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

DIVISION OF
CORPORATION FINANCE

December 4, 2018

Sam Whittington
Apple Inc.
sam_whittington@apple.com

Re: Apple Inc.
Incoming letter dated September 26, 2018

Dear Mr. Whittington:

This letter is in response to your correspondence dated September 26, 2018 and October 29, 2018 concerning the shareholder proposal (the "Proposal") submitted to Apple Inc. (the "Company") by the National Center for Public Policy Research (the "Proponent") for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders. We also have received correspondence from the Proponent dated October 17, 2018. Copies of all of the correspondence on which this response is based will be made available on our website at http://www.sec.gov/divisions/corpfin/cf-noaction/14a-8.shtml. For your reference, a brief discussion of the Division's informal procedures regarding shareholder proposals is also available at the same website address.

Sincerely,

M. Hughes Bates
Special Counsel

Enclosure

cc: Justin Danhof
National Center for Public Policy Research
jdanhof@nationalcenter.org

December 4, 2018

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

Re: Apple Inc.
Incoming letter dated September 26, 2018

The Proposal requests that the board adopt a policy to disclose a description of the specific minimum qualifications that the nominating committee believes must be met by a nominee to be on the board of directors and each nominee's skills, ideological perspectives and experience presented in a chart or matrix form.

We are unable to concur in your view that the Company may exclude the Proposal under rule 14a-8(i)(3). We are unable to conclude that the Proposal, taken as a whole, is so vague or indefinite that it is rendered materially misleading. Accordingly, we do not believe that the Company may omit the Proposal from its proxy materials in reliance on rule 14a-8(i)(3).

We are unable to concur in your view that the Company may exclude the Proposal under rule 14a-8(i)(7). In arriving at this position, we note that the Proposal relates to director qualifications. Accordingly, we do not believe that the Company may omit the Proposal from its proxy materials in reliance on rule 14a-8(i)(7).

We are unable to concur in your view that the Company may exclude the Proposal under rule 14a-8(i)(10). Based on the information you have presented, it appears that the Company's policies, practices and procedures do not compare favorably with the guidelines of the Proposal and that the Company has not, therefore, substantially implemented the Proposal. Accordingly, we do not believe that the Company may omit the Proposal from its proxy materials in reliance on rule 14a-8(i)(10).

Sincerely,

Kasey L. Robinson
Special Counsel

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

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

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

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

October 29, 2018

**VIA E-MAIL (*shareholderproposals@sec.gov*)**

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

**Re:** Apple Inc.
Shareholder Proposal of the National Center for Public Policy Research

Dear Ladies and Gentlemen:

I am writing on behalf of Apple Inc. to respond to the Proponent's letter to the staff dated October 17, 2018 (the "***Response Letter***") objecting to the Company's intention, expressed in our letter to the staff dated September 26, 2018 (the "***Initial Letter***"), to omit the Proposal from our 2019 Proxy Materials. For ease of reference, capitalized terms used in this letter have the same meaning ascribed to them in the Initial Letter.

As explained in the Initial Letter, the Proposal is excludable under Rule 14a-8(i)(3) because it is impermissibly vague and indefinite. The Proposal calls for disclosure, in chart or matrix form, of the "ideological perspectives" of all director nominees. The Proposal does not define the phrase "ideological perspectives" and fails to provide any other guidance or context sufficient to enable either shareholders or the Company to understand what information the Proposal is seeking or how the Proposal would be implemented.

The Proponent argues that the Proposal is merely seeking greater disclosure of board "diversity," and cites *Exxon Mobil Corp.* (March 20, 2018) for the proposition that a proposal seeking "diversity" disclosure is not vague and indefinite for purposes of Rule 14a-8(i)(3). However, the proposal in *Exxon Mobil* is plainly distinguishable from the Proposal. The proposal in *Exxon Mobil* specifically requested that the Company "disclose to shareholders each director's/nominee's gender and race/ethnicity." The staff's conclusion that the proposal in *Exxon Mobil* was ineligible for exclusion under Rule 14a-8(i)(3) does not support the Proponent's argument that a proposal calling for disclosure of an entirely different set of characteristics is likewise ineligible for exclusion.

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The range of matters that may or may not be encompassed within the phrase "ideological perspectives" is not something that is commonly understood or well-defined. The Proposal does not provide any insight into how "ideological perspectives" could be elicited from nominees or disclosed in a chart or matrix form. Despite the assertion in the Response Letter that the term "ideological perspectives" refers to "political" ideology, nowhere in the Proposal or the Supporting Statement is "political" ideology mentioned, nor is there any meaningful guidance to shareholders or the Company in understanding how the Company would determine a nominee's political or "ideological perspectives."

Furthermore, in *Exxon Mobil* the company argued that the proposal was false and misleading based on the fact that the proponent had referenced an external guideline (i.e., a Commission rulemaking petition) to identify the information the proposal was requesting. The company argued that this external standard could not be reasonably understood by shareholders, and did not argue that the proposal's reference to "gender and race/ethnicity" was vague and indefinite. The Proponent's claim that "the Staff has Previously Ruled that Nearly Identical Language is Clear and Precise" is a mischaracterization of the staff's position in *Exxon Mobil*. The staff's actual position in *Exxon Mobil* has no bearing on whether the Proposal's reference to "ideological perspectives" is false or misleading.

The other arguments set forth in the Response Letter are similarly without merit. For the reasons set forth above and in the Initial Letter, the Company continues to believe that it may omit the Proposal from its 2019 Proxy Materials. If the staff has any questions or needs additional information, please feel free to contact me at (408) 996-1010 or by e-mail at sam_whittington@apple.com.

Sincerely,

Sam Whittington
Assistant Secretary

cc: Justin Danhof, National Center for Public Policy Research
Alan L. Dye, Hogan Lovells US LLP

NATIONAL CENTER
FOR PUBLIC POLICY RESEARCH

October 17, 2018

Via email: shareholderproposals@sec.gov

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

**RE: Stockholder Proposal of the National Center for Public Policy Research, Securities Exchange Act of 1934 – Rule 14a-8**

Dear Sir or Madam,

This correspondence is in response to the letter of Sam Whittington on behalf of Apple Inc. (the "Company") dated September 26, 2018, requesting that your office (the "Commission" or "Staff") take no action if the Company omits our Shareholder Proposal (the "Proposal") from its 2019 proxy materials for its 2019 annual shareholder meeting.

## RESPONSE TO APPLE'S CLAIMS

Our Proposal asks the Board of Directors to adopt a two-part disclosure policy for its board nominating procedures. It specifically requests that the board disclose to shareholders: "1. A description of the specific minimum qualifications that the Board's nominating committee believes must be met by a nominee to be on the board of directors; and 2. Each nominee's skills, ideological perspectives, and experience presented in a chart or matrix form."

The Company claims it has no idea what an "ideological perspective" is and therefore can't craft the requested policy. Next, the Company claims that – despite not understanding our requested policy – that it already has such a policy in place. Logically, the Company's first two assertions can't both be true. If it doesn't know what an ideological perspective is, it can't possibly have

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implemented our Proposal. Finally, the Company claims that the Proposal's request interferes with its ordinary business operations.

The facts don't back up these assertions. Additionally, the Company's no-action letter deviates from clear Staff precedent in repeatedly permitting board diversity proposals.

In the context of our Proposal, the term "ideological perspectives" is clear and concise. The Supporting Statement provides defining clarity to our request that speaks to the Company's extreme failure in forming a politically diverse workforce. Apple is perhaps one of the least diverse companies in America today. Apple knows what ideology means in the political context. Most middle-school civics students would understand our Proposal as well. Our proposal seeks to improve Apple's board diversity by expanding its ideological diversity disclosures. Furthermore, the Staff recently ruled that a proposal asking for expanded board diversity to avoid groupthink was not impermissibly vague. The Company has also failed to provide satisfactory evidence that it has implemented our Proposal.

Furthermore, our Proposal cannot be said to interfere with Apple's ordinary business operations as the Staff has repeatedly upheld nearly identical shareholder proposals over similar arguments.

Under Rule 14a-8(g), the Company bears the burden of persuading the Staff that it may omit our Proposal. The Company has failed to meet that burden. For the following reasons we request that the Staff deny the Company's no-action request and allow our Proposal to properly proceed to Apple's shareholders for a vote.

## Analysis

***Part 1. The Proposal May Not Be Excluded as Interfering with Ordinary Business Operations Since the Staff Previously Ruled That a Substantially Similar Proposal Did Not Interfere with Ordinary Business Operations.***

Under Rule 14a-8(i)(7), a company may exclude a shareholder proposal if it deals with matters relating to the company's "ordinary business." The Commission has indicated two central considerations regarding exclusion under Rule 14a-8(i)(7). First, the Commission considers the subject matter of the proposal. Next, the Commission considers the degree to which the proposal seeks to micromanage a company. *Exchange Act Release* No. 40018 (May 21, 1998) (the "1998 Release").

Our Proposal is substantially similar to the proposal that the Staff allowed in *Exelon* (avail. February 16, 2016). The "resolved" section of the proposal at issue in that no-action determination contest stated:

> Resolved, that the Shareholders of Exelon Corporation ("Company") request that the Board adopt a policy to disclose to shareholders the following:
>
> 1. A description of the specific minimum qualifications that the Board's nominating committee believes must be met by a nominee to the board of directors; and
>
> 2. Each nominee's gender, race/ethnicity, skills, and experiences presented in a chart or matrix form
>
> The disclosure shall be presented to the shareholders through the annual proxy statement and the company's website within six (6) months of the date of the annual meeting, and updated on an annual basis.

Likewise, our Proposal to Apple states:

> Resolved, that the shareholders of Apple Inc. (the "Company") request the Board adopt a policy to disclose to shareholders the following:
>
> 1. A description of the specific minimum qualifications that the Board's nominating committee believes must be met by a nominee to be on the board of directors; and
> 2. Each nominee's skills, ideological perspectives, and experience presented in a chart or matrix form.
>
> The disclosure shall be presented to the shareholders through the annual proxy statement and the Company's website within six (6) months of the date of the annual meeting and updated on an annual basis.

Just as Apple does now, Exelon argued that it should be able to omit the proposal on grounds that it contravened its ordinary business operations under Rule 14a-8(i)(7). As the operative language of our Proposal is nearly identical to that in *Exelon*, consistency dictates that the Staff reject Apple's no-action request on these grounds. In its no-action request, the Company does not even address the Staff's *Exelon* decision.

The only difference between our Proposal and the one in *Exelon* is that ours asks for the company to disclose ideological diversity as part of its board nomination calculus. The proponent in Exelon simply defined diversity in a different way to focus on gender and skin color. Both proposals are solely focused on diversity; ours simply goes past the surface of the candidate's skin.

*Exelon* stands for the proposition that a proponent may request the board adopt policies for including diversity as a component of the board nomination process. If the Staff were to follow the Company's request, it would be in the position of saying that skin color and gender count towards diversity, but perspective and ideology do not. That's not the Staff's role. And the Company should not put the Staff in such a position.

In fact, the Company is well aware that the Staff allows proposals seeking greater board diversity. In 2015, the Staff rejected a Rule 14a-8(i)(7) no-action request, from Apple, that contained a far more obtrusive request than the one in our Proposal. The operative language of that proposal stated: "Shareholders request that the Board of Directors adopt an accelerated recruitment policy requiring Apple Inc. (the 'Company') to increase the diversity of senior management and its board of directors, two bodies that presently fail to adequately represent diversity." *Apple Inc.* (avail. December 11, 2015). Apple argued that the proposal was "excludable because it seeks to 'micro-manage' the recruitment of directors and senior management to the Company, which is a matter upon which the Company's shareholders, as a group, would not be in a position to make an informed judgment." The Staff disagreed and determined that this proposal did not interfere with Apple's ordinary business operations under Rule 14a-8(i)(7).

The request in our Proposal is much simpler and does not even come close to micromanaging the Company's action. Rather than dictating the Company's board and management choices, our Proposal simply asks for disclosure about board candidates' background and qualifications. This is far less onerous of a request than the Staff allowed in *Apple Inc.* (avail. December 11, 2015).

Our Proposal requests some basic disclosure about candidates for the Company's board of directors with a focus on the Company's abysmal diversity record. The Staff has unambiguously ruled that such requests do not contravene Rule 14a-8(i)(7).

For the above reasons, we urge the Staff to find that our Proposal may not be omitted under Rule 14a-8(i)(7).

***Part II. The Proposal is Not Impermissibly Vague as the Staff Has Previously Ruled that Nearly Identical Language is Clear and Precise.***

Under Rule 14a-8(i)(3), a proposal can be excluded if "the proposal is so inherently vague or indefinite that 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 (CF) (September 15, 2004) ("SLB 14B").

The Staff has already ruled that proposals seeking greater information and disclosure about board diversity do not contravene Rule 14a-8(i)(3). In *Exxon Mobil Corp.* (avail. March 20, 2018), the operative language of the proposal stated:

> Shareholders of Exxon Mobil Corporation ("Exxon") request that its Board of Directors (the "Board") disclose to shareholders each director's/nominee's gender and race/ethnicity, as well as skills, experience and attributes that are most relevant in light of Exxon's overall business, long-term strategy and risks, presented in a matrix form. The requested matrix shall not include any attributes the Board identifies as minimum qualifications for all Board candidates in compliance with SEC Regulation S-K.
>
> The requested matrix shall be presented to shareholders in Exxon's annual proxy statement and on its website within six months of the date of the annual meeting, and updated annually.

Similarly, our Proposal states:

> Resolved, that the shareholders of Apple Inc. (the "Company") request the Board adopt a policy to disclose to shareholders the following:
>
> 1. A description of the specific minimum qualifications that the Board's nominating committee believes must be met by a nominee to be on the board of directors; and
> 2. Each nominee's skills, ideological perspectives, and experience presented in a chart or matrix form.
>
> The disclosure shall be presented to the shareholders through the annual proxy statement and the Company's website within six (6) months of the date of the annual meeting and updated on an annual basis.

Exxon Mobil repeatedly argued for exclusion under Rule 14a-8(i)(3), but the Staff ruled that shareholders could easily understand the proposal. In fact, the proponent in *Exxon Mobil* even expressed the same rationale for board diversity as we do in our Proposal. In the supporting statement, the filer noted that "diverse boards can better manage risk by avoiding 'groupthink' – a cognitive bias whereby 'homogenous, cohesive groups' tend toward standard agreement with known business associates and not challenge 'basic premises.'" *Exxon Mobil Corp.* (avail. March 20, 2018). Our Proposal expresses the same concern. In it, we note, "[t]here is ample evidence that the Company – and Silicon Valley generally – operate in ideological hegemony that eschews conservative people, thoughts, and values. This ideological echo chamber can result in groupthink that is the antithesis of diversity. This can be a major risk factor for shareholders."

Our Proposal is focused on board diversity. We offer it out of a concern for corporate groupthink, which is a major risk to shareholders. As such, it is indistinguishable from the proposal in *Exxon Mobil Corp.* (avail. March 20, 2018). We urge the Staff to uphold its *Exxon Mobil* decision by finding that our Proposal may not be omitted under Rule 14a-8(i)(3).

***Part III. The Company May Not Omit Our Proposal Because It Has Not Implemented It in Any Meaningful Sense.***

Under Rule 14a-8(i)(10), a company may exclude a shareholder proposal if it can meaningfully demonstrate that "the company has already substantially implemented the proposal." The Rule 14a-8(i)(10) exclusion is "designed to avoid the possibility of shareholders having to consider matters which already have been *favorably acted upon* by management." *See Exchange Act Release* No. 12598 (regarding predecessor to Rule 14a- 8(i)(10)) (Emphasis added). A company can be said to have "substantially implemented" a proposal when its "policies, practices and procedures compare favorably with the guidelines of the proposal." *See Texaco, Inc.* (avail. March 8, 1991).

The Company has not provided evidence that its management has "favorably acted upon" our Proposal. *Exchange Act Release* No. 12598.

The Company's entire argument seems to rely on the fact that it complies with the Commission's requirements for board reporting. That's well and good and we do not dispute that. However, our Proposal goes beyond Commission requirements and seeks disclosure regarding candidate diversity. To get around this obvious deficiency in the Company's reporting, Apple argues that it has no clue what ideological diversity means, so its Commission mandated reporting is sufficient. It is not.

In both *Exelon* (avail. February 16, 2016) and *Exxon Mobil Corp.* (avail. March 20, 2018) (described in further detail above), the proposals also discussed disclosure requirements listed in Item 407(c)(2)(v) of SEC Regulation S-K, but then asked for greater disclosure of candidate diversity. Certainly Exxon and Exelon both follow the requirements listed in Item 407(c)(2)(v) of SEC Regulation S-K, but that's not dispositive of anything when a proposal requests information beyond those requirements. Likewise, our Proposal touches on Item 407(c)(2)(v) of SEC Regulation S-K and then asks for *additional* diversity disclosures. Again, our Proposal simply recognizes that diversity goes beyond an individual's outward appearance. Apple has no disclosures that match our request.

If Apple doesn't realize that diversity if more than the sum of a person's appearance, then its groupthink issue may be so pervasive that our Proposal may just be the remedy that it so desperately needs.

For the above reasons, we urge the Staff to find that our Proposal may not be omitted under Rule 14a-8(i)(10).

**Conclusion**

The Company has clearly failed to meet its burden that it may exclude our Proposal under Rule 14a-8(g). Therefore, based upon the analysis set forth above, we respectfully request that the Staff reject Apple's request for a no-action letter concerning our Proposal.

A copy of this correspondence has been timely provided to the Company. If I can provide additional materials to address any queries the Staff may have with respect to this letter, please do not hesitate to call me at 202-507-6398 or email me at JDanhof@nationalcenter.org.

Sincerely,

Justin Danhof, Esq.

cc: Sam Whittington, Apple Inc.

**Rule 14a-8(i)(3)**
**Rule 14a-8(i)(10)**
**Rule 14a-8(i)(7)**

September 26, 2018

**VIA E-MAIL (*shareholderproposals@sec.gov*)**

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

**Re:** Apple Inc.
Shareholder Proposal of the National Center for Public Policy Research

Dear Ladies and Gentlemen:

Apple Inc., a California corporation (the "***Company***"), hereby requests confirmation that the staff of the Division of Corporation Finance of the U.S. Securities and Exchange Commission (the "***Commission***") will not recommend enforcement action to the Commission if, in reliance on Rule 14a-8 under the Securities Exchange Act of 1934, as amended (the "***Exchange Act***"), the Company omits the enclosed shareholder proposal (the "***Proposal***") and its accompanying supporting statement (the "***Supporting Statement***") submitted by the National Center for Public Policy Research (the "***Proponent***") from the Company's proxy materials for its 2019 Annual Meeting of Shareholders (the "***2019 Proxy Materials***").

A copy of the Proposal and the Supporting Statement, together with other correspondence relating to the Proposal, is attached hereto as Exhibit A.

In accordance with Staff Legal Bulletin No. 14D (November 7, 2008) ("***SLB No. 14D***"), this submission is being delivered by e-mail to shareholderproposals@sec.gov. Pursuant to Rule 14a-8(j), a copy of this submission also is being sent to the Proponent. Rule 14a-8(k) and SLB No. 14D provide that a shareholder proponent is required to send the company a copy of any correspondence relating to the Proposal which the proponent submits to the Commission or the staff. Accordingly, we hereby inform the Proponent that, if the Proponent elects to submit additional correspondence to the Commission or the staff relating to the Proposal, the Proponent should concurrently furnish a copy of that correspondence to the undersigned.

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Pursuant to the guidance provided in Section F of Staff Legal Bulletin 14F (October 18, 2011), we ask that the staff provide its response to this request to the undersigned via e-mail at the address noted in the last paragraph of this letter.

The Company intends to file its definitive 2019 Proxy Materials with the Commission more than 80 days after the date of this letter.

## THE PROPOSAL

On August 3, 2018, the Company received from the Proponent, as an attachment to an e-mail, a letter submitting the Proposal for inclusion in the Company's 2019 Proxy Materials. The Proposal reads as follows:

> Resolved: that the shareholders of Apple Inc. (the "Company") request the Board adopt a policy to disclose to shareholders the following:
>
> 1. A description of the specific minimum qualifications that the Board's nominating committee believes must be met by a nominee to be on the board of directors; and
> 2. Each nominee's skills, ideological perspectives, and experience presented in a chart or matrix form.
>
> The disclosure shall be presented to the shareholders through the annual proxy statement and the Company's website within six (6) months of the date of the annual meeting and updated on an annual basis.

## BASES FOR EXCLUSION OF THE PROPOSAL

### I. Rule 14a-8(i)(3) – The Proposal is Vague and Indefinite

#### *A. Background*

Rule 14a-8(i)(3) permits exclusion of a 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 taken the position that a shareholder proposal is excludable under Rule 14a-8(i)(3) if it is so vague and indefinite that "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 (September 15, 2004).

Under this standard, the staff has routinely permitted exclusion of proposals that fail to define key terms or otherwise fail to provide sufficient clarity or guidance to enable either

shareholders or the company to understand how the proposal would be implemented. In *Pfizer Inc.* (December 22, 2014), for example, the staff allowed exclusion of a proposal requesting that the chairman be an independent director whose only "nontrivial professional, familial or financial connection to the company or its CEO is the directorship," because the scope of the prohibited "connections" was unclear. *See also The Boeing Company* (March 2, 2011) (allowing exclusion of proposal requesting, among other things, that senior executives relinquish certain "executive pay rights" without explaining the meaning of the phrase); *Prudential Financial, Inc.* (February 16, 2007) (allowing exclusion of proposal requesting that the board of directors "seek shareholder approval for senior management incentive compensation programs which provide benefits only for earnings increases based only on management controlled programs" because it failed to define critical terms such as "senior management incentive compensation programs"); *General Electric Company* (February 5, 2003) (allowing exclusion of proposal urging the board of directors "to seek shareholder approval of all compensation for Senior Executives and Board members not to exceed 25 times the average wage of hourly working employees" because it failed to define critical terms such as "compensation" and "average wage" or otherwise provide guidance concerning its implementation).

The staff has also allowed exclusion of proposals under Rule 14a-8(i)(3) where the meaning and application of key terms used in the proposal may be subject to differing interpretations, such that shareholders in voting on the proposal and the company in implementing it might be uncertain what the proposal calls for or reach different conclusions regarding the manner in which the proposal should be implemented. Ambiguities in a proposal may render the proposal materially misleading, because "any action ultimately taken by the [c]ompany upon implementation could be significantly different from the actions envisioned by shareholders voting on the proposal." *Fuqua Industries, Inc.* (March 12, 1991) (allowing exclusion of a proposal to prohibit "any major shareholder... which currently owns 25% of the Company and has three Board seats from compromising the ownership of the other stockholders," where the meaning and application of such terms as "any major shareholder," "assets/interest" and "obtaining control" would be subject to differing interpretations); *see also Exxon Corporation* (January 29, 1992) (allowing exclusion of proposal seeking to require that director nominees meet the criteria that they not have "taken the company into bankruptcy . . . after losing a considerable amount of money" because certain terms, including "bankruptcy" and "considerable amount of money," were subject to differing interpretations); *Occidental Petroleum Corporation* (February 11, 1991) (allowing exclusion of proposal requesting that "shareholders have the right to vote on present as well as future shares that are issued and outstanding in regard to 'buyback of shares,'" where proposal could be interpreted in multiple ways, including as permitting shareholders to vote to approve shares issued in exchange for outstanding shares or as requesting that present and future shareholders be entitled to vote on share buybacks); *NYNEX Corporation* (January 12, 1990) (allowing exclusion of proposal relating to noninterference with government policies of certain foreign nations because the undefined terms "interference" and "government policies" meant the proposal could be interpreted to call for multiple different actions, such as simply not to violate foreign laws or not to take actions inconsistent with uncodified policies of foreign governments).

As discussed below, the Proposal suffers from both of these defects, as it fails to define or clarify several key terms and, as a result, is subject to multiple interpretations regarding the manner in which it would be implemented.

***B. The Proposal is Vague and Indefinite because it fails to define "ideological perspectives" and is unclear regarding the information it requests***

The Proposal is impermissibly vague and indefinite because it fails to define the phrase "ideological perspectives," which is crucial to understanding the objective of the Proposal, and otherwise fails to provide sufficient clarity or guidance to enable either shareholders or the Company to understand how the Proposal would be implemented. The Proposal requests that the Company disclose the "ideological perspectives" of each director nominee named in the Company's proxy statement, and present such information in a "chart or matrix form." However, it is unclear what the Proposal means by "ideological perspectives" and how the Company would phrase the question(s) to be asked of directors or determine the specific ideological perspectives to be presented in proxy statements, particularly in the form of a chart or matrix. The Merriam-Webster dictionary defines "ideology" as "a**:** a manner or the content of thinking characteristic of an individual, group, or culture; b**:** the integrated assertions, theories and aims that constitute a sociopolitical program; or c**:** a systematic body of concepts especially about human life or culture." The same dictionary defines "perspective" to mean a "point of view." These broadly defined terms include a person's beliefs or opinions regarding a multitude of social, political, economic, philosophical, and religious matters, among other matters which neither the Company nor shareholders could reasonably be expected to identify, and presumably could include both beliefs in broad principles and opinions on specific issues. Nominees for director, like anyone else, have innumerable beliefs, perspectives, philosophies, and outlooks on life, and it would be impossible to determine which of them the Proposal would have the Company probe and then present to shareholders.

The Supporting Statement does suggest that boards of directors benefit from diversity of thought among directors, but it does not describe in any concrete fashion what sort of information would be helpful to shareholders in evaluating whether director nominees contribute to this diversity. The Supporting Statement asserts that the Company "eschews conservative people, thoughts, and values," which may suggest that the Proposal is intended to elicit information about nominees' political affiliations or views, or their positions on or views regarding social issues as an element of diversity. However, if the Proposal seeks disclosure of these types of "ideological perspectives," it is unclear precisely what information the Proposal is seeking. Would the Company be required to disclose to shareholders whether a director nominee is registered with a political party? Must it ask each nominee to disclose how the nominee voted in recent elections, or how much, if any, the nominee contributed to candidates for public office or political campaigns? The Proposal offers no clue to the answers to these questions, and both the Company and its shareholders would be left to guess what information the Proposal would require the Company (and its director nominees) to disclose.

An alternative interpretation of the Proposal is that, because it refers to "conservative" people, thoughts and values, it is requesting general information about "ideological perspectives," such as whether a nominee self-identifies as "conservative," "liberal,"

"progressive," "moderate," "libertarian," or some other general category on the political or social spectrum. Even this interpretation, however, might not be accurate. The word "conservative" can apply to beliefs and perspectives regarding a wide variety of subjects besides politics, including economics, religion, culture, and philosophy, among others. In addition, there are innumerable policy perspectives that do not fit neatly on a "conservative" to "liberal" spectrum, and the Company would have no way of knowing what information it should request from director nominees to satisfy the Proposal's directive. The Proposal does not even begin to provide helpful direction as to which perspectives it concerns.

The Proposal's lack of specificity and general open-endedness would confuse shareholders attempting to ascertain the scope of the Proposal. Similarly, if the Proposal were approved, the Company's implementation of the Proposal could have very different consequences than shareholders envisioned in approving it. Accordingly, the Proposal is vague and indefinite and therefore is excludable under Rule 14a-8(i)(3).

## II. Rule 14a-8(1)(10) — The Company Has Already Substantially Implemented the Proposal

If the staff concludes that the Proposal is not vague and indefinite and merely calls for disclosure, in a particular format, of the qualifications and skills of its director nominees, the Company believes that the Proposal is excludable under Rule 14a-8(i)(10) because the Company has substantially implemented it.

### *A. Background*

Rule 14a-8(i)(10) permits a company to exclude a shareholder proposal from its proxy materials if "the company has already substantially implemented the proposal." The Commission stated in 1976 that the predecessor to Rule 14a-8(i)(10) was "designed to avoid the possibility of shareholders having to consider matters which already have been favorably acted upon by the management." *SEC Release No. 34-12598* (July 7, 1976). Originally, the staff narrowly interpreted this predecessor rule and granted no-action relief only when proposals were "'fully' effected" by the company. *SEC Release No. 34-19135* (October 14, 1982). By 1983, however, the Commission recognized that the "previous formalistic application of [the rule] defeated its purpose" because proponents were successfully convincing the staff to deny no-action relief by submitting proposals that differed from existing company policy by only a few words. *SEC Release No. 34-20091* (August 16, 1983). Therefore, in 1983, the Commission adopted a revised interpretation to the rule to permit the omission of proposals that had been "substantially implemented" (id.) and subsequently codified this revised interpretation. *SEC Release No. 34-40018* (May 21, 1998). The purpose of the exclusion under Rule 14a-8(i)(10) has been described as follows:

> "A company may exclude a proposal if the company is already doing—or substantially doing—what the proposal seeks to achieve. In that case, there is no reason to confuse shareholders or waste corporate resources in having shareholders vote on a matter that is moot. In the [Commission's] words, the exclusion 'is

> designed to avoid the possibility of shareholders having to consider matters which have already been favorably acted upon by the management ....'"

Broc Romanek and Beth Young (William Morley, editor.) *Shareholder Proposal Handbook,* (Aspen Law & Business 2003), Sec. 23.01(B) at p. 23-4.

When a company can demonstrate that it has taken actions to address each element of a shareholder proposal, the staff has concurred that the proposal has been "substantially implemented." For example, in *Dow Chemical Co.* (March 5, 2008), the staff concurred in the exclusion of a proposal that requested a "global warming report" discussing how the company's efforts to ameliorate climate change may have affected the global climate when the company had already made various statements about its efforts related to climate change, which appeared in various corporate documents and disclosures. See also *International Business Machines Corp.* (January 4, 2010) (concurring in the exclusion of a proposal that requested periodic reports of the Company's "Smarter Planet" initiative where the company had already reported on those initiatives using a variety of different media, including the company's "Smarter Planet" web portal).

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). *SEC Release No. 34-40018 and accompanying text* (May 21, 1998). Differences between a company's actions and a shareholder proposal are permitted as long as the company's actions satisfactorily address the proposal's essential objectives. Even if a company's actions do not go as far as those requested by the shareholder proposal, they nevertheless may be deemed to "compare favorably" with the requested actions. See, e.g., *NextEra Energy, Inc.* (February 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.* (September 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.* (February 26, 2010) (concurring in the exclusion of a proposal that requested a report on different aspects of the company's political contributions when the company had already adopted its own set of corporate 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").

***B. The Company has Already Substantially Implemented the Proposal Because the Company Already Discloses Minimum Qualifications and Biographical Information About Director Nominees***

The Proposal requests that the Company disclose, "through the annual proxy statement and the Company's website," a "description of the specific minimum qualifications that the Board's nominating committee believes must be met by a nominee" and "each nominee's skills, ideological perspectives and experience." Regardless of the uncertainty created by the use of the phrase "ideological perspectives" as discussed in Section I above, the essential objective of

the Proposal is the presentation of the Company's specific minimum qualifications for director nominees and comprehensive biographical information about them. The Company already presents this information in its proxy materials on an annual basis, and therefore has substantially implemented the Proposal.

The first of the two elements requested by the Proposal is "[a] description of the specific minimum qualifications that the Board's nominating committee believes must be met by a nominee to be on the board of directors." All public companies are required by the Commission's rules to include this information in their proxy statements,[1] and the Company already complies with the requirement.[2] The Company would not need to make any changes to its existing practices to implement this aspect of the Proposal.

The Proposal also requests that the Company disclose "[e]ach nominee's skills, ideological perspectives, and experience presented in a chart or matrix form." The Company already includes substantially all of this information in its annual proxy materials and on its website. As with the specific minimum qualifications for director nominees, Commission regulations require biographical information about director nominees to be included in proxy materials for meetings concerning the election of directors, including most of the information specifically requested by the Proposal. Item 401(e) of Regulation S-K[3] requires, for example, disclosure of "the business experience during the past five years of each . . . person nominated or chosen to become a director" and "the specific experience, qualifications, attributes or skills that led to the conclusion that the person should serve as a director for the registrant at the time that the disclosure is made." The Company complies with these requirements in its annual proxy

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[1] The language of this section of the Proposal seems taken almost directly from the language of Item 407(c)(2)(v) of Regulation S-K (17 C.F.R. § 229.407(c)(2)(v)):

> Describe any specific minimum qualifications that the nominating committee believes must be met by a nominating committee-recommended nominee for a position on the registrant's board of directors, and describe any specific qualities or skills that the nominating committee believes are necessary for one or more of the registrant's directors to possess

[2] For example, on page 16 of its most recent Proxy Statement, filed with the Commission on December 27, 2017, the Company included the following disclosure:

> The Nominating Committee considers candidates for director who are recommended by its members, by other Board members, by shareholders, and by management, as well as those identified by a third-party search firm retained to assist in identifying and evaluating possible candidates. In evaluating potential nominees to the Board, the Nominating Committee considers, among other things, independence, character, ability to exercise sound judgment, diversity, age, demonstrated leadership, skills, including financial literacy, and experience in the context of the needs of the Board. The Nominating Committee is committed to actively seeking out highly qualified women and individuals from minority groups to include in the pool from which Board nominees are chosen. The Nominating Committee evaluates candidates recommended by shareholders using the same criteria as for other candidates recommended by its members, other members of the Board, or other persons.

[3] 17. C.F.R. § 229.401(e).

materials, listing "the skills, qualities, attributes, and experience of the nominees that led the Board and the Nominating Committee to determine that it is appropriate to nominate" them,[4] and including detailed biographical information for each nominee.

Therefore, most of the information requested by the Proposal is already disclosed by the Company. The only information requested by the Proposal that the Company may not currently be disclosing is the "ideological perspectives" of the nominees (depending on what the phrase "ideological perspectives" is deemed to include). However, a Company need not implement each element of a Proposal containing multiple elements for the Proposal to be substantially implemented. See, *e.g.*, *NVR, Inc.* (March 25, 2016) (permitting exclusion under substantial implementation of a shareholder proposal requesting four revisions to the company's proxy access bylaw where the company only made two of the four requested revisions); *Walgreen Co.* (September 26, 2013) (permitting 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). In addition, the biographical information provided by the Company in its proxy materials is useful to investors in ascertaining the "ideological diversity" valued by the Proponent. The directors' biographies list a diverse array of experiences and support for various causes, indicative of the pluralistic ideologies of the board of directors and its commitment to including diverse backgrounds and points of view. For example, the Company's last proxy statement disclosed that various directors were concerned with issues including, but not limited to: climate change and environmentalism, worldwide economic development, advancement of the arts and sciences, human rights, and charter schools. Therefore, the Company complies with the essential thrust of the Proposal, which is to provide 1) specific minimum qualifications considered by the nominating committee when evaluating director candidates, and 2) biographical information that permits shareholders to judge "whether [nominees'] listed skills, experience and attributes are appropriate in light of the Company's overall business strategy." The Proposal is therefore excludable under Rule 14a-8(i)(10).

## III. Rule 14a-8(i)(7) – The Proposal Concerns the Company's Ordinary Business Operations

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

In the 1998 Release, the Commission described two "central considerations" for the ordinary business exclusion. The first is that certain tasks are "so fundamental to

[4] The Company's Definitive Proxy Statement on Schedule 14A, filed with the Commission on December 27, 2017, on page 16.

management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight." The second consideration relates to "the degree to which the proposal seeks to 'micro-manage' the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment." Id. at 86,017-18 (footnote omitted).

In addition, the staff has concurred numerous times that it is solely within the discretion of a company's board of directors, and therefore a matter of a company's ordinary business, to determine the form and content of a company's reports to shareholders, including proxy statements. For example, in *Dow Jones & Company, Inc.* (February 24, 1998), the staff concurred with the exclusion of a proposal requesting the company include in its proxy statement a list of the publicly held companies which had held stockholder meetings during the previous calendar year. In its request to the staff for exclusion, the company argued that "decisions regarding the Company's communications with its stockholders, including what supplemental information not required by the proxy rules should be included in the Company's proxy statement, are inherently ordinary business matters." The staff agreed, stating that the proposal related to "the Company's ordinary business operations (i.e. disclosure in the Company's periodic reports)." Similarly, in *American Telephone and Telegraph Company* (January 3, 1992), the staff permitted exclusion of a proposal requesting that the company distribute the company's Form 10-K rather than a glossy annual report to shareholders. The staff explained its decision by stating "the proposal involves decisions relating to the conduct of ordinary business operations since it deals with the format and style of disclosure contained in the Company's annual report to shareholders." Likewise, the staff permitted exclusion of a proposal requesting that a company print its proxy materials in black and white, rather than color, on the basis that it was a matter of ordinary business operations, "i.e. decisions made with respect to the cost and preparation techniques for the Company's reports to shareholders," in *Pan Am Corp.* (February 16, 1990).

As in the no-action letters listed above, the Proposal seeks to dictate the form and content of the Company's communications to its shareholders. Specifically, the Proposal attempts to govern the manner in which the qualifications and attributes of nominees to the Company's board of directors are disclosed to shareholders. As in *Dow Jones & Company*, some of the information requested by the Proposal is above and beyond that required by the Commission's proxy rules, namely the "ideological perspectives" of the Company's director nominees. The decision whether to include the directors' skills, experiences and ideological perspectives beyond what is required by the proxy rules is an ordinary business matter to be decided by the Company's board of directors or management. Furthermore, the Proposal dictates the form and content of this additional information, requiring that "[e]ach nominee's skills, ideological perspectives, and experience [be] presented in a chart or matrix form." The decision whether or not to present such information in a chart or matrix is also an ordinary business matter best decided by the board of directors or management. In either case, the Proposal impermissibly infringes upon a core ordinary business function by dictating the form and content of the Company's proxy statement.

## CONCLUSION

For the reasons discussed above, the Company believes that it may omit the Proposal from its 2019 Proxy Materials in reliance on Rule 14a-8(i)(3), (10) and (7). We respectfully request that the staff concur with the Company's view and confirm that it will not recommend enforcement action to the Commission if the Company excludes the Proposal from its 2019 Proxy Materials.

If you have any questions or need additional information, please feel free to contact me at (408) 996-1010 or by e-mail at sam_whittington@apple.com.

Sincerely,

Sam Whittington
Assistant Secretary

Attachments

cc: Justin Danhof, National Center for Public Policy Research
Alan L. Dye, Hogan Lovells US LLP

## Exhibit A

## Copy of the Proposal and Supporting Statement and Related Correspondence

NATIONAL CENTER
FOR PUBLIC POLICY RESEARCH

Via FedEx and Email (shareholderproposal@apple.com)

August 3, 2018

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

Dear Ms. Adams,

I hereby submit the enclosed shareholder proposal ("Proposal") for inclusion in the Apple Inc. (the "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 United States Securities and Exchange Commission's proxy regulations.

I submit the Proposal as General Counsel of the National Center for Public Policy Research, which has continuously owned Apple Inc. stock with a value exceeding $2,000 for a year prior to and including the date of this Proposal and which intends to hold these shares through the date of the Company's 2019 annual meeting of shareholders. A Proof of Ownership letter is forthcoming and will be delivered to the Company.

Copies of correspondence or a request for a "no-action" letter should be forwarded to Justin Danhof, Esq, General Counsel, National Center for Public Policy Research, 20 F Street, NW, Suite 700, Washington, DC 20001 and emailed to JDanhof@nationalcenter.org.

Sincerely,

Justin Danhof, Esq.

Enclosure: Shareholder Proposal

## True Diversity Board Policy

**Resolved**, that the shareholders of Apple Inc. (the "Company") request the Board adopt a policy to disclose to shareholders the following:

1. A description of the specific minimum qualifications that the Board's nominating committee believes must be met by a nominee to be on the board of directors; and
2. Each nominee's skills, ideological perspectives, and experience presented in a chart or matrix form.

The disclosure shall be presented to the shareholders through the annual proxy statement and the Company's website within six (6) months of the date of the annual meeting and updated on an annual basis.

### Supporting Statement

We believe that boards that incorporate diverse perspectives can think more critically and oversee corporate managers more effectively. By providing a meaningful disclosure about potential Board members, shareholders will be better able to judge how well-suited individual board nominees are for the Company and whether their listed skills, experience and attributes are appropriate in light of the Company's overall business strategy.

The Company's compliance with Item 407(c)(2)(v) of SEC Regulation S-K requires it to identify the minimum skills, experience, and attributes that all board candidates are expected to possess.

True diversity comes from diversity of thought. There is ample evidence that the Company – and Silicon Valley generally – operate in ideological hegemony that eschews conservative people, thoughts, and values. This ideological echo chamber can result in groupthink that is the antithesis of diversity. This can be a major risk factor for shareholders.

We believe a diverse board is a good indicator of sound corporate governance and a well-functioning board. Diversity in board composition is best achieved through highly qualified candidates with a wide range of skills, experience, beliefs, and board independence from management.

We are requesting comprehensive disclosures about board composition and what qualifications the Company seeks for its Board, therefore we urge shareholders to vote FOR this proposal.

August 15, 2018

***Via FedEx and E-mail***

Justin Danhof, Esq.
20 F Street, NW Suite 700
Washington, DC 20001
jdanhof@nationalcenter.org

Re: Notice of Deficiency under Rule 14a-8
Proposal for Apple Inc. 2019 Annual Meeting of Shareholders

Dear Mr. Danhof:

On behalf of Apple Inc. (the "**Company**"), I am writing to inform you that we are in receipt of your letter dated August 3, 2018, on behalf of the National Center for Public Policy Research ("**NCPPR**"), which includes a proposal for inclusion in the Company's proxy materials for the 2019 annual meeting of shareholders (the "**Proposal**"). The letter was delivered to us via FedEx and e-mail and was received on August 3, 2018.

The purpose of this letter is to inform you that your submission does not comply with Rule 14a-8 under the Securities Exchange Act of 1934 and therefore is not eligible for inclusion in our proxy statement for our 2019 annual meeting of shareholders. SEC regulations require us to bring the following deficiency to your attention.

**Failure to Establish Ownership for Requisite One-Year Period**

As you know, Rule 14a-8(b) provides that, to be eligible to submit a shareholder proposal, a proponent must have continuously held a minimum of $2,000 in market value, or 1% of the Company's securities entitled to be voted on the proposal for at least one year prior to the date the proposal is submitted. You have not provided any proof that NCPPR has continuously held, for the one-year period preceding and including the date the Proposal was submitted to us (August 3, 2018), shares of our common stock having at least $2,000 in market value or representing at least 1% of the outstanding shares of our common stock. Furthermore, our records do not list NCPPR as a record holder of our common stock. Because NCPPR is not a record holder of our common stock, you may substantiate NCPPR's ownership in either of two ways:

Apple
One Apple Park Way
Cupertino, CA 95014

T 408 996-1010
F 408 996-0275
www.apple.com

1. You may provide a written statement from the record holder of the shares of our common stock beneficially owned by NCPPR, verifying that, on August 3, 2018, when you submitted the Proposal, NCPPR had continuously held, for at least one year, the requisite number or value of shares of our common stock; or

2. You may provide a copy of a filed Schedule 13D, Schedule 13G, Form 3, Form 4 or Form 5, or any amendment to any of those documents or updated forms, reflecting ownership of the requisite number or value of shares of our common stock as of or before the date on which the one-year eligibility period began, together with a written statement that NCPPR has continuously held the shares for the one-year period as of the date of the statement.

As you know, the staff of the SEC's Division of Corporation Finance has provided guidance to assist companies and stockholders with complying with Rule 14a-8(b)'s eligibility criteria. This guidance, contained in Staff Legal Bulletin No. 14F (October 18, 2011) and Staff Legal Bulletin No. 14G (October 16, 2012), clarifies that proof of ownership for Rule 14a-8(b) purposes must be provided by the "record holder" of the securities, which is either the person or entity listed on the Company's stock records as the owner of the securities or a DTC participant (or an affiliate of a DTC participant). A proponent who is not a record owner must therefore obtain the required written statement from the DTC participant through which the proponent's securities are held. If a proponent is not certain whether its broker or bank is a DTC participant, the proponent may check DTC's participant list, which is currently available on the Internet at http://www.dtcc.com/~/media/Files/Downloads/client-center/DTC/alpha.pdf. If the broker or bank that holds the proponent's securities is not on DTC's participant list, the proponent will need to obtain proof of ownership from the DTC participant through which its securities are held. If the DTC participant knows the holdings of the proponent's broker or bank, but does not know the proponent's holdings, the proponent may satisfy the proof of ownership requirement by obtaining and submitting two proof of ownership statements verifying that, at the time the proposal was submitted, the required number or value of securities had been continuously held by the proponent for at least one year preceding and including the date of submission of the proposal – with one statement from the proponent's broker or bank confirming the required ownership, and the other statement from the DTC participant confirming the broker or bank's ownership.

For the Proposal to be eligible for inclusion in the Company's proxy materials for its 2019 annual meeting of shareholders, the information requested above must be furnished to us electronically or be postmarked no later than 14 calendar days from the date you receive this letter. If the information is not provided, the Company may exclude the Proposal from its proxy materials pursuant to Rule 14a-8(f). Please address any response to the Company's Secretary at Apple Inc., 1 Infinite Loop, MS: 301-4GC, Cupertino, California, 95014, or by e-mail to shareholderproposal@apple.com.

In accordance with SEC Staff Legal Bulletin Nos. 14 and 14B, a copy of Rule 14a-8, including Rule 14a-8(b), is enclosed for your reference. Also enclosed for your reference is a copy of Staff Legal Bulletin Nos. 14F and 14G.

Very truly yours,

Sam Whittington

Enclosures

NATIONAL CENTER
FOR PUBLIC POLICY RESEARCH

Via FedEx and Email (shareholderproposal@apple.com)

August 16, 2018

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

Dear Ms. Adams,

Enclosed please find a Proof of Ownership letter from UBS Financial Services Inc. in connection with the shareholder proposal submitted under Rule 14(a)-8 (Proposals of Security Holders) of the United States Securities and Exchange Commission's proxy regulations by the National Center for Public Policy Research to Apple Inc. on August 3, 2018.

Copies of correspondence or a request for a "no-action" letter should be forwarded to Justin Danhof, Esq, General Counsel, National Center for Public Policy Research, 20 F Street, NW, Suite 700, Washington, DC 20001 and emailed to JDanhof@nationalcenter.org.

Sincerely,

Justin Danhof, Esq.

Enclosure: Ownership Letter

UBS

**UBS Financial Services Inc.**
1501 K Street NW, Suite 1100
Washington, DC 20005
Tel. 202-585-4000
Fax 855-594-1054
Toll Free 800-382-9989
http://www.ubs.com/team/cfsgroup

**CFS Group**

Anthony Connor
Senior Vice President - Investments
Senior Portfolio Manager
Portfolio Management Program

Bryon Fusini
First Vice President - Investments
Financial Advisor

Richard Stein
Senior Wealth Strategy Associate

www.ubs.com

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

August 16, 2018

# Confirmation: Information regarding the account of The National Center for Public Policy Research

Dear Ms. Adams,

The following client has requested UBS Financial Services Inc. to provide you with a letter of reference to confirm its banking relationship with our firm.

The National Center for Public Policy Research has been a valued client of ours since October 2002 and as of the close of business on 08/03/2018, the National Center for Public Research held, and has held continuously for at least one year 28 shares of the Apple Inc. common stock. UBS continues to hold the said stock.

Please be aware this account is a securities account not a "bank" account. Securities, mutual funds and other non-deposit investment products are not FDIC-insured or bank guaranteed and are subject to market fluctuation.

**Questions**
If you have any questions about this information, please contact Dianne Scott at (202) 585-5412.

UBS Financial Services is a member firm of the Securities Investor Protection Corporation (SIPC).

Sincerely,

Dianne Scott
UBS Financial Services Inc.

cc: Justin Danhof, Esq., National Center for Public Policy Research