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

DIVISION OF
CORPORATION FINANCE

March 29, 2019

Brad Rock
DLA Piper LLP
brad.rock@dlapiper.com

Re: Ross Stores, Inc.
Incoming letter dated January 18, 2019

Dear Mr. Rock:

This letter is in response to your correspondence dated January 18, 2019 concerning the shareholder proposal (the "Proposal") submitted to Ross Stores, Inc. (the "Company") by Christine Jantz (the "Proponent") for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders. We also have received correspondence on the Proponent's behalf dated February 18, 2019. 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: Sanford J. Lewis
sanfordlewis@strategiccounsel.net

March 29, 2019

Response of the Office of Chief Counsel
Division of Corporation Finance

Re: Ross Stores, Inc.
Incoming letter dated January 18, 2019

The Proposal requests that the board prepare a climate change report to shareholders by November 1, 2019 that describes how the Company is aligning its long-term business strategy with the projected long-term constraints posed by climate change, and describing medium- and long-term goals for GHG reduction.

We are unable to concur in your view that the Company may exclude the Proposal under rule 14a-8(i)(7). In our view, the Proposal transcends ordinary business matters and does not seek to micromanage the Company to such a degree that exclusion of the Proposal would be appropriate. Accordingly, we do not believe that the Company may omit the Proposal from its proxy materials in reliance on rule 14a-8(i)(7).

Sincerely,

Courtney Haseley
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.

SANFORD J. LEWIS, ATTORNEY

Via electronic mail

February 18, 2019
Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: Shareholder Proposal to Ross Stores, Inc.
Regarding Climate Change on Behalf of Christine Jantz

Ladies and Gentlemen:

Christine Jantz (the “Proponent”) is beneficial owner of common stock of Ross Stores, Inc. (the “Company”) and has submitted a shareholder proposal (the “Proposal”) to the Company. I have been asked by the Proponent to respond to the letter dated January 18, 2019 ("Company Letter") sent to the Securities and Exchange Commission by Brad Rock of DLA Piper. In that letter, the Company contends that the Proposal may be excluded from the Company’s 2019 proxy statement. A copy of this letter is being emailed concurrently to Brad Rock.

Our response includes a Summary indexed with page references to the detailed Analysis and Response that follows.

Based on the enclosed materials, we believe it is clear that the Company has provided no basis for the conclusion that the Proposal is excludable from the 2019 proxy statement pursuant to Rule 14a-8. As such, we respectfully request that the Staff inform the Company that it is denying the no-action letter request. If you have any questions, please contact me at 413 549-7333 or sanfordlewis@strategiccounsel.net.

Sincerely,

Sanford Lewis

cc: Brad Rock

PO Box 231 Amherst, MA 01004-0231 • sanfordlewis@strategiccounsel.net • (413) 549-7333

SUMMARY
Response to No Action Request
2019 Proxy Season

Ross Stores
Proposal for Climate Change Report
(Page References in this Summary are to pages of
Attached ***ANALYSIS AND RESPONSE)***

The Proposal asks the Company to issue a climate change report that describes how it is aligning its long-term business strategy with the projected long-term constraints posed by climate change, and to describe medium- and long-term goals for greenhouse gas (GHG) reduction. In the supporting statement, the Proponent recommends that the report be prepared "with an eye toward" the applicability of goals such as eliminating the company's carbon footprint, or reducing GHGs over the medium- and long-term by a fixed amount that is consistent with the 2015 Paris Climate Agreement and the 2018 IPCC report.

Climate change is a significant policy issue long recognized by the Staff. Page 2.

The issue is a significant policy issue for the company as a large operation with significant climate impact, and material risks associated with climate change. Pages 2-7.

The remaining ordinary business question presented is whether the manner in which the Proposal seeks to address the subject matter micromanages. The Company Letter asserts that allowing a vote on the proposal would enable inappropriate involvement by shareholders. In fact, disallowing the Proposal would entail inappropriate interference in robust market activity that is already underway, and would undermine current market activities in portfolio construction, ESG risk management, engagement and governance. Page 1.

We do agree with the Company Letter on one point – the Proposal does intend to require the board and management to adjust its priorities to address GHG emissions. Long-standing SEC practice supports allowing shareholders to ask the board and management to focus more attention on management of greenhouse gas emissions and the limitations that climate change will likely impose on the Company. This form of strategic focus of shareholders through the proposal process is not considered micromanagement under long-standing practice and under the Commission's 1998 Release. In the 1998 Release, the Commission clarified it did not intend to exclude as ordinary business or micromanagement all proposals seeking detail or seeking to promote timeframes or methods. The Commission wrote: "commenters thought that the examples cited seemed to imply that all proposals seeking detail, or seeking to promote timeframes or methods, necessarily amount to ordinary business. . . **We did not intend such an implication. Timing questions, for instance, could involve significant policy where large differences are at stake, and proposals may seek a reasonable level of detail without running afoul of these considerations**." (Emphasis added)

Therefore, where the proposal is directed toward a large difference on a significant issue for a company and society, and where the details are at a “reasonable level,” a proposal directed toward that issue and those details is not excludable on the basis of micromanagement. Pages 7-11.

There has always been room in the shareholder proposal process for shareholders to advise a company through voting on a proposal to ask a company *to reduce its impact on the environment.* The current Proposal involves just such a strategic framework, directed toward encouraging the management to monitor and set goals for the scale and pace of its response to climate change, and as such, the Proposal does not impermissibly substitute the judgment of shareholders for the judgment of the Company. Pages 8-11

Large differences are at stake. While Ross Stores, Inc. engages in some energy efficiency enhancement measures, it apparently neither calculates nor discloses estimated greenhouse gas emissions from its operations. It also has not established goals for reducing GHGs based on any timeframe. Pages 11-12

Contrary to the Company Letter, the Proposal does not involve intricate details. In order to support the Company’s claims that the proposal micromanages, the Company Letter reinterprets the language of the Proposal to eliminate the discretionary elements and reads into the Proposal a level of detail that is neither present nor implied. For instance, the Company Letter attempts to treat the development of a medium- and long-term strategy as if it is an inappropriately imposed time frame. It is not. If the Company is engaging in a shortsighted or overly-narrow approach to a long-term challenge like climate change, it is entirely appropriate for its investors to pose these issues through the proxy process. The current Proposal is framed on broad parameters through which investors can reasonably assess whether the scale and pace of Company efforts are aligned with the long-term constraints that climate change will pose. Pages 11-17

Contrary to the Company Letter, the Proposal does not probe too deeply into matters on which stockholders are not in a position to make an informed judgement. As an example, Ross Stores is a member of the Retail Industry Leadership Association, which has publicized other companies’ *leadership strategies,* entirely consistent with the request of the Proposal. Shareholders can reasonably ask the company why it is not adopting the leadership strategy profiled by its own Association on this critical issue of climate impact. Pages 5-7.

The question framed by the Proposal is a matter on which market-wide evidence demonstrates that shareholders are well equipped to make an informed judgment. Numerous initiatives of shareholders involving trillions of dollars in assets currently seek disclosure and action consistent with the Proposal. The actions requested in the Proposal are necessary for both comparing companies and portfolio construction, and also to protect the long-term interests of beneficiaries. It would be inappropriate for the Securities and Exchange Commission, as an investor protection body, to undermine the extensive web of constructive engagement, compilation of metrics, portfolio construction, and client relationships that are dependent on the ability of proponents to continue to engage with companies on these issues. Pages 18-22.

Therefore, the Proposal does not micromanage and is not excludable pursuant to Rule 14a-8(i)(7).

THE PROPOSAL
Proposal on Greenhouse Gas Emissions Goals

Whereas:
In October 2018, the Intergovernmental Panel on Climate Change (IPCC) reaffirmed the 2015 Paris Agreement which aimed to strengthen the global response to the threat of climate change. As a country, the United States is still one of the Parties committed to the 2015 Paris Agreement;

The 2018 IPCC report indicated that the world is projected to reach a dangerous level of climate change by the year 2040 unless drastic steps are taken to slow or reverse climate change: "No limit warming to 1.5°C, mitigation would have to be large-scale and rapid";

According to a 2015 report by Citigroup, the costs of failing to address climate change could lead to a $72 trillion loss to global GDP;

Ross Stores' peers that have set greenhouse gas (GHG) management goals include: TJX Companies, Target Corporation, L Brands, and PVH Corporation;
Examples of other companies with GHG reduction goals include: Walmart, Apple, Johnson & Johnson, GM, AT&T, Procter & Gamble, JP Morgan Chase, McDonald's, and Microsoft;

Retail store GHG emissions arise primarily from electricity usage in retail stores, as well as manufacturing and transportation of products sold to customers, yet Ross Stores has not set a long-term goal for managing GHG emissions;

We believe that committing to aligning long-term business strategy with the projected long-term constraints posed by climate change is important for companies generally and Ross Stores specifically to help protect society from the ravages of climate change and to achieve sustainable long-term shareholder value;

We propose that the company develop its own long term strategy consistent with the international agreements on climate change.

Resolved: The shareholders request that the Board of Directors of Ross Stores (the "Company") prepare a climate change report to shareholders by November 1, 2019 that describes how the Company is aligning its long-term business strategy with the projected long-term constraints posed by climate change, and describing medium- and long-term goals for GHG reduction. The report should be prepared at reasonable expense and may exclude confidential information.

Supporting Statement:
Proponent recommends that the report be prepared with an eye toward the applicability of goals such as eliminating the company's carbon footprint, or reducing GHG's over the medium and long term by a fixed amount that is consistent with the 2015 Paris Climate Agreement and the 2018 IPCC report.

ANALYSIS AND RESPONSE TO EXCLUSION CLAIMS

Response to No Action Request
2019 Proxy Season

Ross Stores
Proposal for Climate Change Report

About the Proponent

The Proponent, Christine Jantz, is a beneficial owner of Ross Stores stock. She is also the CEO of Jantz Management LLC, an investment management company founded on Responsible Quantitative Value Investing™. The premise of the firm is that superior quantitative models will significantly outperform over the long term. By using a disciplined, quantitative value approach to consistently identify undervalued companies in ways that limit errors caused by human biases, Jantz Management creates and implements separately managed equity portfolios for institutions and individual investors.

Jantz Management's objective is to provide its clients with substantial excess return at near market levels of asset volatility in a diversified portfolio. The firm aspires to do all this while being a socially responsible enterprise that is respectful of its clients' values.

The present Proposal is in furtherance of the Proponent's investment strategy. One aspect of the Proponent's investment strategy is to ensure that portfolio companies are in alignment with long-term environmental, social, and governance (ESG) forces that the Proponent believes will influence long-term value and risk for the Company. In contrast to the current disclosures and activities by the Company, the Proponent seeks company–by-company articulation of how a firm is aligning its long-term business strategy with the projected long-term constraints posed by climate change. In seeking a description of medium- and long-term goals for GHG reduction, the Proposal creates the possibility of comparability between companies and clarity for investors, and also aids investors in ESG-related decisions in portfolio construction that considers, among other things, the long-term economic impacts on each holding that may be posed by climate change-related developments, such as abrupt infrastructure transitions that may become necessary during the inevitable policy response to the global climate emergency.

Quantitative investment strategies employed by the Proponent incorporate environmental scores, including GHG emissions data and evaluation of management of emissions, for each company in the investable universe. Improvement in environmental data and disclosures, including reduction of emissions, is material to the selection of securities and the portfolio construction process. The absence of company data on GHG emissions and targets results in less accurate measures of company environmental risk factors.

ANALYSIS

The Proposal may not be Excluded under Rule 14a-8(i)(7) Where it Exclusively Addresses Matters Related to the Significant Policy Issue of Climate Change and Does Not Micromanage, Even Where it may Impact Ordinary Business Operations.

The Company Letter asserts that the Proposal is excludible under Rule 14a-8(i)(7).

The legal framework for Rule 14a-8(i)(7) developed by the Commission, Staff, and the courts, including under the Staff Legal Bulletins 14I and 14J, comprises a four-part test:

Question 1**.** **Ordinary Business.** Does the proposal touch on "ordinary business"? That is, does it touch on issues that are integral to the day-to-day management and operations of the company?[1]

Question 2. **Significant Policy Issue.** If the answer to Question 1 is yes, is the subject matter nevertheless a significant policy issue – a subject of widespread public debate? In those cases in which a proposal's underlying subject matter transcends the day-to-day business matters of the company and raises policy issues so significant that it would be appropriate for a shareholder vote.[2]. Examples recognized by the Commission and the Staff include such topics as climate change, environmental impact, human rights, discrimination, as well as virtually all issues of corporate governance.

Question 3. **Nexus.** If the answer to Question 2 is yes, the next question is: Is there a nexus of the subject matter to the Company - does the subject matter of widespread public debate relate significantly to the company's business or strategy? If there is a reasonable basis for concluding that the proposal's subject matter is a significant policy issue for the company, it transcends ordinary business at the company.[3]

Question 4. **Micromanagement**. Even if the proposal's subject matter transcends ordinary business (number two) and has a connection to the company (number three), the proposal still may be excludable if the approach of the proposal micromanages the company's business. The Staff has restated most recently its perspective on micromanagement in Staff Legal Bulletin 14 J, and with reference to consistency with the Commission's 1998 Release. **The essential guidance of the Commission requires that the proposal be addressed toward a "large issue" and only include "reasonable details."**

---

[1] Staff Legal Bulletin 14H published in 2015 described ordinary business in terms of the "nitty gritty" of corporate management: "a proposal may transcend a company's ordinary business operations even if the significant policy issue relates to the "nitty-gritty of its core business."

[2] Staff Legal Bulletin No. 14E (October 27, 2009).
[3] Staff Legal Bulletin No. 14I (November 1, 2017).

<u>The Proposal directly and solely focuses on a significant policy issue facing the Company and the economy: climate change.</u>

Although the current Proposal touches on issues of ordinary business such as the electricity and fuel used to operate stores and transport goods, it is appropriately focused on a significant policy issue: climate change. Despite the Company's attempt to distinguish itself from non-energy companies, we note that the Staff has long held that proposals addressing climate change have also been found to raise significant policy issues and to have adequate nexus for proposals on climate impacts, goals, and transitions at various types of non-energy companies that are engaged in similar energy-consuming and GHG-generating activities, for example at other retailers in *TJX Companies Inc.* (Feb. 6, 2017), *Lowes Companies Inc.* (March 10, 2017) and *Kohl's* (January 28, 2014) and at Financial Services companies: *PNC Financial Services Group, Inc.* (February 13, 2013) and *Goldman Sachs Group, Inc.* (February 7, 2011).

These rulings, finding a nexus of climate change to a wide array of sectors, and not limited to the manufacturing, utility and resource extraction sectors, were consistent with the Commission's 2010 climate guidance which made it clear that a wide array of sectors may be materially affected by climate change.[4] The guidance cites numerous state and federal regulatory activities, including the California Global Warming Solutions Act, the Regional Greenhouse Gas Initiative, the Western Climate Initiative, the Clean Energy Jobs and American Power Act of 2009, and EPA's greenhouse gas reporting program.

This new disclosure guidance was needed, according to the SEC because "the regulatory, legislative and other developments described could have a significant effect on operating and financial decisions." **This guidance demonstrates that the SEC recognizes climate change as a significant public policy issue affecting many businesses.**

The Guidance describes various ways that registrants may be required to disclose climate related risks under existing reporting requirements. Among other things, the guidance notes that *financial risks may arise from physical risks to entities other than the registrants themselves*. Climate Guidance, p. 7. Thus, the Guidance embraced an understanding that assessments of financial risks by investors may well include consideration of the portfolio-wide impact of carbon emissions by an individual portfolio company.

<u>The Subject Matter has Nexus for the Company</u>

As noted in the Company Letter, Ross operates some 1,720 stores. Its principal sources of energy consumption, and therefore of greenhouse gases attributable to its operations, are related to electricity and heat for its stores, and transportation of goods. In the retail sector, electricity consumption and transportation of goods will be affected by the constraints of climate change. To the extent that a company is reliant on fossil fuel-based energy sources, the Proponent believes there is strong potential for disruption because an inevitable policy response to climate change will drive restraints on carbon in energy sources. Tracking and reducing climate impact of the company is both the best way for the company to avoid these disruptions, and also, when

[4] "Guidance to Public Companies Regarding the Commission's Existing Disclosure Requirements as they Apply to Climate Change Matters," February 8, 2010 (Release Nos. 33-9106; 34-61469; FR-82).

such activities are spread across the economy, an appropriate strategy for reducing climate change and therefore reducing portfolio wide impacts. (See additional discussion of Inevitable Policy Response effortsby Principles of Responsible Investment later in this letter.)

• The Proponent estimates on an order of magnitude basis based on the available data from other companies that as an operator of nearly 2,000 stores, and with responsibility for transport to those stores, the Company could be a source of around 500,000 metric tons or more of carbon dioxide equivalents per year. According the US EPA equivalency calculator, this is the equivalent of 100,000 cars driven in a year.[5]

• Prices and availability of energy sources are expected to face constraints in the future. As noted above, the proponent believes that this focus on climate change and greenhouse gases is an important means of future-proofing the Company.

• The Company's target consumer demographic is young people, including millennials. This group[6] cares about climate change more than the general population. Therefore, this can be a significant branding and reputation issue for the Company's long-term success.[7]

• In the retail sector, firms the Company has identified as its competitors[8] have adopted strategies consistent with the Proposal – demonstrating the feasibility and relevance of the Proposal to the sector and the Company. Contradicting the Company's assertion that "its off-price business model [provides] significantly less opportunity for Ross Stores to influence the carbon footprint of its merchandise supply chain," peer companies, some of whom have similar sourcing strategies, have nevertheless found it strategically valuable and appropriate to develop quantitative GHG reduction goals. Some examples include:

TJX Companies[9] ("TJX") is working to reduce its global GHG emissions per dollar of revenue by 30% by fiscal 2020, against a fiscal 2010 baseline. TJX states that is on track to exceed this goal, and is also in the process of considering options for setting its next quantitative emissions reduction goal. As part of that process, TJX is undertaking a feasibility assessment for creating a

---

[5] https://www.epa.gov/energy/greenhouse-gas-equivalencies-calculator

[6] "Millennials have the strongest affinity of any age group to off-price retailers, a December Cowen survey found.": https://money.cnn.com/2018/07/30/news/companies/ross-stores-tj-maxx-burlington-off-price-discount-retail/index.html

[7] https://ecoamerica.org/climate-change-a-rising-policy-priority-for-millennials/
Millennials and the Rising Electorate. ecoAmerica's March 2018 American Climate Perspectives Survey found that a strong majority of millennials (87%) are personally concerned about climate change, surpassing the national average by over 10 points. Pew's results corroborated the report's conclusion that millennials are both a formidable rising electorate and also an importantly burgeoning climate constituency. "Addressing global climate change is the only issue, among 19 included in the survey, which is viewed by significantly more people under 30 (56%) than those 65 and older (37%) as a top policy priority."
https://www.axios.com/poll-millennials-care-about-climate-change-1519649123-0c3a4634-dd7b-4e12-a1a2-19fca93aa3b7.html

[8] See "Comparative Framework":
https://www.sec.gov/Archives/edgar/data/745732/000074573218000008/fy2018proxy.htm, as well as Nasdaq's listing of competitors in the industry: https://www.nasdaq.com/symbol/rost/competitors. See also Value Line's determination of peer group:
http://www.valueline.com/Stocks/Highlights/From_the_Survey__Ross_Stores.aspx#.XGdxilVKhhE

[9] http://www.tjx.com/responsibility/environment/

science-based target and is considering options that range from a two-degree scenario to a carbon neutral scenario.

Target Corporation[10] sets its goals through the Science-Based Targets Initiative. Target is committed to reducing its absolute Scope 1 and 2 greenhouse gas emissions by 25% below 2015 levels by 2025. Target will implement projects in its owned brand manufacturing facilities that will result in the avoidance of 2 million metric tons of Scope 3 emissions annually by 2022. Target is also committed to developing an additional Scope 3 goal that, coupled with its Scope 1 and 2 goals, will fulfill its commitment to the Science-Based Targets initiative. To achieve these goals, Target will focus its efforts on increasing the adoption of renewable energy in its own operations, its supply chain, and on the electricity grid; increasing energy efficiency in operations; investing in innovations that support the transition to a lower-carbon transportation system, including vehicle electrification; and consider climate impacts in raw materials sourcing, particularly the impacts of land use change, and designing plans to mitigate those impacts.

PVH Corporation,[11] an apparel company with brands in its portfolio such as CALVIN KLEIN, TOMMY HILFIGER, Van Heusen, IZOD, ARROW, Speedo, Warner's, Olga, Geoffrey Beene, and True&Co., seeks to make products and business operations that "generate zero waste, zero carbon and zero hazardous chemicals..." Specifically, PVH has declared support for the Paris Climate Accord and set a global target to reduce greenhouse gas emissions at their facilities by 35 percent by 2030.

L Brands,[12] which has a clothing and accessories portfolio including Victoria's Secret, Bath & Body Works, and Pink, reports a 19.4% decline in its carbon footprint since 2013. In 2010 and in partnership from the U.S. EPA Climate Leaders program, L Brands established a long-term corporate-wide greenhouse gas (GHG) reduction goal. L Brands pledged to reduce its absolute GHG emissions for US Direct and Indirect activities by 3 percent from 2007 to 2014. In 2012 (based on Calendar Year 2011 emissions), L Brands achieved that GHG reduction goal and was recognized by the U.S. EPA's Center for Corporate Climate Leadership with a 2013 Excellence in Greenhouse Gas Management (Goal Achievement) Award.

• Notably, the Company has also attempted to claim its place in the sector as a "leader" as a member of the **Retail Industry Leadership Association (RILA).** The Association has highlighted the very kinds of measures sought by the Proposal as those being adopted by sector leaders to address climate change. A July 13, 2018 news release from the Association,[13] describes retail leaders' greenhouse gas strategies:

> *Retail Industry Leadership Association July 13, 2018*
> *Retailers leading the way on climate action to enhance competitiveness*

[10] https://corporate.target.com/corporate-responsibility/planet/climate
[11] https://pvh.com/~/media/PVH/Files/corporate-responsibility/cr2017/PVH%202017%20CR%20Report.ashx
[12] https://www.lb.com/responsibility/environment/energy--climate
[13] The RILA describes itself as : As the retail industry's advocate in Washington, RILA is a trusted source dedicated to telling the retail industry's story and informing lawmakers of the impact and consequences of the decisions they make. On the retail operations side, RILA provides a forum where members can conduct discussions aimed at understanding common operational practices, areas of concern and pragmatic solutions to problems.

Retail can be a tough business. Responding to changing consumer expectations, keeping costs low, and working with complex supply chains can make it challenging for retailers to be profitable and sustainable in today's rapidly changing global economy.

But many leading US retailers are proving that taking action on energy reduction, renewable energy, and climate change is good for business, the customer, and the environment.

A growing list of retailers are making strategic climate commitments, including a commitment to set science-based targets to ensure their emission reduction plans are in line with the level of decarbonization required to keep global temperature increase below 2°C.

So far, this list includes ALDO Group, Best Buy, Eileen Fisher, Gap, Guess?, H&M, IKEA Group, Levi Strauss & Co., NIKE, Target, VF Corporation, Walmart and many more — many of which are RILA members. Of this group, IKEA Group and Walmart have also had their targets successfully approved by the Science Based Targets initiative.

Walmart, the world's largest retailer, is looking to enlist the help of its supply chain as part of its efforts to drive down emissions. Last year the company launched Project Gigaton, a challenge to its direct Tier 1 suppliers to collectively cut one gigaton (1 billion metric tons) of greenhouse gas (GHG) emissions from their operations by 2030. That is equivalent to taking more than 211 million passenger vehicles off US roads and highways for a year.

And it's already yielding results. At this year's Sustainability Milestone Summit, Walmart announced that more than 400 suppliers with operations in over 30 countries have joined the program. Together these suppliers are already reporting emissions reductions in excess of 20 million metric tons.

What's more, Walmart itself saved nearly $1 billion in a single year and cut almost 650,000 tonnes of CO2 emissions in their own operations, as part of its science-based target, which is approved by the Science Based Target initiative. Walmart is also committed to transitioning to 100% renewable electricity with RE100.

***

IKEA recently unveiled its updated People & Planet Positive strategy. A key component of this strategy is IKEA's science-based target — recently approved by the Science Based Target initiative — to reduce emissions from their stores and other operations 80% by 2030, as well as reducing GHG emissions from customer and co-worker travel and customer deliveries by 50% in relevant terms, and reducing GHG emissions from their value chain relating to home furnishing products and food by at least 15% (all against a 2016 baseline).

IKEA recognizes, as a company with a large global footprint, they have the ability to help drive dive down emissions in households around the world and have addressed the emissions associated with the products they sell, saying that their commitment to tackle supply chain emissions translates to a 70% reduced climate footprint on average per IKEA product.

This is part of the company's long-term net zero vision and is backed by a strong track record of action on climate. IKEA has, for example, already switched its entire range of light bulbs to LEDs and has to date sold some 85 million LED bulbs. If all the bulbs that IKEA has sold

> replaced incandescent light bulbs, they would save enough energy to power 750,000 households for a year.
>
> Meanwhile, Best Buy has committed to reduce carbon emissions 60 percent by 2020 as part of its bid to take action on climate change. In 2016, Best Buy passed its own goal to reduce absolute carbon emissions by 45 percent, from a 2009 base year. Stepping up from 45 percent to 60 percent carbon reduction is equivalent to removing 32,000 cars from the road for an entire year, the company said.
>
> This helped Best Buy achieve a top-ranking A- CDP score in 2017 for its climate-management strategies and carbon-emissions reduction, which clothing retailer Gap Inc. also gained last year.
>
> Gap Inc. has installed LED lighting at 1,000 stores while pursuing energy efficiency measures, as part of its climate action strategy. The clothing maker is committed to reducing absolute scope 1 and 2 GHG emissions in its owned and operated facilities globally by 50% by 2020.
>
> ***
>
> Meanwhile, Target is committed to reducing its absolute Scope 1 and 2 GHG emissions by 25% by 2025, compared to 2015 levels, and is the process of developing an additional Scope 3 goal. The retailer is making progress on these targets by ramping up its use of renewable power, increasing the energy-efficiency of heating and lighting sources in stores and actively managing its refrigerant inventory.
>
> These retailers are harnessing climate action through their science based target commitments as a driver of innovation, competitiveness, risk management and growth. Given the central role cost-effective renewable energy will play in meeting these commitments, it is no surprise many of these brands are all also members of Employers for Renewable Energy (ERE), a coalition representing job creators nationwide who support state policies that enable greater customer choice of renewable energy and strong competition among producers.
>
> ###

MICROMANAGEMENT

<u>Articulating and applying the micromanagement standard</u>

The crux of the Company Letter is an assertion that the Proposal micromanages. Before review of the company's micromanagement claims, we believe it is appropriate to articulate the micromanagement standard based on the Staff's recent decisions and guidance, as well as the long-established guidance on this point from the Commission. In Staff Legal Bulletin 14J, Staff attempted to consolidate its discussion of micromanagement.

> As the Commission has explained, a proposal may probe too deeply into matters of a complex nature if it "involves intricate detail, or seeks to impose specific time-frames or methods for implementing complex policies. The Division applies this framework when evaluating whether a proposal micromanages a company and is therefore excludable. For example, the Division agreed that a proposal to generate a plan to reach net-zero greenhouse gas emissions by the year 2030,

> which sought to impose specific timeframes or methods for implementing complex policies, was excludable on the basis of micromanagement. [Citing *Apple Inc.* (Dec. 5, 2016)]
>
> This framework also applies to proposals that call for a study or report. For example, a proposal that seeks an intricately detailed study or report may be excluded on micromanagement grounds. [Citing *Ford Motor Company* (Mar. 2, 2004).] In addition, the staff would, consistent with Commission guidance, consider the underlying substance of the matters addressed by the study or report. Thus, for example, a proposal calling for a report may be excludable if the substance of the report relates to the imposition or assumption of specific timeframes or methods for implementing complex policies.

However, the Bulletin also noted that it was the Staff's intention to implement this new framework "consistent with the Commission's guidance:"[14]

> We believe that the above framework is consistent with the Commission's guidance in this area…

In this instance, turning to the Commission's guidance is particularly helpful, because the Commission has made it ***abundantly clear*** that it has not endorsed nor proposed a prohibition against requests for timelines or specific methods. Quite to the contrary, the Commission in the 1998 Release, the most recent and authoritative Commission-level statement regarding the application of micromanagement – made clear that requests regarding methods and timelines are not prohibited:

> . . . in the Proposing Release we explained that one of the considerations in making the ordinary business determination was the degree to which the proposal seeks to micromanage the company. We cited examples such as where the proposal seeks intricate detail, or seeks to impose specific timeframes or to impose specific methods for implementing complex policies. **Some commenters thought that the examples cited seemed to imply that all proposals seeking detail, or seeking to promote timeframes or methods, necessarily amount to ordinary business. . . We did not intend such an implication. Timing questions, for instance, could involve significant policy where large differences are at stake, and proposals may seek a reasonable level of detail without running afoul of these considerations.** (Emphasis added).

Thus, the Commission has articulated the key criteria for determining whether a proposal micromanages – Are large differences at stake? Does the proposal seek a reasonable level of detail?

Defining "Large Differences"

Inherent in the shareholder proposal process is the right of shareholders of all sizes to pose questions regarding a Company's large issues of societal impact. The right of shareholders to focus in proposals on societal impacts by a company is in accord with positions set forth by the Commission and the courts. The Commission has made clear since 1976 that proposals addressing business choices with major implications for society transcend ordinary business:

[14] *See* Release No. 34-40018 (May 21, 1998).

> [A] proposal that a utility company not construct a proposed nuclear power plant has in the past been considered excludable … In retrospect, however, it seems apparent that the economic and safety considerations attendant to nuclear power plants are of such magnitude that a determination whether to construct one is not an “ordinary” business matter. Accordingly, proposals of that nature, as well as others that have major implications, will in the future be considered beyond the realm of an issuer's ordinary business operations, and future interpretative letters of the Commission's staff will reflect that view. Exchange Act Release 3412999 (Nov. 22, 1976).

The Staff decisions in the decades subsequent to 1976 identified various significant policy issues that transcend ordinary business where the proposal asked the company to reduce its impacts on society in various arenas, some of which include: pollution, human rights violations, climate change, discrimination, slavery, and doing business with governments and companies implicated in genocide.

The shareholder right and duty to weigh in on a company’s impacts on society was judicially clarified in *Medical Committee for Human Rights v. SEC,* 432 F.2d 659 (D.C. Cir. 1985) in which the D.C. Circuit Court of Appeals found that shareholder proposals are proper (not ordinary business) when they raise issues of corporate social responsibility or question the "political and moral predilections" of board or management. The takeaway from this decision is that board and management have no monopoly on expertise over investors when it comes to guiding company strategy on issues with broad and significant social consequence. Investors are entitled to weigh in through the shareholder proposal process.

Medical Committee involved a proposal at Dow Chemical seeking an end to the production and sale of napalm during the Vietnam War. The proposal requested the Board of Directors adopt a resolution setting forth an amendment to the Composite Certificate of Incorporation of the Dow Chemical Company that napalm shall not be sold to any buyer unless that buyer gives reasonable assurance that the substance will not be used on or against human beings. The SEC initially found the proposal was excludable. The appellate court in *Medical Committee* remanded the no-action decision to the SEC for further deliberation by the SEC consistent with the court’s conclusion that the SEC should defend the rights of shareholders to file proposals directed toward significant social issues facing a company.

In deciding *Medical Committee*, the court noted that **it would be appropriate for shareholders to use the mechanism of shareholder democracy to pose “to their co-owners, in accord with applicable state law, the question of whether they wish to have their assets used in a manner which they believe to be more socially responsible.” The court further noted such a choice was not appropriately reserved to the board or management.** The same logic applies here – directing the business away from harmful and financially risky activities associated with carbon emissions is not a choice reserved exclusively to management or boards.

As stated in *Medical Committee*:

> [T]he clear import of the language, legislative history, and record of administration of section 14(a) is that its overriding purpose is to assure to corporate shareholders the ability to exercise their right — some would say their duty — to control the important

> decisions which affect them in their capacity as stockholders and owners of the corporation. (*SEC v. Transamerica Corp*., 163 F.2d 511, 517 (3d Cir. 1947), cert. denied, 332 U.S. 847, 68 S. Ct. 351, 92 L. Ed. 418 (1948)).
>
> * * *
>
> What is of immediate concern…is the question of whether the corporate proxy rules can be employed as a shield to isolate such managerial decisions from shareholder control. After all, it must be remembered that "[t]he control of great corporations by a very few persons was the abuse at which Congress struck in enacting Section 14(a)." *SEC v. Transamerica Corp.*, supra, 163 F.2d at 518. We think that there is a clear and compelling distinction between management's legitimate need for freedom to apply its expertise in matters of day-to-day business judgment, and management's patently illegitimate claim of power to treat modern corporations with their vast resources as personal satrapies implementing personal political or moral predilections. It could scarcely be argued that management is more qualified or more entitled to make these kinds of decisions than the shareholders who are the true beneficial owners of the corporation; and it seems equally implausible that an application of the proxy rules which permitted such a result could be harmonized with the philosophy of corporate democracy which Congress embodied in section 14(a) of the Securities Exchange Act of 1934.

In the decades that followed, numerous proposals on diverse subject matters have appropriately asked companies to change their business model in some way that reduced impact, and were not excluded. The strategic choices regarding reducing large impacts of the company on society have long been established as within the protected zone of shareholder democracy.

Contrasting *Small* Differences

What is a “small” difference that is excludable? An often-cited example of a “small” difference between a proposal’s request and company actions was highlighted by a proposal filed with DuPont over the timing of the phase-out of ozone-depleting CFCs. Where the company had effectively come into line with the proponent’s original requested phase-out date for CFCs, the court held that the negligible difference from the proponent’s requested date and the company’s planned phase-out date no longer amounted to a significant policy issue and could be considered a matter of ordinary business. *Roosevelt v. E.I. Du Pont De Nemours & Company*, 958 F.2d 416 (1992) (“*Dupont*”).

The important takeaway here is that until the recent Staff decisions discussed below, most notably *EOG Resources*, it has never been the case that a request to set a goal for reducing impact, even over a specific number of years, constituted micromanagement. It is clear that under the Commission guidance and the DuPont precedent, that a request that a company set goals, even with regard to a specific year, can be a large difference that is not considered micromanagement.

Defining “Reasonable Detail”

A long line of Staff decisions have held that Proposals are excludable on the basis of micromanagement where they seek prescriptive actions on day-to-day levels of minutia. For instance, in *Marriott International Inc.* (March 17, 2010) the proposal addressed minutia of operations – prescribing the flow limits on showerheads. In *Duke Energy Corporation* (February 16, 2001) the proposal attempted to set what were essentially regulatory limits on the company – an 80% reduction in nitrogen oxide emissions from the company's coal-fired plant and a limit of 0.15 lbs of nitrogen oxide per million British Thermal Units of heat input for each boiler. This proposal was found excludable despite its objective of addressing significant environmental policy issues. Similarly, a *highly detailed study* was sought on global warming or cooling in *Ford Motor Company*, (March 2, 2004). These are important examples of proposals that sought "excess" detail. As will be discussed further below some recent proposals also appeared to include excess detail from the Staff’s perspective, e.g. *Apple* and *Deere & Co.*

Thus, following the advice presented in the 1998 Release the critical micromanagement inquiries involve whether the proposal addresses a “large” difference and “reasonable details.”

The form of the proposal rather than the subject matter is determinative of micromanagement.

The Staff recognized in Staff Legal Bulletin 14J that it is the form of a proposal, rather than the subject matter, that makes it proper or improper for shareholder consideration:

> It is important to note, however, that the staff’s concurrence with a company’s micromanagement argument does not necessarily mean that the subject matter raised by the proposal is improper for shareholder consideration. Rather, in that case, it is the manner in which a proposal seeks to address an issue that results in exclusion on micromanagement grounds.

The present Proposal, crafted with consideration of the most recent guidance from the Staff, is intended to delineate this new dividing line for understanding micromanagement. As the Company has noted, the proposal by the Proponent has evolved over the years, most recently, rewritten in response to the latest Staff Legal Bulletin and decisions of 2017 and 2018.

ASSESSING WHETHER THE CURRENT PROPOSAL MICROMANAGES BASED ON COMMISSION GUIDANCE:

- **It addresses *large differences.***
- **It includes *reasonable details.***
- **Therefore, it does not micromanage.**

The Proposal Is Directed Toward a Large Difference

The Proposal here addresses the significant policy issue of climate change and addressing whether the company's long-term responses are in line with climate constraints. Since the company has **no such policy in place,** large differences in company action are at stake, is consistent with the Commission's 1998 Release.

The Proposal is intended to address the significant difference between the Company's current climate-related practices (not tracking its impact, nor assessing its impact against future impact or climate constraints) and the proposal to track such issues. The difference between actions currently adopted by the Company and what shareholders expect is quite large. It is therefore reasonable under the 1988 Release to address this issue and to expect a reasonable level of detail without running into micromanagement prohibitions.[15]

Indeed, when considering this large issue, the short-termism implications of excluding such proposals must be considered. If the Staff precludes the ability of shareholders to seek medium- and long-term targets from companies on a high-stakes issue like climate change, it effectively drives short-termism on an issue for which the long-term is what will count the most. Some of the factors that investors and their fiduciaries consider include duration (length of the investment to maturity) and utility/liquidity of their investments. If the Staff determines that consideration of medium- and long-term targets and risks are off limits, it may limit investment decisions on climate risk to inappropriately short time horizons.

The Company Letter asserts that the Proposal micromanages because the Company has certain policies and disclosures in place in relation to climate change that would be required to be supplemented with additional disclosures and management efforts if the Proposal were to be implemented. The Company, correctly, does not claim that its current policies or disclosures "substantially implement" the guidelines or essential purpose of the Proposal as would be required under Rule 14a-8(i)(10), but only that the Proposal delves too far into the ordinary business of the company by recommending policies that might drive the Company toward different risk management considerations, actions, or data gathering.

Notably, the items described in the Company's current climate policies and reporting stop short of any plan to reduce the Company's total greenhouse gas footprint and contribution to climate change. This is the thrust of the Proposal, and the "delta"[16] or change requested by the Proposal from current practices. The Company Letter describes the Company's existing climate report, but does not and could not assert that this report involves substantial implementation of the proposal's request.

The claims in the Company Letter that exclusion is appropriate because existing processes are complex, decisions and strategies are well-considered, and priorities have been set *amounts to an assertion that the performance and goals that the company has adopted* are not subject to any intervention or change request by the Company's investors. If this were the case, it would eliminate the vast majority of shareholder proposals directed toward improving performance or reducing negative impact of companies.

Staff's prior decisions do not support such a broad reading of micromanagement. Staff has

[15] 1988 Release, p. 6.
[16] Staff Legal Bulletin 14J.

consistently allowed proposals addressing an important public policy to go forward even where those proposals might interfere or change capital spending or investment decisions made by the companies.

Company Letter Attempts to Rewrite the Proposal into a Micromanaging Proposal

Toward its assertion of micromanagement, the Company Letter recasts the Proposal in a narrow and detailed form, in order to assert that it micromanages:

> Proposal is a request for the Board to develop a strategy and issue a report on it, in less than 6 months from the Company's annual meeting, **depicting how the Company will reduce or shift the sourcing for electricity used** in retail stores, distribution centers and offices (primarily for HVAV, lighting, IT systems, and machinery) and **reduce or substitute the fuel used for trucking** to ship merchandise to stores and distribution centers, so as to achieve significant reductions and eventually reach net-zero in greenhouse gas emissions from operations. [emphasis added]

This is a radical *rewrite* of the proposal. The Proposal asks the company, in six months, to prepare a climate change report to shareholders by November 1, 2019 that describes how the Company is aligning its long-term business strategy with the projected long-term constraints posed by climate change, and describing medium- and long-term goals for GHG reduction. This is expressed at a level of policy -- it does not require the company to make the detailed determinations described in this passage during the six month period, but only to engage at a policy level -- to set a course and a strategy (which might involve such details in later implementation), but not necessarily to work through the details and nuances of when and where it will reduce GHGs. The six months might, for instance, be well-spent studying the efforts of its sector peers and then establishing some company medium- and long-term goals in light of what others are accomplishing. The Company is also expected to consider the applicability of goals such as eliminating the company's carbon footprint, or reducing GHGs over the medium- and long-term by a fixed amount that is consistent with the 2015 Paris Climate Agreement and the 2018 IPCC report. These are policy ideas for the company to pursue; the Proposal is not determinative of when, or if, the company makes the changes described.

In addition to the approaches described, some of the other options that competitors and others apply include generating their own renewable energy and purchasing renewable energy credits. The proposal does not prejudge such approaches -- it asks the board and management to exercise their discretion to develop a strategy at suitable scale and pace.

Thus, the proposal as written contains ***"reasonable details"*** necessary for articulating advice from shareholders to the company through the instrument of shareholder democracy. Contrary to the Company's claims, the Proposal strikes an appropriate balance of respecting board and management discretion while providing direction from shareholders that the Company should consider aligning its carbon footprint with global climate policy and needs.

Despite the Company Letter's Reinterpretation, the Proposal Does Not Probe Too Deeply into Complex Matters

The Company Letter alleges that the Proposal probes too deeply into matters of a complex nature beyond the comprehension of shareholders, asserting for instance:

> As applied to the Company's operations, the Proposal thus addresses the complex, multifaceted issues of GHG emissions by imposing specific (and arbitrary) time-frames for the Company to develop and report on a prescriptive (and arbitrary) method (that is, achieving greatly reduced or net-zero GHG emissions), which would require the Company to evaluate and undertake decisions on a myriad of intricate details regarding its business that likely differ from what the Company would otherwise determine is best suited to its operations. The Proposal thus falls squarely within the scope of the 1998 Release by addressing intricate details, imposing specific time-frames, and positing a specific method for implementing complex policies.

Reading the company's detailed narrative regarding the complexities of considering greenhouse gas reduction, we believe their essential argument is not so much that the language of the Proposal prescribes numerous detailed elements of greenhouse gas management, but rather that being asked to undertake the task of addressing long-term greenhouse gas management strategy would necessitate the mobilization of many parts of the company, and could even require rethinking some policies and ways of doing business.

As demonstrated in the legal discussion above, the fact that a proposal asks a company to assess and mitigate a significant impact the company has on society does not constitute micromanagement. As long as the proposal addresses a *large issue* and has only *reasonable details*, it does not micromanage, as any proposal addressing a complex policy issue like climate change necessarily must delve into nitty-gritty issues.[17] Indeed, there must be sufficient detail in a proposal to allow shareholders and management to understand what is being requested, and how it differs from the company's current policies. Every proposal must strike the correct balance between specificity and vagueness.[18]

The claim that these issues are too complicated for shareholders' comprehension and participation ignores the strategic focus of the proposal. It also overrides the reality that the most of the investing marketplace seeks the guidance of a network of highly educated, experienced investment managers for the evaluation and incorporation of material risks into the stock selection and portfolio construction processes for assets held in their portfolios for a wide range of complex fundamental financial, statistical, scientific, behavioral, economic and technical factors in addition to the environmental factors under consideration in the current

[17] For instance, a proposal that merely asked the company to "step up the scale and pace of its responses to climate change" would be subject to challenge as vague or substantially implemented.

[18] If a proposal is too vague in defining what is requested, the Staff will exclude it under Rule 14a-8(i)(3). Further, a vague proposal that ***fails*** to ask for action scaled and paced to global needs - merely asking for a climate strategy - may also be subject to challenge by even the most poorly performing companies under Rule 14a-8(i)(10).

Proposal. As with other material factors, systematic and consistent factors are often sourced from third party providers using standardized metrics for evaluation of industry- and company-specific environmental risk. These environmental factors are neither more complex, different, or inappropriate for shareholder consideration as compared with many other material factors employed by investors in decision-making. Moreover, many investor strategies today rely explicitly on the type of ESG understanding sought by the Proposal.

<u>The details of the present proposal are written to follow Staff and Commission guidance on avoiding micromanagement</u>

The Company Letter discusses a number of recent Staff decisions that found certain proposals requesting targets, timelines, or specified methods constituted micromanagement and emphasizes that several prior proposals on climate change by the Proponent were excluded on the basis of micromanagement.

One of the strengths of the shareholder proposal process on a year-to-year basis is that as an iterative process, proponents can refile, working within the guidance provided by the Staff. This is the case in the evolving proposals by the Proponent. After recent rulings on micromanagement, and further informal communications with the Staff, the proponent redrafted the proposal in a form that she understood would meet the Staff's intended framework.

The proposal is not a mere repetition or as the Company letter alleges a "coded" version of the prior proposals by Jantz, but instead is less prescriptive – accomplishing the goals of encouraging portfolio companies to scale and pace their efforts consistent with the global climate transition, and in so doing, preserve long-term shareholder value.

The prior proposals that were excluded by the Staff as micromanaging were more detailed and prescriptive than the current Proposal. The Company Letter cites in great length to the prior decisions excluding the Proponent's proposals at *Apple*, *Deere & Company* and similar proposals at *Amazon* and *EOG Resources*.[19]

Several of the prior proposals that were excluded by the Staff as micromanaging were more detailed and prescriptive than the current Proposal. For instance, the proposal at *Apple* (Dec. 5, 2016) stated:

> **Resolved:** Shareholders request that the Board of Directors generate a feasible plan for the Company to reach a net-zero GHG emission status by the year 2030 for all aspects of the business which are directly owned by the Company and major suppliers, including but not limited to manufacturing and distribution, research facilities, corporate offices, and employee travel, and to report the plan to shareholders at reasonable expense, excluding confidential information, by one year from the 2017 annual meeting.
>
> **Supporting Statement:** For the purposes of this proposal, the proponent suggests that "net-zero greenhouse gas emissions status" be defined as reduction of GHG emissions

[19] *Apple Inc*. (Dec. 5, 2016); *Deere & Co*mpany (Dec. 5, 2016)); *Apple Inc*. (Dec. 21, 2017); and *Deere & Company* (Dec. 27, 2017)

> attributed to company facilities and major suppliers to a target annual level, and offsetting the remaining GHG emissions by negative emissions strategies which result in a documented reduction equal to or greater than the company and supplier GHG emissions during the same year. As explained by the IPCC, "negative emissions solutions" can range from tree-planting to technological solutions that draw carbon from the air.
>
> We recommend consistency of negative emissions strategies with Apple's renewable energy sourcing principles:
> • Displacement - displace polluting forms of energy;
> • Additionality - select projects that wouldn't be built without Apple's involvement;
> • Accountability - rigor in measuring and tracking.
>
> For purposes of this proposal "company facilities" include company owned or operated manufacturing, distribution, research, design or support facilities, corporate offices, and also including GHG's from employee travel. "Major suppliers" include operations contracted to produce and/or ship microchips, circuit boards, storage, screens, cameras, power supplies, or finished consumer electronics products on behalf of the company. In calculating net zero, the GHG impacts of emissions and activities can be considered using GHG equivalencies. http://www.epa.gov/cleanenergy/energy-resources/calculator.html.

After exclusion and review of staff decisions, the proposal was revised and resubmitted in 2017 with similar details, but eliminating the requirement for the company to achieve net zero by a specific date. Again, the proposal was excluded. The Staff decision, which was reached after Apple presented a detailed discourse on the complexities of greenhouse gas management at the company, allowed exclusion:

> under rule 14a-8(i)(7), as relating to the Company's ordinary business operations. In our view, the Proposal seeks to micromanage 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.

Because the Apple proposal remained a somewhat detailed proposal, some observers did not find the decision to be a significant deviation at the time. But the next step – extending the doctrine of micromanagement where it had never gone before – and we believe, beyond the intentions stated by the Commission's 1998 Release – was on a different proponent's proposal at *EOG Resources* (Feb. 26, 2018). The proposal avoided intricate detail and addressed an issue that is challenging for the company, with the entire ask stating:

> Shareholders request EOG Resources, Inc. (EOG) adopt company-wide, quantitative, time bound targets for reducing greenhouse gas (GHG) emissions and issue a report, at reasonable cost and omitting proprietary information, discussing its plans and progress towards achieving these targets.

Unlike in Apple, in this instance the proposal appeared to meet both of the Commission's criteria against micromanagement – *large differences* and *reasonable details*, and yet the Staff allowed exclusion as "probing too deeply." As such, the decision appeared to disconnect from the clarity of the 1998 Release – the company's focus on the many complexities of implementation, rather than the reasonable details of the proposal, appeared to drive the decision.

We urge the Staff to consider the current proposal first and foremost in consistency with the 1998 Release. The current proposal is a strategic, big picture request that is framed with the minimal details needed to ask the company to explain how it is aligning its long-term business strategy with the projected long-term constraints posed by climate change. The Proposal's request to describe medium- and long-term goals for GHG reduction is the leading strategy for allowing investors to assess whether a firm's scale and pace of activity in response to climate change is in alignment with their understanding of transition risks and global and public expectations. The Proposal treads lightly on additional specifics. It asks that the report be prepared "***with an eye toward the applicability of goals*** such as eliminating the company's carbon footprint, or reducing GHG's over the medium- and long term by a fixed amount that is consistent with the 2015 Paris Climate Agreement and the 2018 IPCC report." [Emphasis added]

Thus, the present proposal, presenting flexibility on timelines and goals, represents the Proponent's best effort to work within Commission guidance as we understand it while remaining true to the needs for shareholders to ask the company to develop clarity about the scale and pace of its response to climate change.

The Practicality and Importance of Shareholder Consideration Is Demonstrated by Current Market Action and Expectations

History has shown that Staff perspectives on ordinary business evolve with changing issues and demands of the capital markets. Currently, vast resources in the capital market are being directed toward alignment of finance and investment with global climate goals. We urge the SEC Staff to avoid disrupting these activities, as would happen in the Staff allows exclusion of the current proposal and similarly framed proposals.

The proposal directly supports current investment community strategies on capital allocation and engagement in relation to climate change. The business community, investment analysts, the accounting community and others are engaged in activities aligned with promoting the same kind of accountability as requested by the Proposal.[20]

Investment and economic analysts are increasingly recognizing and planning for the economically disruptive effects of climate change, from the economic, environmental, and human toll that increasingly destructive climate events are having, to the transition risks posed by an inevitable need to sharply regulate and curtail carbon dioxide emissions from every sector. Investors are recognizing that climate change not only poses fundamental risk to the individual companies in which they invest, but creates systemic risk across their portfolios as climate change-related harm accelerates globally, causing economy-wide losses. The U.S.

[20] Making finance consistent with climate goals, Insights for operationalising Article 2.1c of the UNFCCC Paris Agreement Shelagh Whitley, Joe Thwaites, Helena Wright and Caroline Ott December 2018 https://www.odi.org/sites/odi.org.uk/files/resource-documents/12557.pdf

recently issued the Fourth National Climate Report underscoring that continued growth in greenhouse gas emissions are projected to cost the U.S. economy hundreds of billions of dollars by 2100. A warming climate is associated with supply chain dislocations, reduced resource availability, lost production, commodity price volatility, infrastructure damage, crop loss, energy disruptions, political instability, and reduced worker efficiency, among others.

In 2015, the Paris Climate Agreement set a global goal of maintaining global warming well below 2 degrees Celsius. In addition to establishing a process for implementing public policies on a nation-by-nation basis, the Agreement also tasked the financial sector with action. Clause 2.1c of the Agreement establishes the goal of "Making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development." The capital markets have begun to register and implement this mandate by including carbon asset risk in portfolio analysis, and through engagements with portfolio companies requesting disclosure and improved performance in alignment with the global climate goal.

A state of the industry report, "Tipping Points 2016,"[21] collected data from a group of 50 institutions, including 28 asset owners and 22 asset managers selected based on their diversity. The report found that institutional investors consider and manage their impacts on environmental, societal, and financial systems, and consider those systems' impacts on their portfolios, with financial returns and risk reduction being two primary motivators for approaching investment decisions on a systemic basis. The report shows asset owners not only consider the financial risks they perceive from environmental, social, and governance risk at the level of specific securities and industries, but are also concerned with measuring and managing climate risk on a portfolio basis. Nowhere is this more the case than with climate change.

Investor portfolios commonly hold investments from a wide spectrum of sectors vulnerable to widespread disruptions associated with climate change. The combined effect of climate change across the economy is projected to have substantial negative, long-term, portfolio-wide implications.

One important component of this portfolio-based climate strategy is shareholder engagement and, where necessary, the filing of proposals. Institutional Shareholder Services (ISS) issued a report in early 2019 assessing historic support for shareholder proposals during the last decade.[22] The analysis notes that proposals requesting goal-setting and results-oriented risk management approaches (similar to the current proposal) have drawn increasing support.

> The December 2015 Paris Agreement . . . made climate change risk management a top policy priority for governments, regulators, and financial institutions. **Climate change mitigation now required concrete results in the form of carbon emission reductions and alignment with the goal of keeping global temperatures from exceeding 1.5 or 2 degrees Celsius compared to pre-industrial levels.[23]** [Emphasis added]

[21] http://tiiproject.com/tiiping-points-2016
[22] ISS, The Long View: US Proxy Voting Trends on E&S Issues from 2000 to 2018 (2019)
[23] ISS also notes the growing support: "By 2017, climate change proposals peaked in volume, with a large number receiving significant support, while high-profile proposals at Exxon Mobil and Occidental Petroleum received majority support."

ISS also notes stepped-up support for proposals on ESG in voting trends from 2000 to 2018, including the two following trends:

> • More shareholders voting in support of environmental and social proposals, witnessed by the rapidly growing proportion of shareholder proposals receiving at least 30-percent support.
>
> • Increased willingness of companies and proponents to work together to forge a solution, supported by a record proportion of environmental and social proposals being withdrawn prior to the vote.

Investor demand for climate disclosures in general, and science-based targets specifically, has increased substantially as the risks have become more apparent.[24] For instance:

> Anne Simpson, Investment Director, Sustainability, at California Public Employees' Retirement System: "Mapping a company's carbon footprint, or the emissions it produces, and measuring its progress in this area is an important and growing part of our portfolio analysis. Over the long-term investors are saying to these companies that we want them to align their business strategy with the Paris Agreement."
>
> Jeanett Bergan, Head of Responsible Investment at KLP states the potential of better long term returns from setting SBTs: "If we as active owners improve the performance of CO2 intensive companies, that will help us secure better returns in the future."
>
> Andy Howard, Head of Sustainable Research at Schroders has stated:
> "We want to know how exposed a particular business is to the changing context on climate and what it is practically doing to make the changes required; including its targets, timeframes and the extent of its ambition."

This demand from investors is translating into a wide array of financial sector initiatives seeking an assessment of alignment of a portfolio company's carbon footprint with the demands of a carbon constrained world:

• Principles of Responsible Investment (PRI) "Inevitable Policy Response" Investment Strategy for portfolio allocation, anticipates the disruptive economic impacts of global regulatory responses as climate change worsens, and therefore provides strategies for diversification and risk transfer to protect the investors long-term portfolio value. The PRI, supported by investors with $80 trillion in assets under management, has begun aiding its participating investors in development of portfolio management strategies that consider such an "***inevitable policy response***" (IPR) when national and global policymakers come to realize that they must impose rapid, stringent carbon constraints to head off a worsening global climate change catastrophe:

> In effect, an IPR is what would need to happen if the world was to move towards a target of 1.5-1.75°C with 50–66% probability. Indeed, if policy actions do not ratchet up from

[24] http://sciencebasedtargets.org/what-investors-are-saying/

> current levels, we would need urgent and forceful policy action today to achieve anything close to attaining a 1.5°C outcome. IPR can thus be considered a "backstop" scenario – and a call to action – to accelerate current efforts to align with the Paris Agreement. An IPR trajectory is not being actively considered by most corporations and investors, hence the PRI's support for assessing its effects and the preparatory actions that are needed. There are many permutations for an IPR in terms of when and what will occur. This outline contains assumptions about an announcement in 2025 for a 2030 implementation to address the overshoot, and specific policies that could be considered.

The PRI has prepared the papers to assist investors concerned with this future market disruption, including a paper on projecting the timelines and severity of the inevitable policy response:[25]

> At its simplest level, an IPR would precipitate (in aggregate) substantial shifts in capital from high- to low-carbon activities that require preparatory actions for investors to take today. The technical papers build a framework for exploring the policy and technology pathways that would deliver a rapid economic transition. They also consider the investment risk and return implications at the sector and asset level to integrate an IPR into strategic asset allocation (SAA) and portfolio construction frameworks. Finally, the papers consider the actions that investors would need to take both prior to, during and in the aftermath of an IPR, in terms of reviewing governance arrangements, risk management processes and engagement activities, including the management of stranded assets.
>
> ***
>
> It is evident that the longer the delay in reducing emissions, the higher will be the need for rapid transition and forceful policy action. … We believe this work bolsters the rationale for an escalation in actions now to refine and make decisions more efficiently, and to ultimately improve the resilience of investment portfolios and decision-making processes to what could soon be a more volatile environment.

• **International Standards Organization is developing a climate finance standard**: ISO 14097, which will track the impact of investment decisions on GHG emissions; measure the alignment of investment and financing decisions with low-carbon transition pathways and the Paris Agreement; and identify the risk from international climate targets or national climate policies to financial value for asset owners. The standard will help define benchmarks for decarbonization pathways and goals, and track progress of investment portfolios and financing activities against those benchmarks; identify methodologies for the definition of science-based targets for investment portfolios; and develop metrics for tracking progress.

• **Sustainable Energy Investment (SEI) Metrics**, **has already tested $500 billion of equity for 2°C alignment** (SEI Metrics, 2018). SEI Metrics covers a limited number of sectors with public equity and corporate portfolios. The project was recently relaunched as Paris Agreement

[25] https://www.unpri.org/download?ac=5368

Capital Transition Assessment (PACTA), which aims to measure the current and future alignment of investment portfolios with a 2°C scenario analysis, allowing investors to measure climate performance and address the challenge of shifting capital towards clean energy investments. Since its launch, over 2,000 portfolios have been tested for 2°C alignment with over $3 trillion in assets under management. **Of the 25% of surveyed investors involved in the road-test, 88% said they were likely or very likely to use the assessment in portfolio management, engagement, and / or investment mandate design.** In 2017, the model was expanded to corporate bonds and credit, as well as a broader range of sectors.[26]

• The **Science Based Targets initiative (SBTi)** is currently creating methods and implementation guidance to support financial institutions in setting targets for their investing and lending activities (Cumis et al., 2018). This carbon reduction initiative[27] mobilizes companies to set science-based targets and boost their competitive advantage in the transition to the low-carbon economy. The initiative defines and promotes best practice in setting targets, offers resources and guidance to reduce barriers to adoption, and independently assesses and approves companies' targets. Science-based targets provide companies with a clearly defined pathway to future-proof growth by specifying how much and how quickly they need to reduce their greenhouse gas emissions. Targets adopted by companies to reduce greenhouse gas (GHG) emissions are considered "science-based" if they are in line with the level of decarbonization required to keep global temperature increase below 2 degrees Celsius compared to pre-industrial temperatures, as described in the Fifth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC AR5).

• **Global Task Force on Climate-Related Financial Disclosures[28]** issued in 2017 by the Global Financial Stability Board. The report focuses on recommendations for disclosure of climate risk in annual financial reports. The report offers recommendations for how companies can better disclose clear, comparable and consistent information about the risks and opportunities presented by climate change, in hopes that improved disclosure will lead to more efficient allocation of capital, and help smooth the transition to a low-carbon economy.

• **Climate Action 100+ initiative,** backed by 310 investors with more than $32 trillion in assets under management, including 87 North American investors. Climate Action 100+, launched in December 2017, is an initiative led by investors to engage systemically important greenhouse gas emitters and other companies across the global economy that have significant opportunities to drive the clean energy transition and achieve the goals of the Paris Agreement.

The relevance and importance for investing strategies of non-exclusion of the current proposal is reflected in the groundswell of market activity seeking similar objectives in various segments of investor engagement and strategy.

To summarize: the approach requested by the Proposal is well-aligned with these and other benchmarks emerging in the capital markets for considering and integrating climate risk and action in capital allocation as well as company engagement.

---

[26] https://2degrees-investing.org/sei-metrics/
[27] https://sciencebasedtargets.org/
[28] https://www.fsb-tcfd.org/

The Proponent and many other investors believe that readiness for climate disruption requires a strategic appraisal and well-considered realignment, taking account of the carbon footprint of financing activities,[29] and following the directive of the Paris Climate Agreement to redirect finance flows. This includes portfolio-wide engagement with companies to map greenhouse gas emissions and targets. These investment strategies are already resulting in demands from investors to require investee measurement and planning to anticipate the inevitable direction of increasing carbon stringency that global policy will require as the world reckons with the current climate change emergency. As such, the framing of the Proposal is not only practical for investor consideration, it is necessary.

In conclusion, the Proposal is not excludable under Rule 14a-8(i)(7).

[29] Along the same vein, the economy wide impacts posed by climate disruption, and responses of systemically important institutions is also reflected in reports like the Brookings Institution's report: *Climate change and monetary policy: Dealing with disruption.* Warwick J. McKibbin, Adele Morris, Peter J. Wilcoxen, and Augustus J. Panton, Friday, December 1, 2017.
https://www.brookings.edu/research/climate-change-and-monetary-policy-dealing-with-disruption/

Retailers Leading The Way On Climate Action To Future-Proof Businesses And Enhance Competitiveness

By Adam Siegel, Senior Vice President, Sustainability, Innovation and Research, RILA

Source: https://www.rila.org

Retail can be a tough business. Responding to changing consumer expectations, keeping costs low, and working with complex supply chains can make it challenging for retailers to be profitable and sustainable in today's rapidly changing global economy.

But many leading US retailers are proving that taking action on energy reduction, renewable energy, and climate change is good for business, the customer, and the environment.

A growing list of retailers are making strategic climate commitments, including a commitment to set science-based targets to ensure their emission reduction plans are in line with the level of decarbonization required to keep global temperature increase below 2°C.

So far, this list includes ALDO Group, Best Buy, Eileen Fisher, Gap, Guess?, H&M, IKEA Group, Levi Strauss & Co., NIKE, Target, VF Corporation, Walmart and many more -- many of which are RILA members. Of this group, IKEA Group and Walmart have also had their targets successfully approved by the Science Based Targets initiative.

Walmart, the world's largest retailer, is looking to enlist the help of its supply chain as part of its efforts to drive down emissions. Last year the company launched Project Gigaton, a challenge to its direct Tier 1 suppliers to collectively cut one gigaton (1 billion metric tons) of greenhouse gas (GHG) emissions from their operations by 2030. That is equivalent to taking more than 211 million passenger vehicles off US roads and highways for a year.

And it's already yielding results. At this year's Sustainability Milestone Summit, Walmart announced that more than 400 suppliers with operations in over 30 countries have joined the program. Together these suppliers are already reporting emissions reductions in excess of 20 million metric tons.

What's more, Walmart itself saved nearly $1 billion in a single year and cut almost 650,000 tonnes of CO_2 emissions in their own operations, as part of its science-based target, which is approved by the Science Based Target initiative. Walmart is also committed to transitioning to 100% renewable electricity with RE100.

The world's leading apparel and footwear brand NIKE is also a member of RE100. Earlier this year NIKE announced it had signed its second major wind contract with Avangrid Renewables — this time for 86 megawatts of Texas wind power. The agreement enabled the company to source 100 percent renewable energy across our owned or operated facilities in North America.

IKEA recently unveiled its updated People & Planet Positive strategy. A key component of this strategy is IKEA's science-based target -- recently approved by the Science Based Target initiative -- to reduce emissions from their stores and other operations 80% by 2030, as well as reducing GHG emissions from customer and co-worker travel and customer deliveries by 50% in relevant terms, and reducing GHG emissions from their value chain relating to home furnishing products and food by at least 15% (all against a 2016 baseline).

IKEA recognizes, as a company with a large global footprint, they have the ability to help drive dive down emissions in households around the world and have addressed the emissions associated with the products they sell, saying that their commitment to tackle supply chain emissions translates to a 70% reduced climate footprint on average per IKEA product.

This is part of the company's long-term net zero vision and is backed by a strong track record of action on climate. IKEA has, for example, already switched its entire range of light bulbs to LEDs and has to date sold some 85 million LED bulbs. If all the bulbs that IKEA has sold replaced incandescent light bulbs, they would save enough energy to power 750,000 households for a year.

Meanwhile, Best Buy has committed to reduce carbon emissions 60 percent by 2020 as part of its bid to take action on climate change. In 2016, Best Buy passed its own goal to reduce absolute carbon emissions by 45 percent, from a 2009 base year. Stepping up from 45 percent to 60 percent carbon reduction is equivalent to removing 32,000 cars from the road for an entire year, the company said.

This helped Best Buy achieve a top-ranking A- CDP score in 2017 for its climate-management strategies and carbon-emissions reduction, which clothing retailer Gap Inc. also gained last year.

Gap Inc. has installed LED lighting at 1,000 stores while pursuing energy efficiency measures, as part of its climate action strategy. The clothing maker is committed to reducing absolute scope 1 and 2 GHG emissions in its owned and operated facilities globally by 50% by 2020.

Last year, six top apparel companies announced that they were joining the Science Based Targets initiative during Climate Week NYC. Beyond Gap and NIKE, this list included Levi Strauss & Co., Guess?, Eileen Fisher and VF Corporation, which all committed to set emission reduction targets consistent with global efforts to limit warming to well below 2 degrees Celsius.

Meanwhile, Target is committed to reducing its absolute Scope 1 and 2 GHG emissions by 25% by 2025, compared to 2015 levels, and is the process of developing an additional Scope 3 goal. The retailer is making progress on these targets by ramping up its use of renewable power, increasing the energy-efficiency of heating and lighting sources in stores and actively managing its refrigerant inventory.

These retailers are harnessing climate action through their science based target commitments as a driver of innovation, competitiveness, risk management and growth. Given the central role cost-effective renewable energy will play in meeting these commitments, it is no surprise many of these brands are all also members of Employers for Renewable Energy (ERE), a coalition representing job creators nationwide who support state policies that enable greater customer choice of renewable energy and strong competition among producers.

By setting targets that go beyond their direct operations, leading companies in the retail sector set an example. These targets also help them to collaborate with their supply chains and customers in new ways, while future-proofing profitability and addressing climate change impacts and risks.

Join RILA, We Mean Business, CDP, and CVS Health for an introduction to science-based targets and the Science Based Targets initiative (SBTi). This webinar, on Wed, Jul 25, 2018 12:00 PM - 1:00 PM EDT, will explore how and why retailers are setting SBTs and how they are working to achieve them in their own operations by working closely within their supply chains to drive action. Learn more and register here >

DLA Piper LLP (US)
555 Mission Street, Suite 2400
San Francisco, California 94105
www.dlapiper.com

Brad Rock
brad.rock@dlapiper.com
T 415.836.2598
F 415.659.7309

January 18, 2019

VIA E-MAIL

OFFICE OF CHIEF COUNSEL
DIVISION OF CORPORATION FINANCE
SECURITIES AND EXCHANGE COMMISSION
100 F STREET, N.E.
WASHINGTON, DC 20549

Re: Ross Stores, Inc.
Notice of Intent to Omit from Proxy Materials the Shareholder Proposal from Jantz Management LLC

Ladies and Gentlemen:

This letter is to inform you that our client, Ross Stores, Inc., a Delaware corporation ("***Ross Stores***" or the "***Company***"), intends to omit from its proxy statement and form of proxy for its 2019 Annual Meeting of Stockholders (collectively, the "***2019 Proxy Materials***") a stockholder proposal (the "***Proposal***") and statement in support thereof (the "***Supporting Statement***") received from Jantz Management LLC on behalf of Christine Jantz ("***Ms. Jantz***" or the "***Proponent***").

Pursuant to Rule 14a-8(j), we have:

- filed this letter with the Securities and Exchange Commission (the "***Commission***") no later than eighty (80) calendar days before the Company intends to file its definitive 2019 Proxy Materials with the Commission; and
- concurrently sent copies of this correspondence to the Proponent.

Rule 14a-8(k) and Staff Legal Bulletin No. 14D (Nov. 7, 2008) ("***SLB 14D***") provide that the proponent of a stockholder proposal is required to send the company a copy of any correspondence that the proponent elects to submit to the Commission or the staff of the Division of Corporation Finance (the "***Staff***"). Accordingly, we are taking this opportunity to remind the Proponent that if the Proponent elects to submit additional correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should be furnished concurrently to the undersigned on behalf of the Company pursuant to Rule 14a-8(k) and SLB 14D.

THE PROPOSAL

The Proposal is presented through a combination of recitals, a resolution and a short supporting statement which adds recommendations that interpret the Proposal. The Proposal states:

Proposal on Greenhouse Gas Emissions Goals

Whereas:

In October 2018, the Intergovernmental Panel on Climate Change (IPCC) reaffirmed the 2015 Paris Agreement which aimed to strengthen the global response to the threat of climate change. As a country, the United States is still one of the Parties committed to the 2015 Paris Agreement;

The 2018 IPCC report indicated that the world is projected to reach a dangerous level of climate change by the year 2040 unless drastic steps are taken to slow or reverse climate change: "[t]o limit warming to 1.5°C, mitigation would have to be large-scale and rapid";

According to a 2015 report by Citigroup, the costs of failing to address climate change could lead to a $72 trillion loss to global GDP;

Ross Stores' peers that have set greenhouse gas (GHG) management goals include: TJX Companies, Target Corporation, L Brands, and PVH Corporation;

Examples of other companies with GHG reduction goals include: Walmart, Apple, Johnson & Johnson, GM, AT&T, Procter & Gamble, JP Morgan Chase, McDonald's, and Microsoft;

Retail store GHG emissions arise primarily from electricity usage in retail stores, as well as manufacturing and transportation of products sold to customers, yet Ross Stores has not set a long-term goal for managing GHG emissions;

We believe that committing to aligning long-term business strategy with the projected long-term constraints posed by climate change is important for companies generally and Ross Stores specifically to help protect society from the ravages of climate change and to achieve sustainable long-term shareholder value;

We propose that the company develop its own long term strategy consistent with the international agreements on climate change.

Resolved: The shareholders request that the Board of Directors of Ross Stores (the "Company") prepare a climate change report to shareholders by November 1, 2019 that describes how the Company is aligning its long-term business strategy with the projected long-term constraints posed by climate change, and describing medium- and long-term goals for GHG reduction. The report should be prepared at reasonable expense and may exclude confidential information.

Supporting Statement:

Proponent recommends that the report be prepared with an eye toward the applicability of goals such as eliminating the company's carbon footprint, or reducing GHG's over the medium and long term by a fixed amount that is consistent with the 2015 Paris Climate Agreement and the 2018 IPCC report.

A copy of related correspondence from the Proponent is attached to this letter as Exhibit A.

BACKGROUND

Ross Stores is the largest off-price apparel and home fashion chain in the United States. The Company operates two brands of off-price retail apparel and home fashion stores – Ross Dress for Less® and dd's DISCOUNTS®. At November 3, 2018, Ross Stores operated 1,720 stores – 1,483 Ross Dress for Less locations in 38 states, the District of Columbia and Guam, and 237 dd's DISCOUNTS stores in 18 states. Ross Dress for Less offers first-quality, in-season, name brand and designer apparel, accessories, footwear, and home fashions for the entire family at savings of 20% to 60% off department and specialty store regular prices every day. Ross Dress for Less targets customers who are primarily from middle income households, while dd's DISCOUNTS features a more moderately-priced assortment of first-quality, in-season, name brand apparel, accessories, footwear, and home fashions for the entire family at savings of 20% to 70% off moderate department and discount store regular prices every day. Ross Stores sells recognizable brand-name merchandise that is current and fashionable in each category. The mix of sales year to date by department in fiscal 2018 has been approximately as follows: Ladies 28%; Home Accents and Bed and Bath 24%; Shoes 14%; Men's 13%; Accessories, Lingerie, Fine Jewelry and Fragrances 13%; and Children's 8%. The merchandise offerings also include product categories such as small furniture and furniture accents, educational toys and games, luggage, gourmet food and cookware, watches, sporting goods and, in select Ross Dress for Less stores, fine jewelry.

As an off-price retailer, Ross Stores sources its products primarily from excess inventory of other retailers and from production overruns by manufacturers. A lesser percentage of Ross Stores' merchandise is manufactured specifically for the Company. As a result of its off-price business model for sourcing merchandise, there is significantly less opportunity for Ross Stores to influence the carbon footprint of its merchandise supply chain than may typically be true for retailers in other categories. Ross Stores' management therefore believes its sustainability efforts should first focus on opportunities for improvement within its own operations, and that its best opportunities for improved energy efficiency and greenhouse gas ("***GHG***") emissions reduction will lie with its stores (largely from electricity used for heating, ventilation, and air-conditioning (HVAC) systems, lighting, and IT systems), offices (same), distribution centers (same plus electricity used for machinery to sort merchandise) and the transportation of goods to stores and distribution centers (which uses fossil fuel for trucking). The Company's website includes publicly available information regarding some of the approaches being taken and various example initiatives toward achieving continuous improvement in energy efficiency at retail stores and distribution centers, and sustainable product transportation. See Ross Stores corporate website, under the headings "Corporate Social Responsibility" and "Operating Sustainably" [https://corp.rossstores.com/responsibility].

BASIS FOR EXCLUSION

The Company believes that the Proposal is excludable under the basis set forth in Rule 14a-8(i)(7) under the Securities Exchange Act of 1934 (the "***Exchange Act***"), because the Proposal pertains to ordinary business operations that are fundamental to running the business, and it seeks to impermissibly micro-manage the Company by imposing prescriptive and arbitrary standards on the manner in which the Company evaluates, pursues, and implements its energy use reduction initiatives:

> [Rule 14a-8(i)(7)] **Management Functions**: If the proposal deals with a matter relating to the company's ordinary business operations.

ANALYSIS

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

A. Background

Rule 14a-8(i)(7) permits a company to exclude a shareholder proposal from its proxy materials that "deals with a matter relating to the company's ordinary business operations" reflecting a policy "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." Staff Legal Bulletin No. 14J (CF) ("***SLB 14J***"), citing Exchange Act Release No. 40018 (May 21, 1998) (the "***1998 Release***").

In SLB 14J, the most recent staff legal bulletin relating to this exclusion rule, the Staff further clarified its views on the types of analysis that are helpful in evaluating requests to exclude a proposal, and reiterated the two central considerations for the ordinary business exclusion as described in the 1998 Release: (i) that certain tasks are "so fundamental to management's ability to run a company on a day-today basis that they could not, as a practical matter, be subject to direct shareholder oversight" and (ii) "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*. The first consideration relates purely to the proposal's subject matter. The Commission has explained that the second consideration "may come into play in a number of circumstances, such as where the proposal involves intricate detail, or seeks to impose specific time-frames or methods for implementing complex policies." SLB 14J and the 1998 Release (citing Exchange Act Release No. 12999 (Nov. 22, 1976)).

Under the first consideration, a proposal that is fundamental to management's ability to run a company's business may be excluded unless the "proposal's underlying subject matter transcends the day-to-day business matters of the company and raises policy issues so significant that it would be appropriate for a shareholder vote . . . *as long as a sufficient nexus exists* between the nature of the proposal and the company." Staff Legal Bulletin No. 14E (Oct. 27, 2009) ("***SLB 14E***") (emphasis added). In 2017, the Staff explained that whether a policy issue is sufficiently significant so as not to permit exclusion is "a difficult judgment call . . . that the board of directors is generally in a better position to determine" and that a well-informed board of directors is "well situated to analyze, determine and explain whether a particular [policy] issue is sufficiently significant because the matter transcends ordinary business and would be appropriate for a shareholder vote." Staff Legal Bulletin No, 14I (Nov. 1, 2017). In SLB 14J, the Staff clarified its position and explained further that the submission of a board analysis is voluntary, and the inclusion or absence of an analysis will not be dispositive in the Staff's evaluation of a company's request. The Staff stated that its "[d]eterminations as to whether we agree that a proposal may be excluded 'will be made on a case-by-case basis, taking into account factors such as the nature of the proposal and the circumstances of the company to which it is directed'" such that "a proposal that the Staff agrees is excludable for one company may not be excludable for another; conversely, a proposal that is not excludable by one company would not be dispositive as to whether it is excludable by another." SLB 14J.

Unlike the first consideration, which looks to a proposal's subject matter, the second consideration looks only to the degree to which a proposal seeks to micro-manage. Thus, a proposal that may not be excludable under the first consideration (for example because of countervailing social policy considerations) may nevertheless be excludable under the second consideration if it micro-manages the company. Determinations as to excludability of such proposals "will be made on a case-by-case basis, taking into account factors such as the nature of the proposal and the circumstances of the company to which it is directed." SLB 14J. Under the second consideration, the Commission has repeatedly found that even if a proposal is determined to involve a significant policy issue, such proposal may nevertheless be excluded under Rule 14a-8(i)(7) if it micro-manages, or "probes" too deeply into complex matters of the company by detailing the means in which the company should address the policy issue. *See EOG Resources Inc*. (Feb. 26, 2018) (proposal requesting company-wide, quantitative, time bound targets for reducing GHG emissions with a corresponding report excludable for micro-managing even though it sought to address significant environmental policy issues); *Amazon.com, Inc*. (Mar. 6, 2018) (proposal requesting that the company reach a net-zero GHG emission status by 2030 for all aspects of its business excludable for micro-managing even though it sought to address a significant environmental policy issue); and *Marriott International Inc*. (Mar. 17, 2010) (proposal limiting showerhead water flow to less than 1.6 gallons-per-minute, and requiring the installation of mechanical switches to control the level of water flow, excludable for micro-managing despite the proposal's goal of addressing global warming, a significant policy issue).

This Proposal is excludable under both considerations that underlie Rule 14a-8(i)(7).

Ms. Jantz has made a number of similar proposals to other issuers in recent years. The Staff agreed that there was a basis for exclusion by those other issuers in most instances, under Rule 14a-8(i)(7) and on considerations of micro-management. See *Apple Inc*. (avail. Dec. 5, 2016) ("***Apple 2016***"); *Deere & Co*mpany (avail. Dec. 5, 2016) ("***Deere 2016***"); *Apple Inc*. (avail. Dec. 21, 2017) ("***Apple 2017***"); and *Deere & Company* (avail. Dec. 27, 2017) ("***Deere 2017***") (together, the "***Prior Proposals***"). In one instance, the Staff did not concur that there was a basis for exclusion of a proposal by Ms. Jantz. *The TJX Companies, Inc*. (avail. Mar. 13, 2017). The specific language of prior proposals by the Proponent evolved over those years, in an effort to overcome the exclusionary rules. Although the current Proposal attempts to "talk in code" and to use language that is more abstract and appears to be less prescriptive than the Prior Proposals, in practical effect the Proposal is substantively equivalent to those prior instances. In order to implement the current Proposal, Ross Stores would need to interpret the Proposal with sufficient specificity to be able to respond to it in a coherent way. And the Proponent has provided references and "suggestions" on implementation which indicate that this Proposal is in practical effect equivalent to the Prior Proposals.

The Proposal, like the Prior Proposals, includes a request to prepare a report by a date certain – here, November 1, 2019, which is less than 6 months after the expected Ross Stores annual meeting date in May 2019. In particular, the requested report is to "describ[e] medium- and long-term goals for GHG reduction." The Supporting Statement indicates that the Proponent "recommends" that the report apply goals such as "eliminating the company's carbon footprint" or "reducing GHG over the medium and long term by a fixed amount that is consistent with the

2015 Paris Climate Agreement and the 2018 IPCC report." Read together, this is substantively equivalent to a request to develop and report on a net-zero greenhouse gas emission strategy, on a specified, urgent timeframe. In addition, as is expressly called out in the recitals to the Proposal, for a retail store business like Ross Stores, GHG emissions "arise primarily from electricity usage in retail stores, as well as . . . transportation of products sold to customers . . . ." In retail stores, electricity use is primarily for HVAC and lighting. Transportation of products to retail stores is primarily by truck deliveries. In effect, then, when the words of the Proposal are translated as intended into the specifics for Ross Stores in order to implement it, the Proposal is substantively equivalent to a request, by November 2019, for the board of directors of Ross Stores (the "***Board***") to deliver a report to shareholders describing a strategy to reduce electricity used for HVAC and lighting in retail stores, and to improve the efficiency of trucking for transportation of goods to stores (or to find alternative, lower GHG sourcing to meet those energy needs), to meet medium and long-term goals that reach a "net-zero" GHG emissions target.

This plainly (A) deals with matters relating to Ross Stores' ordinary business operations, and (B) seeks to micro-manage the Company.

Framing a shareholder proposal in the form of a request for a report does not change the nature of the proposal. The Commission has stated that a proposal requesting the dissemination of a report may be excludable under Rule 14a-8(i)(7) if the subject matter of the report is within the ordinary business of the issuer. *See* Exchange Act Release No. 20091 (Aug. 16, 1983); *Johnson Controls, Inc.* (avail. Oct. 26, 1999) ("[Where] the subject matter of the additional disclosure sought in a particular proposal involves a matter of ordinary business . . . it may be excluded under [R]ule 14a-8(i)(7)."). *See also Ford Motor Co.* (avail. Mar. 2, 2004) (concurring with the exclusion of a proposal requesting that the company publish a report about global warming/cooling, where the report was required to include details such as the measured temperature at certain locations and the method of measurement, the effect on temperature of increases or decreases in certain atmospheric gases, the effects of radiation from the sun on global warming/cooling, carbon dioxide production and absorption, and a discussion of certain costs and benefits).

B. The Proposal May Be Excluded Under Rule 14a-8(i)(7) Because It Relates to Matters that are Fundamental to Ordinary Operation of the Business

Read together with the recitals and Supporting Statement, and understood in the context of Ross Stores' actual business, the Proposal is a request for the Board to develop a strategy and issue a report on it, in less than 6 months from the Company's annual meeting, depicting how the Company will reduce or shift the sourcing for electricity used in retail stores, distribution centers and offices (primarily for HVAV, lighting, IT systems, and machinery) and reduce or substitute the fuel used for trucking to ship merchandise to stores and distribution centers, so as to achieve significant reductions and eventually reach net-zero in greenhouse gas emissions from operations. Although the text of the Resolution included in the Proposal is stated in more abstract or generalized terms of "constraints posed by climate change" and to request a report "describing medium- and long-term goals for GHG reduction," this is what it means in context and as applied to Ross Stores' business. These are clearly core, ordinary operational matters for the Company's business, which should be left to management and the Board, and are not suited to direct shareholder oversight.

According to the 1998 Release, the term "ordinary business" refers to matters that are not necessarily "ordinary" in the common meaning of the word, but instead the term "is rooted in the corporate law concept [of] providing management with flexibility in directing certain core matters involving the company's business and operations" and in view of underlying policy "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 shareholders meeting." Again, the first consideration is that "[c]ertain tasks are so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight." *Id*.

As explained in SLB 14E, a proposal relating to the company's ordinary business operations that also raises a significant policy issue, will be excludable under Rule 14a-8(i)(7) unless "a sufficient nexus exists between the nature of the proposal and the company." For instance, if a company's primary business is the production of energy, the effect of energy on the environment clearly has a nexus to the company's day-to-day business. For those types of companies, a proposal relating to GHG emissions is likely to transcend the company's ordinary business. In a no-action request denied to Exxon Mobil Corporation, the Staff declined the exclusion of a proposal requesting that the company, a multinational oil and gas corporation, adopt quantitative goals for reducing GHG emissions. *Exxon Mobil Corporation* (avail. Mar. 23, 2007). The Staff came to a similar conclusion again in 2014 when it denied a no-action request by Devon Energy Corporation, a natural gas, natural gas liquids and petroleum exploration company focused on onshore exploration and production in North America. The Staff concluded that there was a sufficient nexus between the nature of the company and a proposal requesting a report on the company's goals and plans to address global concerns regarding the contribution of fossil fuel use to climate change. *Devon Energy Corp*. (avail. Mar. 19, 2014). In these instances the companies' core businesses are directly correlated to the goals of the proposals.

In contrast to energy companies like Devon Energy Corporation and Exxon Mobil Corporation, Ross Stores operates two chains of off-price retail stores. Different from the situations where a "sufficient nexus" has been found, the nature of Ross Stores' business is not interconnected with the goals of the Proposal in a way that "transcends" day-to-day operations. While many day-to-day operations do incidentally consume energy and may generate greenhouse gases, the levels are on an entirely different scale from those attributable to energy producers where the Staff has found a "sufficient nexus." The Staff has consistently allowed exclusion of proposals that seek to regulate a company's day-to-day activities, regardless of the fact that those activities may implicate larger social policy issues. While the Proposal does (in a global sense, that applies to essentially any business) involve a significant policy issue, there is only an incidental nexus between the Proposal and the Company's business, which is not adequate to overcome the ordinary operational nature of addressing the Proposal at a pragmatic level, and the significant level of micro-management of the Company's business imposed by the Proposal. Accordingly, the Proposal is excludable under Rule 14a-8(i)(7).

The Staff makes determinations as to excludability of proposals "on a case-by-case basis, taking into account factors such as the nature of the proposal and the circumstances of the company to which it is directed." In the circumstances of Ross Stores, the nature of the kind of energy use and GHG reduction matters addressed by the Proposal are squarely core matters that should be left for Ross Stores management to evaluate and address.

C. The Proposal May Be Excluded Under Rule 14a-8(i)(7) Because It Seeks To Micro-Manage the Company

"As the Commission has explained, a proposal may probe too deeply into matters of a complex nature if it 'involves intricate detail, or seeks to impose specific time-frames or methods for implementing complex policies.' The Division applies this framework when evaluating whether a proposal micro-manages a company and is therefore excludable. For example, the Division agreed that a proposal to generate a plan to reach net-zero GHG emissions by the year 2030, which sought to impose specific timeframes or methods for implementing complex policies, was excludable on the basis of micro-management." SLB 14J. "This framework also applies to proposals that call for a study or report. For example, a proposal that seeks an intricately detailed study or report may be excluded on micro-management grounds. In addition, the Staff would, consistent with Commission guidance, consider the underlying substance of the matters addressed by the study or report. Thus, for example, a proposal calling for a report may be excludable if the substance of the report relates to the imposition or assumption of specific timeframes or methods for implementing complex policies." *Id*. As noted above, this builds upon the Commission's statement in the 1998 Release.

Here, the Proposal in effect requests that the Board prepare a report within 6 months after the Company's annual meeting reflecting its strategy to achieve greatly reduced or net-zero greenhouse gas emissions from Company business operations within stated timeframes. As applied to the Company's operations, the Proposal thus addresses the complex, multifaceted issues of GHG emissions by imposing specific (and arbitrary) time-frames for the Company to develop and report on a prescriptive (and arbitrary) method (that is, achieving greatly reduced or net-zero GHG emissions), which would require the Company to evaluate and undertake decisions on a myriad of intricate details regarding its business that likely differ from what the Company would otherwise determine is best suited to its operations. The Proposal thus falls squarely within the scope of the 1998 Release by addressing intricate details, imposing specific time-frames, and positing a specific method for implementing complex policies.

The Staff has agreed in recent years that similar shareholder proposals imposing specific timeframes on complex policies to satisfy quantitative targets for a company's business were excludable under Rule 14a-8(i)(7) because they attempted to micro-manage the company. For example, in Deere 2017, the Staff concurred with the exclusion of a substantively equivalent proposal requesting that the company "prepare a report to shareholders by December 31, 2018 that evaluates the potential for the Company . . . to achiev[e] 'net-zero' emissions of greenhouse gases by a fixed future target date" because the proposal sought 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." In Apple 2017, the Staff concurred with the exclusion of a proposal requesting that the company "prepare a report to shareholders by December 31, 2019 that evaluates the potential for the Company to achieve, by a fixed date, 'net-zero' emissions of greenhouse gases by the [c]ompany and its major suppliers" for the same reason. Similarly, in Deere 2016 and Apple 2016, the Staff concurred with the exclusion of proposals requesting that the companies generate feasible plans to reach net-zero GHG emissions for aspects of the companies' respective businesses directly owned and operated by each respective company by a fixed date, because they attempted to micro-manage the respective companies. As with the four Prior Proposals cited above, the Proposal requests a report that would require the involvement and input of a number of cross-functional teams and management from the various geographies and divisions of the Company's large, complex business, as well as input from third-party subject matter experts and specialists, to produce a report that describes a strategy and sets goals for the Company to achieve greatly reduced or net-zero GHG emissions by stated dates. The language differences between the Proposal and these four Prior Proposals do not change the fact that the Proposal seeks to micro-manage the Company by substituting for management's judgment on these complex issues that of the Company's shareholders, who as a group, are not in a position to make an informed judgment in this regard.

C.1. The Company is Already Making Complex Business Decisions That Prioritize Its Energy Efficiency Strategies

The Company is already carefully evaluating how best to address the environmental and sustainability implications of its large, complex business, including those related to GHG emissions, and is focused on various initiatives to reduce its environmental impact that the Company believes are smart for the business and good for the environment.

For Ross Stores, GHG emissions reduction is of course also part of its continuing cost reduction efforts, which are always a part of its strategy and ongoing operational planning. As indicated in the Energy Management section of the Company's website, Ross Stores already has an internal team dedicated to finding new and better ways to achieve energy efficiency throughout its operations. The Company is already pursuing initiatives that are significantly decreasing energy use year-over-year. For years, the Company's retail stores have been operating to conserve energy by adjusting the lighting and HVAC systems so they operate efficiently and only when needed. The Company processes its energy management information online, which helps to resolve inefficiencies quickly and keep energy use to a minimum. The Company is also already deploying higher-efficiency HVAC units, converting to LED lighting, and utilizing increased roof insulation in the retail stores to further lower energy consumption. The distribution centers have also pursued lighting efficiency, through LED lighting and retrofits and through use of skylights. The distribution centers save additional energy through high-efficiency motors and automated systems that shut-off equipment when not in demand. In several of the Company's distribution centers, a significant element of the energy management program is an "air purging" program. At night, when temperatures drop, the hot air from daytime warming is purged from the building and replaced with fresh, naturally cool air. This avoids several hours of air-conditioning every day, thereby saving energy and related costs, and also reduces electricity demand from high-peak daytime hours and therefore reduces pressure on the electricity grid. In short, management already continues to look for new ways to reduce the Company's footprint through effective energy management. By their nature, these strategies and activities and are clearly deeply operational, complex and detailed.

In a no-action letter granted to EOG Resources, Inc. ("***EOG***"), the Staff allowed exclusion of a proposal (the "***EOG Proposal***") requesting that EOG adopt company-wide, quantitative, time-bound targets for reducing GHG emissions and issue a report, discussing its plans and progress toward achieving these targets. EOG noted the social issue in the EOG Proposal, but argued that it went too far. Specifically, EOG argued that the EOG Proposal would require management to replace its own judgments on all aspects of its business with a course of action directed at meeting arbitrary targets and deadlines. The Staff allowed exclusion of the EOG Proposal on the grounds that it "prob[ed] 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." *See EOG Resources, Inc*. (avail. Feb. 26, 2018).

While the specific language of the Proposal differs from the EOG Proposal, the Proposal, when read together with the Supporting Statement, would have the same effect as the EOG

Proposal. It would require the Company to first develop one or more plans by a specific date that could theoretically achieve the Proponent's suggested goals and then to select the most feasible plan and assess its achievability. Developing those plans and selecting a feasible plan from among those plans would require the Board and management of the Company to evaluate and prioritize particular courses of actions and changes to its operations and business, and replaces its own judgments about the best course of action with a course of action directed at meeting the emissions level by the date selected in response to the Proposal. For those reasons, the Proposal is excludable pursuant to Rule 14a8(i)(7).

While environmental sustainability and climate change may be significant policy issues, the environmental goals of the Proposal are secondary to the Proponent's effort to micro-manage the Company's processes and operations to achieve specific objectives. The Staff has consistently concurred that a proposal may be excluded when it seeks to micro-manage ordinary business matters, even if it touches upon a significant social policy issue. Similar to the Proposal, the Staff concurred in the exclusion of proposals addressing GHG emissions in *EOG Resources, Inc*. (Feb. 26, 2018), Apple 2017 and Deere 2017, because those proposals sought to interfere with the companies' ordinary business operations on a day-to-day basis.

The Company's determination on how best to address sustainability issues, including GHG emissions, involves complex considerations of a variety of factors, including customer and worker comfort, environmental regulations in the various jurisdictions in which the Company operates, evolving technologies, rapidly-developing scientific advancements, industry-accepted standards for accounting for and reporting GHG emissions, and local (and in some cases, volatile) energy markets. Ross Stores' ongoing efforts to implement its objectives each involve significant management analysis that lead to the Company intentionally prioritizing those efforts over actions needed to focus on alternative, arbitrary standards of achieving reduced or net-zero emissions of GHG from its operations. Because the Proposal seeks to delve too deeply into these complex determinations by asking shareholders to vote on a plan that would impact the goals, deadlines and factors taken into account that have already been established by the Company, the Proposal seeks to micro-manage the Company's business.

C.2. The Proposal Involves Complex Operational and Business Decisions.

Given the size and scope of the Company's operations, implementation of the Proposal would require replacing management's judgments on complex operational and business decisions and strategies with those favored by the Proponent and would interfere with management's ability to operate the Company's business. Evaluating the potential of achieving significantly reduced or net-zero GHG emissions from the Company's business would require management to take a number of specific actions and make a number of calculations, including an evaluation and prioritization of competing business and strategic interests, in order to develop a plan for achieving the Proponent's suggested targets for GHG emissions reductions by chosen dates. The Company is a large, complex business operating over 1,720 stores, 6 distribution centers and multiple buying offices throughout the United States. The Company's flexible business model promotes the rapid turn of inventories, and its buying team sources merchandise globally from a universe of roughly 8,000 vendors. To allow for the allocation and distribution of the right merchandise to the right stores at the right time, the Company has developed and designed proprietary IT systems to support its opportunistic buying and a global distribution network capable of efficiently processing thousands of buys from thousands of different vendors every week. The Proposal requires the Company to undertake analyses that would be expensive and complex in light of the size, scope and global nature of the Company's business. The report requested by the Proposal would require the involvement and input of members of management located in multiple locations and numerous teams from each aspect of the business, as well as third-party experts and specialists. It would require a number of specific actions and calculations, requiring compilation and analysis of numerous data points and areas of operations from across the business. The coordination and synthesis of that input would require considerable time and resources. As a result, evaluating the potential of achieving significant reduction to (and eventually net-zero) GHG emissions and issuing a responsive report by a fixed date that is less than 6 months from the annual meeting would require very significant effort for the Company.

Implementation of the Proposal would require management to evaluate this potential for all aspects of the business owned and operated by the Company. Thus, as in Deere 2017, the attempt by the Proposal to give the Company discretion regarding implementation does not negate the fact that the matters addressed in the Proposal are too complex and are impracticable as a subject of direct shareholder oversight.

The Proposal's imposition of specific time-frames to develop and report on a strategy to implement complex decisions that apply to all aspects of the business of the Company to satisfy a prescriptive method for addressing the Company's energy uses and related environmental impact attempts to micro-manage the Company. Based on the EOG, Deere and Apple precedents discussed above and the extent to which the Proposal substitutes the Proponent's judgment for management's judgment in determining how sustainability methods will be prioritized and evaluated, the applicable time-frames, and the complex decision-making on intricate details regarding the business owned and operated by the Company, the Proposal is properly excludable under Rule 14a-8(i)(7).

C.3. Regardless of Whether the Proposal Touches Upon a Significant Policy Issue, the Proposal Is Excludable Under Rule 14a-8(i)(7) Because It Seeks to Micro-Manage the Company.

Under Rule 14a-8(i)(7), a proposal that seeks to micro-manage a company's business operations is excludable even if it involves a significant policy issue. Here, even if the Proposal's references to "the threat of climate change" or to "greenhouse gas emissions" are thought to raise significant policy considerations, the environmental goals of the Proposal are secondary to the Proposal's efforts to micro-manage the Company's operations and processes in addressing this issue. Therefore, the Proposal remains excludable under Rule 14a-8(i)(7).

In this respect, the Staff's responses in Apple 2017, Deere 2017, Apple 2016 and Deere 2016 are particularly relevant. In each, the Staff concurred with the exclusion of proposals addressing GHG emissions, even if viewed as a significant policy issue, because the proposals intruded upon the day-to-day, ordinary business operations of the companies. Here, the Proposal requires that the Company evaluate and develop a strategy and goals by a fixed date for dramatically reduced or net-zero GHG emissions from its operations. The Proposal's intrusion on the Company's ordinary operations means that the subject matter does not "transcend the day to day business matters of the company," and, therefore the Proposal may be properly excluded under Rule 14a-8(i)(7), even if it relates to a significant policy issue.

CONCLUSION

Ross Stores hereby requests that the Staff concur with the conclusion that it can properly exclude the Proposal, and confirm that the Staff will not recommend any enforcement action if Ross Stores excludes the Proposal from the 2019 Proxy Materials. Should you disagree with the conclusions set forth herein, we would appreciate the opportunity to confer with you prior to the issuance of the Staff's response. Moreover, Ross Stores reserves the right to submit to the Staff additional bases upon which the Proposal may properly be excluded from the 2019 Proxy Materials.

By copy of this letter, the Proponent is being notified of Ross Stores' intention to omit the Proposal from its 2019 Proxy Materials.

We would be happy to provide you with any additional information and answer any questions that you may have regarding this subject. If we can be of any further assistance in this matter, please do not hesitate to call me at (415) 836-2598.

Very truly yours,

DLA Piper LLP (US)

Brad Rock

Partner

Enclosures

cc: Ken Jew, Group Senior Vice President, General Counsel and Corporate Secretary
Ross Stores, Inc.

Jantz Management LLC
Attn: Christine Jantz, CFA, President
PO Box 301090
Boston, MA 02130

EXHIBIT A

JantzManagement

Responsible Quantitative Value Investing™

November 26, 2018

John G. Call
Corporate Secretary
Ross Stores, Inc.
5130 Hacienda Drive
Dublin, CA 94568

Re: Shareholder Proposal for 2019 Annual Meeting

Dear Mr. Call:

Jantz Management LLC is filing the enclosed shareholder proposal regarding Ross Stores' greenhouse gas emissions program on behalf of me, as an individual shareholder. Jantz Management LLC is a Boston-based investment management firm providing discretionary investment services to separately managed accounts, pensions and profit sharing plans, trusts and estates, foundations and charities, and corporations and other business entities.

As an individual shareholder, I am a beneficial owner, as defined under Rule 13(d)-3 of the General Rules and Regulations under the Securities Act of 1934 having held more than $2,000 worth of shares of Ross Stores common stock held for more than one year. I will continue to hold the requisite number of shares through the date of the next stockholders' annual meeting. Proof of ownership will be provided within the next 15 business days. I will send a representative to introduce the proposal.

I believe that this proposal is in the best interest of our Company and its shareholders. I look forward to discussing the matter in greater detail.

I would appreciate confirmation of receipt of this proposal by mail or email (jantz@jantzmgmt.com).

Sincerely,

Christine Jantz, CFA
President
Jantz Management LLC

Enclosure: shareholder proposal

PO Box 301090, Boston, MA 02130 | 617.273.8018 | info@jantzmgmt.com | jantzmgmt.com

Proposal on Greenhouse Gas Emissions Goals

Whereas:

In October 2018, the Intergovernmental Panel on Climate Change (IPCC) reaffirmed the 2015 Paris Agreement which aimed to strengthen the global response to the threat of climate change. As a country, the United States is still one of the Parties committed to the 2015 Paris Agreement;

The 2018 IPCC report indicated that the world is projected to reach a dangerous level of climate change by the year 2040 unless drastic steps are taken to slow or reverse climate change: "[t]o limit warming to 1.5°C, mitigation would have to be large-scale and rapid";

According to a 2015 report by Citigroup, the costs of failing to address climate change could lead to a $72 trillion loss to global GDP;

Ross Stores' peers that have set greenhouse gas (GHG) management goals include: TJX Companies, Target Corporation, L Brands, and PVH Corporation;

Examples of other companies with GHG reduction goals include: Walmart, Apple, Johnson & Johnson, GM, AT&T, Procter & Gamble, JP Morgan Chase, McDonald's, and Microsoft;

Retail store GHG emissions arise primarily from electricity usage in retail stores, as well as manufacturing and transportation of products sold to customers, yet Ross Stores has not set a long-term goal for managing GHG emissions;

We believe that committing to aligning long-term business strategy with the projected long-term constraints posed by climate change is important for companies generally and Ross Stores specifically to help protect society from the ravages of climate change and to achieve sustainable long-term shareholder value;

We propose that the company develop its own long term strategy consistent with the international agreements on climate change.

Resolved: The shareholders request that the Board of Directors of Ross Stores (the "Company") prepare a climate change report to shareholders by November 1, 2019 that describes how the Company is aligning its long-term business strategy with the projected long-term constraints posed by climate change, and describing medium- and long-term goals for GHG reduction. The report should be prepared at reasonable expense and may exclude confidential information.

Supporting Statement:

Proponent recommends that the report be prepared with an eye toward the applicability of goals such as eliminating the company's carbon footprint, or reducing GHG's over the medium and long term by a fixed amount that is consistent with the 2015 Paris Climate Agreement and the 2018 IPCC report.

JantzManagement

Responsible Quantitative Value Investing™

December 5, 2018

John G. Call
Corporate Secretary
Ross Stores, Inc.
5130 Hacienda Drive
Dublin, CA 94568

Dear Mr. Call:

This letter is regarding a shareholder proposal that Jantz Management LLC filed on my behalf, on November 26, 2018, regarding Ross Stores' greenhouse gas emissions program. Enclosed, please find a letter from my brokerage, FOLIO*fn* (a DTC participant), verifying that I, Christine Jantz as an individual shareholder of Jantz Management LLC, have held the requisite amount of stock in Ross Stores, Inc. for more than one year prior to filing the shareholder proposal. As previously stated, I intend to continue to hold these shares through the next shareholder meeting.

Please note that I am submitting this proof of ownership on a timely basis consistent with Rule 14a-8. In the event that you find any defect in this documentation, I request that you notify me promptly of any concerns or deficiencies.

Should you need anything further, do not hesitate to contact me at jantz@jantzmgmt.com or at my mailing address, below.

Thank you in advance for your attention to this matter.

Sincerely,

Christine Jantz, CFA
President
Jantz Management LLC

Enclosure: proof of ownership

Folio

FOLIOfn Investments, Inc.
8180 Greensboro Drive
8th Floor
McLean, VA 22102

p 888-485-3456
f 703-649-6288
folioinstitutional.com

December 04, 2018

John G. Call
Corporate Secretary
Ross Stores, Inc.
5130 Hacienda Drive
Dublin, CA 94568

Dear Mr. Call:

Folio Investments, Inc. ("Folio"), a DTC participant, acts as the custodian for Jantz Management LLC. Christine Jantz, an individual shareholder of Jantz Management LLC, currently holds shares of Ross Stores, Inc. common stock, and has held shares valued in excess of $2,000 continuously since November 26, 2017. FOLIOfn is the record holder of the shares. This letter seeks to make no further representations than those above.

Sincerely,

/s/ Michael McDonald
Compliance Manager

UNITED STATES POSTAL SERVICE® Click-N-Ship®

E

usps.com
$24.70
US POSTAGE
Flat Rate Env

***

***

12/05/2018 Mailed from ***

PRIORITY MAIL EXPRESS 2-DAY™

CHRISTINE JANTZ
JANTZ MANAGEMENT LLC
PO BOX 301090
BOSTON MA 02130-0010

Scheduled Delivery Date: 12/07/18

0007

C078

SIGNATURE REQUIRED
NO DELIVERY SATURDAY
SCHEDULED DELIVERY 3:00 PM

SHIP TO:

JOHN G CALL, CORPORATE SECRETARY
ROSS STORES, INC.
5130 HACIENDA DR
DUBLIN CA 94568-7579

USPS SIGNATURE TRACKING #

***

NL 12/7

PRIORITY MAIL EXPRESS™
FASTEST SERVICE IN THE U.S.

USED INTERNATIONALLY, CUSTOMS DECLARATION LABEL MAY BE REQUIRED.

EMS

*** July 2013 OD: 12.5 x 9.5

VISIT US AT USPS.COM®
ORDER FREE SUPPLIES ONLINE

+ Money Back Guarantee for U.S. destinations

UNITED STATES POSTAL SERVICE®