficiently significant social policy issues . . . generally would not be considered to be excludable [under Rule 14a-8(i)(7)] because the proposals would transcend the day-to-day business matters." The Proposal identifies the subject practices as "Inequitable Employment Practices," and the supporting statement seeks to characterize these practices as part of a "suite of contractual arrangements" used by the Company that "burden the economy, impede labor mobility, and prevent the discovery and redress of misconduct," in, it appears, an effort to lump these employment practices together and characterize them as a "significant social policy issue." The practices referenced in the Proposal, however, are disparate and unrelated to each other. Moreover,

each "component" of the cited social policy issue—burdening the economy, impeding labor mobility and preventing the discovery and redress of misconduct—is wholly unrelated to the others. For example, restricting labor mobility and preventing the redress of misconduct are different issues, which focus on completely different socio-economic factors. The only common element among these issues is that they relate to employees, which is too broad a base upon which to fashion a "sufficiently significant social policy issue."

As grouped together as they are in the Proposal, the referenced practices do not constitute "a consistent topic of widespread public debate," which the Staff has found necessary to establish a significant social policy issue. *AT&T Inc.* (Feb. 2, 2011, *recon. denied* Mar. 4, 2011); *see also Comcast Corp.* (Feb. 15, 2011) (concurring in the exclusion of the proposal under Rule 14a-8(i)(7), noting that it is not sufficient that the topic of the proposal may have "recently attracted increasing levels of public attention," but instead it must have "emerged as a consistent topic of widespread public debate"). We also note that the Company's stockholders, other than the Proponent, have never requested the type of changes that the Proposal request. The Company maintains proactive and on-going engagement with its institutional investors, regularly meeting in person or telephonically with significant unaffiliated stockholders—between Fall 2017 and Spring 2018 the Company met with stockholders representing approximately 28% of the Company's outstanding shares. During these meetings, stockholders have not requested information on or raised concerns over whether the Company engages in any of the practices identified in the Proposal. The Company recently, in the fall 2018, engaged with eleven of its most significant institutional investors in a series of meetings that focused on sustainability issues, including climate change and human capital management. In the area of human capital management, the topics the Company addressed with investors included, among other things, diverse representation, talent development and succession planning, and identifying unintended biases in the Company's people processes, including gender pay equity. During these meetings, no investor raised issues related to the practices that the Proponent identified in the Proposal.

Furthermore, there is no evidence to support the argument that these practices in all applications are "inequitable." For example, as discussed above, employees and employers can mutually benefit from employment arrangements that include non-compete agreements. Also, as discussed in Section III of this letter, mandatory arbitration is lawful and enforceable, and is mandated in certain employee-employer disputes to which the Company is subject. Further, as discussed below, the Company's arbitration policy ensures fairness, expediency and economy (including, among other things, providing employees with the same redress and relief as they would have in court), which mutually benefits both employees and employers. Therefore, the Company respectfully submits that the Proposal does not identify a coherent social policy issue and, even assuming that it does, there is no evidence that the practices identified in the Proposal are "inequitable" in every application.

In a number of other employment areas, where a proposal has sought to apply employment practices across a wide cross-section of employees, the Staff has consistently found that the proposal did not relate to a sufficiently significant social policy issue. *See CVS Health Corp.* (Mar. 1, 2017) (permitting exclusion of the proponent's proposal advocating for minimum wage reform); *CVS Health Corp.* (Feb. 27, 2015) (concurring in the exclusion of a proposal requesting the company "to amend its policies to explicitly prohibit discrimination based on political ideology, affiliation or activity," *finding that it did not focus on a significant social policy issue, as it related to the company's policies "concerning its employees"*) (emphasis added); s*ee also The Walt Disney Co.* (Nov. 24, 2014); *Deere & Co.* (Nov. 14, 2014); *Costco Wholesale Corp.* (Nov. 14, 2014); *Bristol-Myers Squibb Co.* (Jan. 7, 2015). In each of these proposals, the Staff determined that a proposal seeking a change in employee anti-discrimination policies was excludable under Rule 14a-8(i)(7) because the relationship between the employee and the company was part of the day-to-day operations of the company.

As discussed above, the Proposal relates to the Company's ordinary business operations, including the Company's management of its workforce and the manner in which the Company conducts its employee relations. The Proposal's mere reference to "Inequitable Employment Practices" does not override the Proposal's underlying ordinary business subject matter. Therefore, the Proposal does not "transcend the day-to-day business matters" and we respectfully request that the Staff concur in our view that it is excludable under Rule 14a-8(i)(7).

III. The Company May Properly Exclude the Proposal Pursuant to Rule 14a-8(i)(2) Because It Would, if Implemented, Cause the Company to Violate the Rules and Regulations Established by the Financial Industry Regulatory Authority (FINRA) and Potentially Applicable State and Foreign Law.

Rule 14a-8(i)(2) permits a company to exclude a stockholder proposal from its proxy materials if the company "lack[s] the power or authority to implement the proposal." In Staff Legal Bulletin No. 14B (Sept. 15, 2004) ("SLB 14B"), the Staff explained its view that "proposals that would result in the company breaching existing contractual obligations may be excludable under rule 14a-8(i)(2), Rule 14a-8(i)(6), or both, because implementing the proposal would require the company to violate applicable law or would not be within the power or authority of the company to implement."

The Proposal urges the Board to adopt a policy to end a number of employment practices including "mandatory arbitration of employment-related claims," regardless of whether arbitration is required by law or regulation. Certain employees of the Company, specifically those associated with the Company's U.S. broker-dealer business, are subject to the rules and regulations of the Financial Industry Regulatory Authority (FINRA). One such rule, FINRA Rule 13200(a), states that a Member (i.e., a broker or dealer in FINRA membership) and an Associated Person (i.e., any natural person engaged in the investment banking or securities business who is under control of the securities broker-dealer, a category that includes all persons registered with any broker-dealer) must arbitrate any dispute "between or among them arising out of the business activities of such Member or Associated Person." Since a significant number of the Company's employees are considered "associated persons" of the Company's broker-dealer businesses, this rule requires them to submit employment-related claims to FINRA for arbitration (except for claims of statutory employment discrimination, including sexual harassment, unless the parties agreed to arbitrate it, either before or after the issue arose, or statutory whistleblower claims). The Proposal would therefore conflict with United States regulatory requirements; the Company, however, does not just operate in the United

States, but in 159 other countries. The Company has not engaged advisors to consider the impact of this policy change in any other jurisdiction.

Furthermore, assuming that the requested policy is meant to also extend to existing agreements between the Company and its current and former employees, if implemented, there is a significant risk that it would cause the Company to violate applicable state and foreign law. If implemented as written, the Proposal would require the Company to evaluate all existing employment-related agreements for approximately 205,000 current employees and potentially renegotiate, terminate, or worse breach the terms of such agreements in order to comply with the Proposal. *See The Gillette Co.* (Mar. 10, 2003) (allowing Gillette to omit the proposal because it would force the company to revoke benefits granted under an employment contract); *International Business Machines, Inc.* (Feb. 27, 2000) (allowing IBM to omit a proposal which requests the termination and renegotiation of an executive's employment contract); and *Galaxy Foods Co.* (Oct. 12, 1999) (allowing Galaxy Foods to omit a proposal which would cause the company to violate Florida law because the proposal would force the company to breach an existing employment agreement).

As a result, because the Proposal requires a blanket prohibition on a range of well-established and wide-spread employment practices including no longer imposing mandatory arbitration for any employment-related claims, the Proposal as written would cause the Company to violate FINRA's mandatory arbitration rules, and potentially applicable state and foreign law and we respectfully request that the Staff concur in our view that it is excludable pursuant to Rule 14a-8(i)(2).

IV. The Proposal May Be Excluded Under Rule 14a-8(i)(6) Because the Company Lacks the Power or Authority to Implement the Proposal.

Under Rule 14a-8(i)(6), a stockholder proposal may be excluded from a company's proxy materials if the company "lack[s] the power or authority to implement the proposal." As discussed above, the Company cannot implement the Proposal without violating FINRA Rule 13200(a) requiring mandatory arbitration (or potentially breaching existing contractual provisions). Accordingly, the Company is of the view that it lacks the power or authority to implement the Proposal and therefore respectfully submits that it may exclude the Proposal pursuant to Rule 14a-8(i)(6).

V. The Proposal May Be Excluded Because the Proposal and Supporting Statement Are Inherently Vague and Indefinite and Thus Contrary to Rule 14a-9.

Rule 14a-8(i)(3) permits the exclusion of a stockholder proposal if the proposal or supporting statement is contrary to any of the Commission's proxy rules, including Rule 14a-9, which prohibits materially false or misleading statements in proxy soliciting materials. The Staff has interpreted Rule 14a-8(i)(3) to mean that vague and indefinite stockholder proposals may be excluded because "neither the stockholders voting on the proposal, nor the company in implementing the proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires." *Staff Legal Bulletin No. 14B* (Sept. 15, 2004) ("SLB No. 14B").

A proposal is sufficiently vague and indefinite to justify exclusion where a company and its stockholders might interpret the proposal differently, such that "any action ultimately taken by the company upon implementation of the proposal could be significantly different from the actions envisioned by the shareholders voting on the proposal." *Fuqua Industries, Inc.* (Mar. 12, 1991). In the case of *NYC Employees' Retirement System v. Brunswick Corp.*, 789 F. Supp. 144, 146 (S.D.N.Y.

1992) ("NYCERS"), the court stated "the Proposal as drafted lacks the clarity required of a proper shareholder proposal. Shareholders are entitled to know precisely the breadth of the proposal on which they are asked to vote."

Further, the Staff consistently has permitted the exclusion of stockholder proposals when such proposals have failed to define certain terms necessary to implement them or where the meaning and application of key terms or standards under the proposal could be subject to differing interpretations. *See The Boeing Company* (Mar. 2, 2011) (allowing exclusion of a proposal requesting, among other things, that senior executives relinquish certain "executive pay rights" without explaining the meaning of the phrase); *General Motors Corp.* (Mar. 26, 2009) (concurring with the exclusion of a proposal to "eliminate all incentives for the CEO and the Board of Directors" that did not define "incentives"); *Verizon Communications Inc.* (Feb. 21, 2008) (proposal prohibiting certain compensation unless Verizon's returns to stockholders exceeded those of its undefined "Industry Peer Group" was excludable).

The Proposal urges the Board to adopt a policy to end "Inequitable Employment Practices" and that "Inequitable Employment Practices . . . burden the economy, impede labor mobility and prevent the discovery and redress of misconduct." The Proposal then proceeds to support these statements by references to proposed federal and state legislation and other matters arising in the United States. The Proposal does not, however, specify whether the requested policy and impact of the "Inequitable Employment Practices" applies only to the members of the Company's workforce in the U.S. or to its entire global workforce. It is impossible for the Company or the stockholders to comprehend precisely the depth and scope of the Proposal. *See NYCERS* ("Shareholders are entitled to know precisely the breadth of the proposal on which they are asked to vote."). This would be particularly important for the Company's stockholders to clearly understand the geographic scope of the policy change since approximately 65% of the Company's workforce is located outside of the United States in over 90 countries. Stockholders would not be able to assess the operational and financial cost and the diversion of resources necessary to implement this policy unless they understood the employees to which the policy would apply. *See Fuqua Industries, Inc.* (Mar. 12, 1991); *see also Occidental Petroleum Corp.* (Feb. 11, 1991) ("The staff, therefore, believes that the proposal may be misleading because any action(s) ultimately taken by the [c]ompany upon implementation of this proposal could be significantly different from the action(s) envisioned by shareholders voting on the proposal.").

Furthermore, the Proposal fails to specify whether the requested policy should be implemented on a prospective basis only or whether it should also apply to existing agreements. If the Proposal is meant to cover existing agreements, the Proposal does not address how the Company should handle agreements or arrangements that are in place through negotiated contracts. The Company would need to evaluate all existing employment-related agreements, across over 90 countries that relate to operations in 160 countries (including agreements with U.S. employees who have left the Company since 2001, the year in which the Company implemented a broad-based arbitration policy for all of its U.S. employees, or earlier, for U.S. employees who were covered by FINRA arbitration rules), and potentially renegotiate, terminate or worse breach the terms of such agreements in order to comply with the Proposal if the policy is to be followed as written. The Proposal also does not state by when this policy change should be implemented.

In addition, certain terms of the Proposal are not defined and are so vague and indefinite that the stockholders and the Company would not be able to determine with reasonable certainty what actions or measures the Proposal requires. The Proposal urges the Board to adopt a policy that the

Company will not enter into, without exception, any "non-compete agreements," but then proceeds to discuss in the supporting statement the impact of "non-compete restrictions" and "non-compete provisions." Without further explanation, it is unclear whether the Proponent is advocating for a prohibition of "non-compete agreements" or any agreement that may contain so-called "non-compete restrictions" or "non-compete provisions." Even more problematic, the Proposal even fails to sufficiently define or explain what it means by "non-compete," a term which is susceptible of many interpretations, some fairly narrow and specific and others quite expansive.

The vagueness related to the scope of the policy change and failure to define key terms of the requested policy in the Proposal make it impossible for the Company and stockholders to ascertain whether any policy subsequently adopted is in compliance with the Proposal, and therefore renders the Proposal vague and indefinite and we respectfully request that the Staff concur in our view that it is excludable under Rule 14a-8(i)(3).

VI. The Proposal May Be Excluded Pursuant to Rule 14a-8(i)(10) Because the Company Has Substantially Implemented the Essential Elements of the Proposal.

Under 14a-8(i)(10), a stockholder proposal may be excluded from a company's proxy materials when the company's management has already substantially implemented the proposal. The Staff has stated that "a determination that the company has substantially implemented the proposal depends upon whether [the company's] particular policies, practices and procedures compare favorably with the guidelines of the proposal." *Texaco, Inc.* (Mar. 28, 1991). Substantial implementation requires satisfactory compliance with both the proposal's underlying concerns and its essential objective. *See Id.*

Additionally, a company need not implement a proposal in exactly the manner set forth by the proponent in order to exclude the proposal under Rule 14a-8(i)(10). *See* 1998 Release. Differences between a company's actions and a stockholder proposal are permitted as long as the company's actions satisfactorily address the proposal's essential objectives. *See Apple Inc.* (Nov. 19, 2018). Even if a company's actions do not go as far as those requested by the stockholder proposal, they nevertheless may be deemed to "compare favorably" with the requested actions. *See, e.g.*, *NextEra Energy, Inc*. (Feb. 10, 2017) (concurring in the exclusion of a proposal requesting a change to proxy access procedures where the company demonstrated its existing proxy access procedures already achieved the proposal's essential purpose); *Walgreen Co.* (Sept. 26, 2013) (concurring in the exclusion of a proposal requesting elimination of supermajority voting requirements in the company's governing documents where the company had eliminated all but one of the supermajority voting requirements); *Exelon Corp.* (Feb. 26, 2010) (concurring in the exclusion of a proposal that requested a report on different aspects of the company's political contribution guidelines and issued a political contributions report that, together, provided "an up-to-date view of the [c]ompany's policies and procedures with regard to political contributions").

The Proposal urges the Board to adopt a policy that it will not: (i) require mandatory arbitration of employment-related claims, (ii) enter into non-compete agreements with employees, (iii) enter into agreements with other companies not to recruit each others' employees or (iv) enter into non-disclosure agreements in connection with arbitration or settlement of claims related to employee discrimination or harassment. The Company has robust policies and procedures for treating its employees equitably. As stated in the Company's 2017 Global Citizenship Report ("2017 Citizenship Report"), the Company is "fully committed to equal employment opportunity and

compl[ies] with the letter and spirit of all laws regarding fair employment practices and nondiscrimination." *See 2017 Citizenship Report* (p. 40). The Company also has in place a Code of Conduct Policy, which applies to all employees of the Company. *See* Citigroup Code of Conduct (p. 39) ("We create economic value for our clients, transform our business, and shape our future through our ingenuity and leadership – not through inappropriate or unfair conduct in the marketplace.").

Additionally, mandatory arbitration remains lawful and enforceable (having sustained repeated legal challenges over the years). *See Epic Sys. Corp. v. Lewis*, 138 S. Ct. 1612 (2018) (holding that arbitration agreements in employment contracts were valid and enforceable). Therefore, it is the Company's current practice in the United States to require employees on an individual basis to submit to arbitration all claims and disputes arising out of employment or termination (except to the extent limited by applicable law, regulation or executive order).

For the following reasons, the Company believes that arbitration is efficient, economical and beneficial to its employees:

- *Timely Resolution*—Arbitration is typically much quicker than litigation (sometimes by a magnitude of years).

- *Experienced Fact Finders*—Arbitrators are often experienced in the area and scope of the disputes they hear.

- *Cost*—Arbitration is generally cheaper than protracted discovery, trials and appeals.

To best ensure fairness and economy, the Company's arbitration policy:

- Does not preclude employees from filing a charge and/or participating in an investigation resulting from the filing of a charge, with the Equal Employment Opportunity Commission (the "EEOC") and/or state or local human rights agencies.

- Does not preclude the jurisdiction of the National Labor Relations Board (the "NLRB"), the EEOC and/or state and local human rights agencies from investigating alleged violations of law.

- Does not preclude employees from providing evidence or other information to any other government, regulatory or self-regulatory agency, including the Commission, the Commodity Futures Trading Commission, the Department of Justice, FINRA, the NLRB, the EEOC, or the New York Stock Exchange, Inc., or from responding to any court order or subpoena, or from participating in any reward program offered by any other government, regulatory or self-regulatory agency.

- Allows claims to be filed within the time period provided by the applicable statute of limitations.

- Allows arbitrators to award all relief as provided by law including compensatory damages, injunctive relief, punitive damages and attorneys' fees.

- Shifts the arbitration filing, hearing and arbitrator fees to the Company (except where the arbitrator determines that a claim was frivolous or filed in bad faith) (collectively, the "Fairness Provisions").

With respect to non-competition agreements, as a general principle, the Company makes limited and specific use of such agreements. The Proposal's concern with respect to non-competition agreements is their use on entry-level employees. As stated above, the Company does not use non-competition agreements with the majority of its workforce, and when used, it is a part of an individually negotiated agreement obtained in exchange for valuable, negotiated consideration. Moreover, the Company does not enter into unlawful agreements with other companies not to recruit each other's employees. *See* Sherman Act, 15 U.S.C. § 1(prohibits "[e]very contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States"); *U.S. Dep't of Justice, Antitrust Div. & Fed. Trade Comm., Antitrust Guidance For Human Resource Professionals* (Oct. 2016) ("Guidance") ("Naked . . . no-poaching agreements among employers, whether entered into directly or through a third-party intermediary, are *per se* illegal under the antitrust laws. That means that if the agreement is separate from or not reasonably necessary to a larger legitimate collaboration between the employers, the agreement is deemed illegal without any inquiry into its competitive effects."). As stated in the Company's Code of Conduct, to ensure fair competition, employees of the Company must:

- "Be aware of and comply with competition and antitrust laws designed to preserve competition among enterprises and to protect consumers from unfair business arrangements and practices."

- "Immediately stop the conversation if a competitor or a client tries to discuss anti-competitive conduct, and promptly report any such attempt to your internal legal counsel or to the Corporate Law Department."

- "Avoid situations that create the potential for unlawful anti-competitive conduct…"

The Staff has previously stated that a company need not implement a proposal in exactly the manner set forth by the proponent in order to exclude the proposal under Rule 14a-8(i)(10). *See* 1998 Release; *Walgreen Co.* (Sept. 26, 2013) (concurring in the exclusion of a proposal requesting elimination of supermajority voting requirements in the company's governing documents where the company had eliminated all but one of the supermajority voting requirements). Further, even if a company's actions do not go as far as those requested by the stockholder proposal, they nevertheless may be deemed to "compare favorably" with the requested actions. *See, e.g.*, *NextEra Energy, Inc.* (Feb. 10, 2017). Specifically, while the Company uses non-disclosure provisions in its various agreements with employees (including in connection with new-hire, separation and settlement agreements), those provisions are designed and intended to protect the Company's legitimate trade secrets and its confidential and proprietary information from inappropriate disclosure. The provisions are not designed to, nor are they intended to, preclude "whistle-blowing" or disclosure of information, allegations or evidence of wrongdoing to appropriate government or regulatory authorities. The Company's use of non-disclosure agreements does not promote a culture of secrecy. The non-disclosure agreements are appropriately narrow in scope to protect the Company's intellectual property. For example, as with the Company's arbitration policy, the Company's U.S. employment, separation and settlement agreements also include the Fairness Provisions described above.

As evidenced by the above, the Company does not under any circumstances seek to silence employees with evidence or allegations of wrongdoing from disclosing that information to appropriate government or regulatory authorities, nor does the Company seek to shield itself from appropriate government or regulatory scrutiny of those matters. Instead, the Company has robust policies and procedures to encourage these types of disclosures and to treat its employees who make these disclosures equitably and fairly. The Company is, in fact, addressing the Proponent's underlying concern expressed in the Proposal and accomplishing its essential objective.

Accordingly, consistent with the precedents cited above, the "essential objective" of the Proposal has been satisfied, and we respectfully request that the Staff concur in our view that the Proposal (including its supporting statements) may be excluded from the 2019 Proxy Materials in reliance on Rule 14a-8(i)(10).

VII. Conclusion

Based on the foregoing analysis, the Company respectfully requests that the Staff concur that it will take no action if the Company excludes the Proposal from its 2019 Proxy Materials.

EXHIBIT A
RELEVANT PORTION OF TRANSCRIPT OF THE 2018 ANNUAL MEETING

©©©

©©©

©©©

©©©

©©©

EXHIBIT B
CORRESPONDENCE WITH THE PROPONENT SUBSEQUENT TO THE 2018 ANNUAL MEETING

Jones, Paula F [LEGL]

From: Jones, Paula F [LEGL]
Sent: Thursday, April 26, 2018 11:38 AM
To: 'Emma Bayes'
Cc: Cornish Hitchcock (ConH@hitchlaw.com); Dropkin, Shelley J [LEGL]
Subject: RE: Presenter at Citi's Annual Meeting on April 24, 2018

Ms. Bayes,

As in the past, I reached out to the proponents of the stockholder proposals on Citi's proxy ballot to determine who would be presenting each proposal at the annual meeting. You identified Mr. Glenn Johnson as the representative who would present Proposal 7 for CtW Investment Group. We made every accommodation for Mr. Johnson, providing him a reserved seat next to the microphone so that he could present Proposals 7 and 9. During the course of the meeting, the Chairman introduced each stockholder proposal and then called the name of the representative to officially present the proposal at the meeting. When the Chairman introduced Proposal 7, he called on Mr. Johnson to present the proposal in accordance with your instructions. Mr. Johnson corrected the Chairman, noting that he was presenting Proposal 9 not Proposal 7. Given that statement the Chairman actually thought he had been given incorrect information. However, both the Chairman and the Corporate Secretary gave Mr. Johnson a further opportunity to present the proposal. (They did not ask him if he was representing CtW so your comment regarding such a statement causing him confusion is misplaced.) When asked if he was presenting the proposal on lobbying, he said he was not, but he expressed support for the proposal; he further said he was not representing the proponent when asked. The Chairman also asked the audience if anyone else wanted to present the proposal and there was no response. It was announced during the vote result that the proposal was not properly before the meeting, and neither Mr. Johnson nor anyone else objected. Mr. Johnson clearly knows what is required to put a proposal before the meeting as he properly put Proposal 9 before the meeting. Our responsibility is to give your representative the opportunity to present the proposal which we did. I will also note that another proponent, Brianna Harrington, presented four proposals at the meeting, one submitted by her father and three by other proponents. Similar to Mr. Johnson, she was called to the microphone to present Proposals 5, 6, 8, and 10 and she formally presented each such proposal. We gave you sufficient opportunity to identify a representative, showed him the same courtesy as each other proponent and gave him sufficient opportunity to present the proposal. If you did not make Mr. Johnson aware that he was being asked to present your proposal in addition to Proposal 9, it is not our responsibility that the proposal failed to be properly presented. You are clearly aware of the requirements for the proper presentation of proposals as this proposal has appeared on our ballot numerous times and has been properly presented. As such we do not see any justification for your request.

Paula F. Jones
Associate General Counsel – Corporate Governance
Citigroup Inc.
601 Lexington Avenue, 19th Floor
New York, New York 10022
(212) 793-3863
jonesp@citi.com

From: Emma Bayes [mailto:emma.bayes@ctwinvestmentgroup.com]
Sent: Wednesday, April 25, 2018 9:27 AM
To: Jones, Paula F [LEGL]; Dropkin, Shelley J [LEGL]
Cc: Cornish Hitchcock (ConH@hitchlaw.com)
Subject: RE: Presenter at Citi's Annual Meeting on April 24, 2018

Dear Ms. Dropkin and Ms. Jones,

I am writing to express my dismay over the treatment of our shareholder proposal at the Annual Shareholder Meeting yesterday. Per my email with Paula, see below, we did indeed authorize Glenn Johnson to move our proposal. He came forward, acknowledging that he was Glenn Johnson, and spoke in support of the proposal. He may have been momentarily confused by the question regarding his affiliation with CtW, but we do not believe that justifies the exclusion of this proposal based on Rule 14a-8(h)(1). We did indeed authorize him, you knew prior to the meeting that he would be our proponent, he did respond when his name was called, and he did speak in support of the proposal when you called him to present. Therefore, we request that you agree to:

1. Disclose the vote results of the Lobbying Proposal (#7) in your upcoming 8-K filing
2. Not exclude future proposals from CTW Investment Group on the basis of this meeting.

Sincerely,
Emma Bayes
CtW Investment Group
202-721-6065

From: Emma Bayes
Sent: Friday, April 20, 2018 9:44 AM
To: Jones, Paula F <jonesp@citi.com>
Cc: Dropkin, Shelley J <dropkins@citi.com>; Pearce-Thomas, Stephanie <stephanie.pearcethomas@citi.com>; Wood, Jacqueline <jacqueline.wood@citi.com>
Subject: Re: Presenter at Citi's Annual Meeting on April 24, 2018

Hi Paula,

Glenn Johnson will be presenting our proposal.

Thanks,
Emma Bayes

Sent from my iPhone

On Apr 16, 2018, at 3:40 PM, Jones, Paula F <jonesp@citi.com> wrote:

> Thanks Emma.
>
> **From:** Emma Bayes [mailto:emma.bayes@ctwinvestmentgroup.com]
> **Sent:** Monday, April 16, 2018 3:39 PM
> **To:** Jones, Paula F [LEGL]
> **Cc:** Dropkin, Shelley J [LEGL]; Pearce-Thomas, Stephanie [LEGL]; Wood, Jacqueline [LEGL]
> **Subject:** RE: Presenter at Citi's Annual Meeting on April 24, 2018
>
> Hi Paula,
>
> Sorry for the slow reply. We are still working on this, but will certainly have someone to present it. I will give you the name in the next few days.

Thanks,
Emma

From: Jones, Paula F [mailto:jonesp@citi.com]
Sent: Monday, April 16, 2018 12:04 PM
To: Emma Bayes <emma.bayes@ctwinvestmentgroup.com>
Cc: Dropkin, Shelley J <dropkins@citi.com>; Pearce-Thomas, Stephanie <stephanie.pearcethomas@citi.com>; Wood, Jacqueline <jacqueline.wood@citi.com>
Subject: RE: Presenter at Citi's Annual Meeting on April 24, 2018

Good morning Ms. Bayes,

Would you happen to have the name of the presenter for Proposal 7 at Citi's 2018 Annual Meeting? Thank you. Regards, Paula.

From: Jones, Paula F [LEGL]
Sent: Thursday, April 05, 2018 3:29 PM
To: 'emma.bayes@ctwinvestmentgroup.com'
Cc: Dropkin, Shelley J [LEGL]; Pearce-Thomas, Stephanie [LEGL]
Subject: Presenter at Citi's Annual Meeting on April 24, 2018

Good afternoon Ms. Bayes,

Could you supply the name of the person that will be presenting CtW's stockholder proposal (Proposal 7) at Citi's 2018 Annual Meeting? The Annual Meeting will be held on Tuesday, April 24, 2018, at 9:00 am in The Great Hall at The Congress Plaza Hotel, 520 South Michigan Avenue, Chicago, Illinois. Thank you for your assistance.

Paula F. Jones
Associate General Counsel – Corporate Governance
Citigroup Inc.
601 Lexington Avenue, 19th Floor
New York, New York 10022
(212) 793-3863
jonesp@citi.com