SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
1440 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005-2111

TEL: (202) 371-7000
FAX: (202) 393-5760
www.skadden.com

DIRECT DIAL
202-371-7233
DIRECT FAX
202-661-8280
EMAIL ADDRESS
MARC.GERBER@SKADDEN.COM

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BY EMAIL (shareholderproposals@sec.gov)

January 15, 2020

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

RE: AbbVie – 2020 Annual Meeting
Supplement to Letter dated December 20, 2019
Relating to Shareholder Proposal of the Rhode Island Employees' Retirement Systems Pooled Trust and the Vermont Pension Investment Committee

Ladies and Gentlemen:

We refer to our letter dated December 20, 2019 (the "No-Action Request"), submitted on behalf of our client, AbbVie Inc., a Delaware corporation ("AbbVie"), pursuant to which we requested that the Staff of the Division of Corporation Finance (the "Staff") of the U.S. Securities and Exchange Commission (the "Commission") concur with AbbVie's view that the shareholder proposal and supporting statement (the "Proposal") submitted by the Rhode Island Employees' Retirement Systems Pooled Trust ("RIERS"), and co-filed by the Vermont Pension Investment Committee ("VPIC"), may be excluded from the proxy materials to be distributed by AbbVie in connection with its 2020 annual meeting of shareholders (the "2020 proxy materials"). RIERS and VPIC are sometimes referred to collectively as the "Proponents."

This letter is in response to the letter to the Staff, dated January 14, 2020, submitted by RIERS on behalf of the Proponents (the "Proponents' Letter"), and

*** FISMA & OMB Memorandum M-07-16

supplements the No-Action Request. In accordance with Rule 14a-8(j), a copy of this letter also is being sent to the Proponents.

I. The Proposal Deals with Matters Relating to AbbVie's Ordinary Business Operations.

As described below and in the No-Action Request, because the Proposal seeks to micromanage AbbVie by unduly limiting the ability of the Board of Directors (the "Board") to organize itself, the Proposal is excludable pursuant to Rule 14a-8(i)(7).

The Proponents' Letter argues that the Proposal should not be excluded on the basis of micromanagement because the Staff previously has found that proposals relating to board and committee composition did not micromanage companies and because other corporate governance-related proposals are more prescriptive than the Proposal.

As described in the No-Action Request, however, merely categorizing a proposal as relating to corporate governance does not end the analysis. The question, in this context, is whether, "[n]otwithstanding the precatory nature of a proposal … the method or strategy for implementing the action requested by the proposal is overly prescriptive, thereby potentially limiting the judgment and discretion of the board [such that] the proposal may be viewed as micromanaging." Staff Legal Bulletin No. 14K (Oct. 16, 2019).

In the abstract, we do not take issue with the notion that a proposal relating to board composition or who is qualified to serve on a board relates to shareholder suffrage or other significant shareholder rights and, on this premise, may not constitute micromanagement, but the Proposal here relates to a wholly different issue.

In this case, the Proposal relates to the Board's determination – following the shareholders' exercise of their voting power to elect directors – of who is best qualified to serve in a particular function or role. Unlike questions of who should serve on a board, or what the makeup of a board should look like, the determination of who is best qualified to serve in a particular function or role on the Board is a quintessential board judgment and not a matter of the shareholder franchise or other rights. To accept otherwise, as the Proponents' Letter suggests, would supplant the judgment of the Board with that of shareholders and result in micromanagement.

The Proponents' Letter also states that leadership of the Board is a topic on which shareholders should be able to express a view. We take no issue with the idea

that shareholders may express views on this topic, or even the notion that certain shareholder proposals on the topic of board leadership may be crafted in such a way as to not micromanage. Nevertheless, as described in the No-Action Request, AbbVie believes that this particular Proposal, which would mandate an independent chair whenever possible, is overly prescriptive and unduly limits the discretion of the Board. Moreover, the possibility discussed in the Proponents' Letter that the Board could rescind any independent chair policy at a later date does not alter the fact that the Proposal would micromanage the Board at this time.

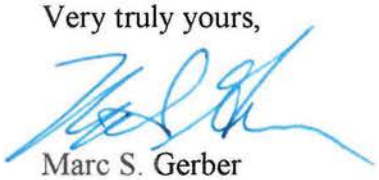
Accordingly, as demonstrated in the No-Action Request, the Proposal is excludable under Rule 14a-8(i)(7).

II. Conclusion

For the reasons stated above and in the No-Action Request, AbbVie respectfully requests that the Staff concur that it will take no action if AbbVie excludes the Proposal from the 2020 proxy materials.

Should the Staff disagree with the conclusions set forth in this letter, or should any additional information be desired in support of AbbVie's position, we would appreciate the opportunity to confer with the Staff concerning these matters prior to the issuance of the Staff's response. Please do not hesitate to contact the undersigned at (202) 371-7233.

Very truly yours,



Marc S. Gerber

cc: Laura J. Schumacher
Vice Chairman, External Affairs and Chief Legal Officer
AbbVie Inc.

Seth Magaziner
General Treasurer
Rhode Island Employees' Retirement Systems Pooled Trust

Elizabeth A. Pearce
State Treasurer
Vermont Pension Investment Committee

State of Rhode Island and Providence Plantations
Office of the General Treasurer
State House – Room 102
Providence, Rhode Island 02903

Seth Magaziner
General Treasurer

January 14, 2020

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

Via e-mail at shareholderproposals@sec.gov

Re: Request by AbbVie Inc. to omit proposal submitted by the Rhode Island Employees' Retirement Systems Pooled Trust and Vermont Pension Investment Committee

To Whom It May Concern,

Pursuant to Rule 14a-8 under the Securities Exchange Act of 1934, the Rhode Island Employees' Retirement Systems Pooled Trust and Vermont Pension Investment Committee (together, the "Proponents") submitted a shareholder proposal (the "Proposal") to AbbVie Inc. ("AbbVie" or the "Company"). The Proposal asks AbbVie's board to adopt a policy that the board's chair, with certain exceptions, be an independent director.

In a letter to the Division dated December 20, 2019 (the "No-Action Request"), AbbVie stated that it intends to omit the Proposal from its proxy materials to be distributed to shareholders in connection with the 2020 annual meeting of shareholders. AbbVie argues that it is entitled to exclude the Proposal in reliance on Rule 14a-8(i)(7), urging that the Proposal deals with AbbVie's ordinary business operations. Because the Proposal addresses the core corporate governance matter of board leadership and is not overly prescriptive, AbbVie has not met its burden of proving its entitlement to exclude the Proposal, and the Proponents ask that its request for relief be denied.

The Proposal

> The Proposal states:
>
> RESOLVED: AbbVie Inc. ("AbbVie" or the "Company") shareholders request the Board of Directors adopt as policy (the "Policy"), and amend the bylaws as necessary, to require henceforth that the Chair of the board be an independent member of the Board. The Policy should apply prospectively so as not to violate any contractual obligations. If the board determines that a Chair who was independent when selected is no longer independent, the board shall select a new Chair who satisfies the requirements of the policy within a reasonable amount of time. Compliance with this policy is waived if no independent director is available and willing to serve as Chair.

Ordinary Business

Rule 14a-8(i)(7) permits a company to omit a proposal that "deals with a matter relating to the company's ordinary business operations." AbbVie argues that it is entitled to exclude the Proposal on ordinary business grounds because it would micromanage the Company by "supplant[ing] the judgment of AbbVie's Board of Directors (the

"Board") as to how best to organize itself to optimally carry out its oversight function and fulfill its fiduciary duties."[1] AbbVie urges that "[t]hese are quintessential board judgments relating to its operations and performance."[2]

AbbVie concedes that the Staff has in the past declined to grant no-action relief to companies citing ordinary business to exclude independent chair proposals. To distinguish those determinations, AbbVie urges that the companies seeking relief did not "specifically address the prescriptive nature of the proposal."[3] That assertion is false.

In American International Group, Inc.,[4] which AbbVie cites on page 3 of the No-Action Request, the proposal asked that the company's bylaws be amended to require that the board's chairperson be an independent director, as defined in the proposal in considerable detail. AIG argued that the proposal could be excluded in reliance on the ordinary business exclusion, squarely raising arguments regarding micromanagement and the importance of deference to the board's judgment:

> While the Company agrees that the issue of having independent directors on its board and on certain board committees reflects a significant corporate governance policy issue, the Company believes that the determination of what constitutes an appropriate standard of independence is a matter that is fundamental to the board's ability to function effectively and to manage numerous day-to-day considerations that the board is in a more appropriate position to evaluate than shareholders as a group. As such, the nine-prong definition of independence contained in the Proposals is exactly the type of effort to "micro-manage" the Company with "intricate details" addressed by the SEC in the 1998 release.

The Staff declined to grant the relief AIG requested.

AbbVie also relies on a spurious hierarchy, unacknowledged by the Commission or Division, in which corporate governance proposals that "relat[e] to shareholder suffrage or other significant shareholders rights" enjoy a special status not shared by other governance proposals. AbbVie defines this privileged group as encompassing proposals addressing proxy access, board declassification, supermajority voting requirements and shareholder right to call a special meeting; significantly, proposals relating to board leadership or board/committee composition are not included. AbbVie cites two determinations as evidence that "corporate governance" proposals like the Proposal are excludable on ordinary business grounds, but both deal with the conduct of the annual meeting.[5] The Proposal, which addresses the core governance concern of AbbVie's board leadership structure, has nothing in common with proposals addressing the details of the annual meeting.

AbbVie challenges the Proposal's supposed prescriptiveness, urging that "the Board's ability to retain flexibility in organizing itself is a necessary element for its optimal operation."[6] The Proponents disagree with AbbVie's assertion that micromanagement is implicated any time a proposal suggests a "specific action to be taken by the board," like adopting an independent chair policy.[7]

By definition, a shareholder proposal under Rule 14a-8 is a request that "the company and/or its board of directors take action," and proponents are exhorted to "state as clearly as possible the course of action that [they] believe the company should follow."[8] Neither the Commission nor the Division requires that all proposals incorporate flexibility or discretion in order to avoid exclusion on ordinary business grounds. It is important to note that AbbVie's board has the power to rescind an independent chair policy, even one incorporated into the bylaws, should it determine that doing so is necessary to carry out its fiduciary duties.[9] Of course, under some circumstances, insufficient flexibility may provide a

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[1] No-Action Request, at 3.
[2] No-Action Request, at 5.
[3] No-Action Request, at 3.
[4] American International Group, Inc. (available Mar. 17, 2005).
[5] See, e.g., American Outdoor Brands Corp. (available June 25, 2019); Comcast Corp. (available Feb. 28, 2018); HP, Inc. (available Dec. 28, 2016); EMC Corp. (available Mar. 7, 2002).
[6] No-Action Request, at 6.
[7] No-Action Request, at 5.
[8] Rule 14a-8(a).
[9] AbbVie's board has the power unilaterally to amend the Company's bylaws. See Amended and Restated By-Laws of AbbVie Inc., Article X (available at https://www.sec.gov/Archives/edgar/data/1551152/000110465916098835/a16-4763_1ex3d1.htm).

basis for excluding a proposal because it is beyond a company's power to implement or would cause the company to violate a law or contract,[10] but that is not the case here where the Proposal contains language to avoid such problems.

Governance proposals related to board and committee composition and board leadership much more detailed and specific than the Proposal have survived challenges making arguments like those AbbVie now advances. For example, in Marriott International Inc.,[11] the company urged that it was entitled to rely on the ordinary business exclusion to omit proposals asking the board to set a goal of having two-thirds of directors be independent and to transition to a fully independent nominating and governance committee, in each case using a seven-prong independence definition set forth in the proposal. The Staff did not concur with Marriott's argument that the proposals would micromanage Marriott because the independence definition was "an operational issue that affects the ability of a board to function."[12] Unlike the Marriott proposal, the Proposal gives AbbVie's board discretion to define independence.

As well, the Proposal's request is less prescriptive than many other governance proposals the Staff has declined to exclude on ordinary business grounds. For example, proposals seeking a proxy access mechanism generally prescribe key terms of the proposed right. The proposal in iRobot Corp.,[13] which AbbVie cites,[14] specified:

- the ownership threshold and duration to be eligible to use the access right
- the number of shareholders who may aggregate their holdings to meet that threshold
- the number of shareholder-nominated directors who may appear in the proxy materials for a given shareholder meeting
- the methodology for dividing that number when there are competing nominating shareholders or groups
- the length of the supporting statement that may be included in support of a shareholder-nominated director, and
- required disclosure to shareholders regarding the proxy access mechanism.

Underlying the micromanagement doctrine is the Commission's belief that "matters of a complex nature upon which shareholders, as a group, [are] not in . . . a position to make an informed judgment" should not be the subject of shareholder oversight.[15] Appropriate board leadership structure is not such a matter. As AbbVie notes, the Commission has mandated disclosure in the proxy statement regarding board leadership, and shareholders use that disclosure to make an informed judgment in voting on directors. The Commission's statement that different leadership structures may be suitable for different companies does not compel a conclusion that shareholders should be prohibited from weighing in on the structure they prefer at a particular company like AbbVie.

Boards of directors are charged with representing the interests of shareholders and the leadership of the board is thus a core corporate governance issue on which shareholders should be able to express a view. The Proposal is not overly prescriptive and thus cannot be said to micromanage AbbVie. Indeed, the Proposal is far less detailed and specific than board-related proposals the Staff has declined to allow companies to exclude on ordinary business grounds. Accordingly, AbbVie has not met its burden of showing that it is entitled to omit the Proposal in reliance on Rule 14a-8(i)(7).

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[10] See, e.g., The Boeing Company (available Feb. 22, 1999) (allowing exclusion of proposal requiring that key committees be made up only of "independent committed directors" as beyond the company's power to implement because "it does not appear to be within the **board's** power to ensure the election of individuals as director who meet the specified criteria.").

[11] Marriott International Inc. (available Mar. 19, 2002).

[12] See also Duke Realty Group (available Feb. 5, 2002) (declining to concur that definition of independence in a proposal seeking a two-thirds independent board would micromanage Duke); Commerce Bancorp (available Mar. 15, 2002) (not allowing exclusion on ordinary business grounds of proposal urging transition to fully independent compensation committee despite the company's argument that the independence definition would micromanage the company); Murphy Oil Corporation (available Mar. 10, 2002) (declining to concur that definition of independence in a proposal asking for an independent executive compensation and nominating committee would micromanage the company); The Walt Disney Company (available Nov. 24, 2004) (company unsuccessfully argued that steps needed to adopt policy requiring an independent board chair constitutes "the allocation of corporate offices and responsibilities among the Company's employees" and thus relate to the company's ordinary business operations).

[13] iRobot Corp. (available Mar. 26, 2013).

[14] See No-Action Request, at 4.

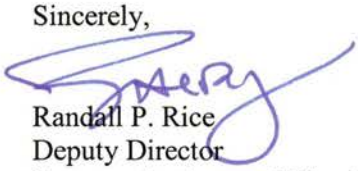
[15] Exchange Act Release No. 40018, "Amendments to Rules on Shareholder Proposals" (May 21, 1998).

* * *

For the reasons set forth above, the Proponents respectfully ask that AbbVie's request for relief be denied.

The Proponents appreciate the opportunity to be of assistance in this matter. If you have any questions or need additional information, please contact me at by e-mail at randall.rice@treasury.ri.gov or by phone at (401) 487-3258

Sincerely,



Randall P. Rice
Deputy Director
Communications and Shareholder Engagement

cc: Marc S. Gerber, Skadden, Arps, Slate, Meagher & Flom LLP Marc.Gerber@Skadden.com
Emily A. Weith, AbbVie, Inc., emily.weith@abbvie.com
Katie Green, Vermont State Treasurer's Office katie.Green@vermont.gov
Michelle Bratzke, AbbVie, Inc., michelle.bratzke@abbvie.com
Eric Henry, Vermont State Treasurer's Office, eric.Henry@vermont.gov

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
1440 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005-2111

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DIRECT DIAL
202-371-7233
DIRECT FAX
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EMAIL ADDRESS
MARC.GERBER@SKADDEN.COM

BY EMAIL (shareholderproposals@sec.gov)

December 20, 2019

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

RE: AbbVie Inc. – 2020 Annual Meeting
Omission of Shareholder Proposal of the
Rhode Island Employees' Retirement Systems
Pooled Trust and the Vermont Pension
Investment Committee

Ladies and Gentlemen:

Pursuant to Rule 14a-8(j) promulgated under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), we are writing on behalf of our client, AbbVie Inc., a Delaware corporation ("AbbVie"), to request that the Staff of the Division of Corporation Finance (the "Staff") of the U.S. Securities and Exchange Commission (the "Commission") concur with AbbVie's view that, for the reasons stated below, it may exclude the shareholder proposal and supporting statement (the "Proposal") submitted by the Rhode Island Employees' Retirement Systems Pooled Trust ("RIERS"), and co-filed by the Vermont Pension Investment Committee ("VPIC"), from the proxy materials to be distributed by AbbVie in connection with its 2020 annual meeting of shareholders (the "2020 proxy materials"). RIERS and VPIC are sometimes referred to collectively as the "Proponents."

In accordance with Section C of Staff Legal Bulletin No. 14D (Nov. 7, 2008) ("SLB 14D"), we are emailing this letter and its attachments to the Staff at shareholderproposals@sec.gov. In accordance with Rule 14a-8(j), we are simultaneously sending a copy of this letter and its attachments to the Proponents as notice of AbbVie's intent to omit the Proposal from the 2020 proxy materials.

Rule 14a-8(k) and Section E of SLB 14D provide that shareholder proponents are required to send companies a copy of any correspondence that the shareholder proponents elect to submit to the Commission or the Staff. Accordingly, we are taking this opportunity to remind the Proponents that if they submit correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should concurrently be furnished to AbbVie.

I. The Proposal

The text of the resolution in the Proposal is set forth below:

> **RESOLVED:** AbbVie Inc. ("AbbVie" or the "Company") shareholders request the Board of Directors adopt as policy (the "Policy"), and amend the bylaws as necessary, to require henceforth that the Chair of the board be an independent member of the board. The Policy should apply prospectively so as not to violate any contractual obligations. If the board determines that a Chair who was independent when selected is no longer independent, the board shall select a new Chair who satisfies the requirements of the policy within a reasonable amount of time. Compliance with this policy is waived if no independent director is available and willing to serve as Chair.

II. Basis for Exclusion

We hereby respectfully request that the Staff concur in AbbVie's view that it may exclude the Proposal from the 2020 proxy materials pursuant to Rule 14a-8(i)(7) because the Proposal deals with matters relating to AbbVie's ordinary business operations.

III. Background

On November 8, 2019, AbbVie received the Proposal, accompanied by a cover letter from RIERS, dated November 5, 2019, and a letter from BNY Mellon Asset Servicing, dated November 5, 2019, stating that RIERS beneficially owned the requisite number of shares of AbbVie's common stock for at least one year as of November 4, 2019. On November 18, 2019, AbbVie sent a letter to RIERS via

email requesting a written statement verifying that RIERS beneficially owned the requisite number of shares of AbbVie's common stock for at least one year preceding and including November 7, 2019, the date the Proposal was submitted to AbbVie (the "Deficiency Letter"). Also on November 18, 2019, AbbVie received a copy of the Proposal from VPIC, indicating it was co-filing the Proposal with RIERS. On November 19, 2019, AbbVie received a second letter from BNY Mellon Asset Servicing verifying RIERS's stock ownership in AbbVie. Copies of the Proposal, cover letters, broker letters, Deficiency Letter and related correspondence are attached hereto as Exhibit A.

IV. The Proposal May be Excluded Pursuant to Rule 14a-8(i)(7) Because the Proposal Deals with Matters Relating to AbbVie's Ordinary Business Operations.

Under Rule 14a-8(i)(7), a shareholder proposal may be excluded from a company's proxy materials if the proposal "deals with matters relating to the company's ordinary business operations." In Exchange Act Release No. 34-40018 (May 21, 1998) (the "1998 Release"), the Commission stated that the policy underlying the ordinary business exclusion rests on two central considerations. The first recognizes that certain tasks are so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight. The second consideration relates to the degree to which the proposal seeks to "micro-manage" the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment.

A. The Proposal seeks to micromanage AbbVie by unduly limiting the Board of Directors' ability to organize itself.

The Proposal seeks to supplant the judgment of AbbVie's Board of Directors (the "Board") as to how best to organize itself to optimally carry out its oversight function and fulfill its fiduciary duties. We are aware that in the past the Staff has declined to permit exclusion under Rule 14a-8(i)(7) of proposals similar to the Proposal. *See, e.g.*, *Clear Channel Communications, Inc.* (Mar. 5, 2003); *The Gap, Inc.* (Mar. 18, 2002). While some of these no-action requests briefly argued that the proposals micromanaged the companies, they did not specifically address the prescriptive nature of the proposal. *See, e.g.*, *American Int'l Group* (Mar. 17, 2005). We also are aware that, in certain instances, the Staff has declined to permit exclusion under Rule 14a-8(i)(7) of proposals relating to corporate governance matters. Those proposals can be distinguished, however, because they involved

corporate governance matters relating to shareholder suffrage or other significant shareholder rights.

For example, the Staff has declined to permit exclusion under Rule 14a-8(i)(7) of proposals relating to proxy access. *See, e.g.*, *iRobot Corp.* (Mar. 26, 2013) (declining to permit exclusion under Rule 14a-8(i)(7) of a proposal requesting the board amend the company's governing documents to provide shareholders the right to make board nominations and have them appear in the company's proxy materials, noting that the proposal "focuses primarily on corporate governance and shareholder suffrage issues, and not ordinary business"). Similarly, the Staff has declined to permit exclusion under Rule 14a-8(i)(7) of proposals seeking to declassify a company's board of directors so that shareholders could vote on all directors every year. *See, e.g.*, *Netflix, Inc.* (Feb. 29, 2016) (declining to permit exclusion under Rule 14a-8(i)(7) of a proposal requesting the company reorganize the board into one class with each director subject to election by shareholders each year). The Staff also has declined to permit exclusion under Rule 14a-8(i)(7) of proposals seeking to provide shareholders with the right to call special meetings or to act by majority, rather than supermajority, votes. *See, e.g.*, *Becton, Dickinson & Co.* (Nov. 25, 2008) (declining to permit exclusion under Rule 14a-8(i)(7) of a proposal requesting the board amend the company's governing documents to give certain shareholders the power to call a special shareowner meeting); *Netflix, Inc.* (Feb. 26, 2016) (declining to permit exclusion under Rule 14a-8(i)(7) of a proposal requesting that the board take the steps necessary so that each voting requirement in the company's governing documents that calls for a greater than simple majority shareholder vote be eliminated and replaced by a requirement for a majority shareholder vote).

Nevertheless, the mere fact that a proposal falls under the broad umbrella of corporate governance does not preclude exclusion under Rule 14a-8(i)(7). In this regard, the Staff has permitted exclusion under Rule 14a-8(i)(7) in instances where a corporate governance-related proposal does not relate to shareholder suffrage or similar significant shareholder rights. For example, the Staff has permitted exclusion under Rule 14a-8(i)(7) of proposals relating to the conduct of a company's annual meeting. *See, e.g.*, *Comcast Corp.* (Feb. 28, 2018) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting that the board adopt a corporate governance policy affirming the continuation of in-person annual meetings in addition to virtual meetings, noting that the proposal related to the determination of whether to hold annual meetings in person); *Servotronics, Inc.* (Feb. 19, 2015) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting a question-and-answer period to be included in conjunction with the company's annual shareholder meetings, noting that

"[p]roposals concerning the conduct of shareholder meetings generally are excludable under Rule 14a-8(i)(7)").

Unlike those proposals that could not be excluded as ordinary business, the specific Proposal here does not relate to shareholder suffrage or a significant shareholder right, such as the ability to call a special meeting of shareholders or act by a majority vote. Rather, the Proposal relates to the Board's choice as to how to best organize itself as a body, its decision as to how to effectively carry out its duties and its determination of who is best qualified to serve in a particular board function or role. These are quintessential board judgments relating to its operations and performance, and thus distinct from the type of corporate governance-related proposals where the Staff has declined to permit exclusion under Rule 14a-8(i)(7).

Moreover, the Staff has consistently agreed that shareholder proposals attempting to micromanage a company by probing too deeply into matters of a complex nature upon which shareholders, as a group, are not in a position to make an informed judgment are excludable under Rule 14a-8(i)(7). *See* the 1998 Release; *see also Abbott Laboratories* (Feb. 28, 2019) (permitting exclusion on the basis of micromanagement of a proposal that requested the adoption of a policy requiring compensation committee approval of certain sales of shares by senior executives); *Walgreens Boots Alliance, Inc.* (Nov. 20, 2018) (permitting exclusion on the basis of micromanagement of a proposal that requested open market share repurchase programs or stock buybacks subsequently adopted by the board not become effective until approved by shareholders). In Staff Legal Bulletin No. 14J (Oct. 23, 2018), the Staff reminded companies and proponents that in assessing whether a proposal micromanages, the Staff looks to the manner in which a proposal addresses an issue and not whether a proposal's subject matter itself is proper for a shareholder proposal under Rule 14a-8.

Recently, in Staff Legal Bulletin No. 14K (Oct. 16, 2019), the Staff stated that micromanagement depends on the level of prescriptiveness of a proposal. When a proposal prescribes specific actions that the company's management or the board must undertake without affording them sufficient flexibility or discretion, the proposal may micromanage the company to such a degree that exclusion of the proposal would be warranted.

In this case, the Proposal imposes a specific action – mandating that AbbVie's Board cannot select certain persons to serve as Board chair – thereby supplanting the judgment of the Board. Decisions concerning the Board's leadership structure require a level of board judgment and flexibility that the Proposal would eliminate. Indeed, in adopting amendments to Item 407 of Regulation S-K to require

disclosure of a company's board leadership structure and an explanation of why the company believes it is the most appropriate structure at the time of disclosure, the Commission itself observed that "different leadership structures may be suitable for different companies depending on factors such as the size of a company, the nature of a company's business, or internal control considerations, among other things." *See* Proxy Disclosure Enhancements, SEC Release No. 33-9089 (Dec. 16, 2009). Moreover, as described in AbbVie's Governance Guidelines, the Board is uniquely situated to assess these structures as:

> The board of directors believes that it is important to retain the flexibility to allocate the responsibilities of the offices of chairman of the board and chief executive officer in any manner that it determines to be in the best interests of AbbVie. The board of directors specifically reserves the right to vest the responsibilities of chairman of the board and chief executive officer in the same individual and currently believes that it is in AbbVie's best interests for the chief executive officer to serve as the chairman of the board.[1]

As is evident by the statement above, the Board's ability to retain flexibility in organizing itself is a necessary element for its optimal operation. For example, page 16 of AbbVie's definitive proxy statement for the 2019 annual meeting of shareholders (the "2019 Proxy Statement") states that the Board "has determined that the current leadership structure, in which the offices of chairman of the board and chief executive officer are held by one individual with a board appointed lead independent director, ensures the appropriate level of oversight, independence, and responsibility is applied to all board decisions, including risk oversight, and is in the best interests of AbbVie and its stockholders."[2]

However, this specific Proposal, if adopted, would foreclose the Board's ability to exercise such flexibility. By preventing the Board from being able to select certain directors to serve as Board chair, the Proposal would supplant the Board's nuanced judgment with a rigid mandate. As a result, the Proposal would unduly limit the ability of the Board to manage complex matters with a level of flexibility necessary to fulfill its fiduciary duties to shareholders. Therefore, the Proposal seeks

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1 *See* AbbVie's Governance Guidelines, available at https://investors.abbvie.com/static-files/e57e1cb4-d889-4f45-91d6-265b76397204.

2 *See* AbbVie's Definitive Proxy Statement for its 2019 Annual Meeting of Stockholders, available at https://www.sec.gov/Archives/edgar/data/1551152/000104746919001544/a2238040zdef14a htm.

to micromanage AbbVie and, thus, is precisely the type of request Rule 14a-8(i)(7) is intended to prevent.

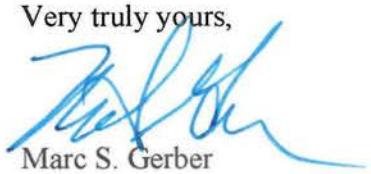
Accordingly, for the reasons discussed above, the Proposal is excludable pursuant to Rule 14a-8(i)(7) as relating to AbbVie's ordinary business operations.

V. Conclusion

Based upon the foregoing analysis, AbbVie respectfully requests that the Staff concur that it will take no action if AbbVie excludes the Proposal from its 2020 proxy materials.

Should the Staff disagree with the conclusions set forth in this letter, or should any additional information be desired in support of AbbVie's position, we would appreciate the opportunity to confer with the Staff concerning these matters prior to the issuance of the Staff's response. Please do not hesitate to contact the undersigned at (202) 371-7233.

Very truly yours,



Marc S. Gerber

Enclosures

cc: Laura J. Schumacher
Vice Chairman, External Affairs and Chief Legal Officer
AbbVie Inc.

Seth Magaziner
General Treasurer
Rhode Island Employees' Retirement Systems Pooled Trust

Elizabeth A. Pearce
State Treasurer
Vermont Pension Investment Committee

EXHIBIT A

(see attached)

State of Rhode Island and Providence Plantations
Office of the General Treasurer
State House – Room 102
Providence, Rhode Island 02903

Seth Magaziner
General Treasurer

November 5, 2019

Laura J. Schumacher, Corporate Secretary, Vice Chair of External Affairs & Chief Legal Officer
AbbVie Inc.
1 North Waukegan Road,
North Chicago, Illinois 60064

Dear Ms. Schumacher,

As shareowners of AbbVie, Inc. (the Company) stock, the Employees' Retirement System of Rhode Island believes that it is in the long-term financial interests of investors, including our members, for the Chair of the Company's board of directors be an independent member of the board.

Independent board chairs serve vitally important roles because they set the board agenda and thereby empower the board by establishing a clear leader who is focused on the functioning of the board. Selecting an independent chair would free the CEO to focus on managing the Company and enable the chair to focus on oversight and strategic guidance, while providing constructive oversight to executive management.

I am writing to inform you that Employees' Retirement System of Rhode Island is submitting the enclosed resolution for inclusion in the company's proxy statement in accordance with Rule 14a-8 of the general rules and regulations of the Securities Exchange Act of 1934. A representative from Employees' Retirement System of Rhode Island will attend the annual meeting to move the resolution as required by SEC rules.

Attached, please find a letter from BNY Mellon, which confirms Rhode Island Employees' Retirement Systems Pooled Trust's ownership of Abbvie, Inc. shares. The Trust intends to continue to hold the requisite number of shares through the date of the Company's annual meeting of stockholders.

We, along with other members of Investors for Opioid and Pharmaceutical Accountability, look forward to continuing the conversation with the Company on this very important issue. Please contact my colleague, Randy Rice, by phone at 401-487-3258 or by email at randall.rice@treasury.ri.gov, if you would like to discuss this matter further.

Sincerely,

Seth Magaziner

RECEIVED
NOV 8 2019
L.J. SCHUMACHER

www.treasury.ri.gov
(401) 222-2397 / Fax (401) 222-6140

RESOLVED: AbbVie Inc. ("AbbVie" or the "Company") shareholders request the Board of Directors adopt as policy (the "Policy"), and amend the bylaws as necessary, to require henceforth that the Chair of the board be an independent member of the board. The Policy should apply prospectively so as not to violate any contractual obligations. If the board determines that a Chair who was independent when selected is no longer independent, the board shall select a new Chair who satisfies the requirements of the policy within a reasonable amount of time. Compliance with this policy is waived if no independent director is available and willing to serve as Chair.

Supporting Statement

We believe:

- The role of the Chief Executive Officer (CEO) and management is to run the company.
- The role of the Board is to provide independent oversight of management and the CEO.
- There is a potential conflict of interest for a CEO to have a non-independent director act as Chair.

As of October 2018, 50% of companies in the S&P 500 have separated the CEO and Chair roles. Numerous institutional investors recommend such a separation. For example, Norges Bank Investment Management states that the board should be chaired by an independent director, and CalPERS' Governance and Sustainability Principles recommend an independent chair in all but "very limited circumstances." The Council of Institutional Investors' corporate governance policies favor independent board chairs.

AbbVie has been condemned for anticompetitive practices that prevent market forces from acting to lower the cost of drugs such as AbbVie's Humira, which accounts for a majority of AbbVie's revenue. A federal class action filed on behalf of benefit funds claims that AbbVie engaged in an "anticompetitive scheme to restrain competition in the market for Humira and its biosimilar competitors in the United States," including abusing the patent system and colluding with potential biosimilar manufacturers to prevent market entry.[1] AbbVie was singled out during a February 2019 congressional hearing on high drug prices for aggressive increases in the price of Humira.[2]

Concerns about these risks have led to growing investor interest in the Company's governance practices. In our view, shareholders are best served by an independent board Chair who can provide a balance of power between the CEO and the board. The board is responsible for overseeing management, and conflicts of interest may arise when one person holds both the Chair and CEO positions. A 2019 survey by PwC found that 61% of directors on boards with a unified Chair/CEO believed that at least one fellow director should be replaced, a significantly larger proportion than the 47% of directors on boards with an independent chair or lead independent director who voiced that view.[3]

We believe that AbbVie's board should adopt best practice governance policies, including having an independent board Chair. We urge shareholders to vote for this proposal.

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[1] https://www.courtlistener.com/recap/gov.uscourts.ilnd.362729/gov.uscourts.ilnd.362729.1.0_3.pdf

[2] https://www.cnbc.com/2019/02/26/sen-ron-wyden-grills-pharma-execs-for-raising-drug-prices.html

[3] https://www.pwc.com/us/en/services/governance-insights-center/assets/pwc-2019-annual-corporate-directors-survey-full-report-v2.pdf.pdf, at 5

BNY MELLON
ASSET SERVICING

November 5, 2019

Re: Rhode Island Employees' Retirement Systems Pooled Trust Accounts ***

This letter is to confirm that The Bank of New York Mellon currently holds as custodian for the above mentioned client 87,351 shares of common stock in ABBVIE Inc., ticker – ABBV. The above-mentioned client has also held over $2,000 worth of the above-mentioned stock for over a twelve-month period as of November 4, 2019.

These shares are currently being held in the Bank of New York Mellon's omnibus account at Depository Trust Company account number 901. This letter serves as confirmation that The Bank of New York Mellon holds the shares on behalf of the above-mentioned client.

Sincerely,

James F. Mahoney, Jr.
Vice President

135 Santilli Highway, 026-0017
Everett, MA 02149
www.bnymellon.com

abbvie

November 18, 2019

VIA EMAIL AND OVERNIGHT DELIVERY

Mr. Randy Rice
Employees' Retirement System of Rhode Island
State of Rhode Island and Providence Plantations
Office of the General Treasurer
State House – Room 102
Providence, RI 02903
randall.rice@treasury.ri.gov

Re: Shareholder Proposal for the AbbVie Inc. 2020 Annual Meeting

Dear Mr. Rice:

On November 8, 2019, AbbVie Inc. ("AbbVie") received a letter from Employees' Retirement System of Rhode Island (the "proponent") submitting a shareholder proposal pursuant to Rule 14a-8 under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), for consideration at AbbVie's 2020 Annual Meeting of Shareholders.

Rule 14a-8(b) under the Exchange Act provides that a shareholder is eligible to submit a proposal if it meets certain ownership criteria. Specifically, the proponent must submit sufficient proof that it has continuously held at least $2,000 in market value, or 1%, of the company's shares entitled to vote on the proposal for at least one year preceding and including November 7, 2019, the date the proposal was submitted.

AbbVie's stock records do not indicate that the proponent is a record owner of a sufficient number of shares to satisfy the ownership requirement. Accordingly, please provide a written statement from the record holder of the proponent's shares (usually a bank or broker) and a participant in the Depository Trust Company (DTC) verifying that, at the time the proposal was submitted, which was November 7, 2019, the proponent had beneficially held the requisite number of shares of AbbVie common stock continuously for at least one year preceding and including November 7, 2019.

Sufficient proof may be in the form of a written statement from the record holder of the proponent's shares (usually a broker or bank) and a participant in the Depository Trust Company (DTC) verifying that, at the time the proposal was submitted, the proponent continuously held the requisite number of shares for at least one year.

Emily A. Weith
Division Counsel,
Governance

AbbVie Inc.
1 North Waukegan Rd
North Chicago, IL 60064
(847) 935-9142
emily.weith@abbvie.com

abbvie

If the broker or bank holding the proponent's shares is not a DTC participant, the proponent also will need to obtain proof of ownership from the DTC participant through which the shares are held. You should be able to find out who this DTC participant is by asking the proponent's broker or bank. If the DTC participant knows the proponent's broker or bank's holdings, but does not know the proponent's holdings, the proponent can satisfy Rule 14a-8 by obtaining and submitting two proof of ownership statements verifying that, at the time the proposal was submitted, the required amount of shares were continuously held for at least one year – one from the proponent's broker or bank confirming the proponent's ownership, and the other from the DTC participant confirming the broker or bank's ownership.

The rules of the SEC require that a response to this letter, correcting all deficiencies described in this letter, be postmarked or transmitted electronically no later than 14 calendar days from the date you receive this letter.

Once we receive any response, we will be in a position to determine whether the proposal is eligible for inclusion in the proxy materials for our 2020 Annual Meeting of Shareholders. We reserve the right to seek relief from the SEC as appropriate.

Sincerely,

Emily A. Weith

ELIZABETH A. PEARCE
STATE TREASURER

RETIREMENT DIVISION
TEL: (802) 828-2305
FAX: (802) 828-5182

UNCLAIMED PROPERTY DIVISION
TEL: (802) 828-2407

ACCOUNTING DIVISION
TEL: (802) 828-2301
FAX: (802) 828-2884

STATE OF VERMONT
OFFICE OF THE STATE TREASURER

November 18, 2019

Ms. Laura J. Schumacher
Executive Vice President, External Affairs, General Counsel and Corporate Secretary
AbbVie Inc.
1 North Waukegan Road
North Chicago, IL 60064

Dear Ms. Laura J. Schumacher,

The Vermont Pension Investment Committee (VPIC) considers social, environmental, governance, and financial factors in our investment decisions. The VPIC has a long-term investment strategy consistent with the duration of Retirement System liabilities. It strives to be a thoughtful, analytical, and patient investor that believes portfolio risk management is a central fiduciary responsibility. The VPIC believes that good governance is imperative for the long-term health and growth of shareholder value. The VPIC is filing this resolution with the belief that a Board of Directors with an independent Chair will protect long-term shareholder value and strengthen the corporation's governance structure.

Vermont Pension Investment Committee is the owner of over $2,000 of AbbVie Inc. stock held continuously for over one year. Vermont Pension Investment Committee intends to continue to hold this stock until after the upcoming Annual Meeting and will provide proof of ownership from a DTC participant in a separate letter. I hereby notify AbbVie Inc. of Vermont Pension Investment Committee's intention to co-file the enclosed shareholder resolution and am submitting the enclosed shareholder proposal for inclusion in the 2020 proxy statement, in accordance with Rule 14a-8 of the General Rules and Regulations of the Securities Exchange Act of 1934. Vermont Pension Investment Committee is co-filing this resolution with the Employees' Retirement System of Rhode Island, who is the lead filer of this resolution and is authorized to act on our behalf in all aspects of the resolution including negotiation and withdrawal of the resolution.

We would note that VPIC is a member of the Investors for Opioid and Pharmaceutical Accountability (IOPA), a coalition of 58 institutional investors and service providers that represents $4.3 trillion in assets under management and advisement. A representative of the lead filer will attend the stockholders' meeting to move the resolution as required. We look forward to discussing the issues surrounding the requested report at your earliest convenience.

Sincerely,

Elizabeth A. Pearce
Vermont State Treasurer

RESOLVED: AbbVie Inc. ("AbbVie" or the "Company") shareholders request the Board of Directors adopt as policy (the "Policy"), and amend the bylaws as necessary, to require henceforth that the Chair of the board be an independent member of the board. The Policy should apply prospectively so as not to violate any contractual obligations. If the board determines that a Chair who was independent when selected is no longer independent, the board shall select a new Chair who satisfies the requirements of the policy within a reasonable amount of time. Compliance with this policy is waived if no independent director is available and willing to serve as Chair.

Supporting Statement

We believe:

- The role of the Chief Executive Officer (CEO) and management is to run the company.
- The role of the Board is to provide independent oversight of management and the CEO.
- There is a potential conflict of interest for a CEO to have a non-independent director act as Chair.

As of October 2018, 50% of companies in the S&P 500 have separated the CEO and Chair roles. Numerous institutional investors recommend such a separation. For example, Norges Bank Investment Management states that the board should be chaired by an independent director, and CalPERS' Governance and Sustainability Principles recommend an independent chair in all but "very limited circumstances." The Council of Institutional Investors' corporate governance policies favor independent board chairs.

AbbVie has been condemned for anticompetitive practices that prevent market forces from acting to lower the cost of drugs such as AbbVie's Humira, which accounts for a majority of AbbVie's revenue. A federal class action filed on behalf of benefit funds claims that AbbVie engaged in an "anticompetitive scheme to restrain competition in the market for Humira and its biosimilar competitors in the United States," including abusing the patent system and colluding with potential biosimilar manufacturers to prevent market entry.[1] AbbVie was singled out during a February 2019 congressional hearing on high drug prices for aggressive increases in the price of Humira.[2]

Concerns about these risks have led to growing investor interest in the Company's governance practices. In our view, shareholders are best served by an independent board Chair who can provide a balance of power between the CEO and the board. The board is responsible for overseeing management, and conflicts of interest may arise when one person holds both the Chair and CEO positions. A 2019 survey by PwC found that 61% of directors on boards with a unified Chair/CEO believed that at least one fellow director should be replaced, a significantly larger proportion than the 47% of directors on boards with an independent chair or lead independent director who voiced that view.[3]

We believe that AbbVie's board should adopt best practice governance policies, including having an independent board Chair. We urge shareholders to vote for this proposal.

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[1] https://www.courtlistener.com/recap/gov.uscourts.ilnd.362729/gov.uscourts.ilnd.362729.1.0_3.pdf

[2] https://www.cnbc.com/2019/02/26/sen-ron-wyden-grills-pharma-execs-for-raising-drug-prices.html

[3] https://www.pwc.com/us/en/services/governance-insights-center/assets/pwc-2019-annual-corporate-directors-survey-full-report-v2.pdf.pdf, at 5

BNY MELLON
ASSET SERVICING

November 19, 2019

Re: Rhode Island Employees' Retirement Systems Pooled Trust Accounts ***

This letter is to confirm that The Bank of New York Mellon currently holds as custodian for the above mentioned client 87,351 shares of common stock in ABBVIE Inc., ticker -- ABBV. The above-mentioned client has also held over $2,000 worth of the above-mentioned stock for over a twelve-month period as of November 7, 2019.

These shares are currently being held in the Bank of New York Mellon's omnibus account at Depository Trust Company account number 901. This letter serves as confirmation that The Bank of New York Mellon holds the shares on behalf of the above-mentioned client.

Sincerely,

James F. Mahoney, Jr.
Vice President

135 Santilli Highway, 026-0017
Everett, MA 02149
www.bnymellon.com

RESOLVED: AbbVie Inc. ("AbbVie" or the "Company") shareholders request the Board of Directors adopt as policy (the "Policy"), and amend the bylaws as necessary, to require henceforth that the Chair of the board be an independent member of the board. The Policy should apply prospectively so as not to violate any contractual obligations. If the board determines that a Chair who was independent when selected is no longer independent, the board shall select a new Chair who satisfies the requirements of the policy within a reasonable amount of time. Compliance with this policy is waived if no independent director is available and willing to serve as Chair.

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- The role of the Chief Executive Officer (CEO) and management is to run the company.
- The role of the Board is to provide independent oversight of management and the CEO.
- There is a potential conflict of interest for a CEO to have a non-independent director act as Chair.

34% of S&P 500 companies are chaired by an independent director, up from 31% last year and 16% in 2009[1].

Numerous institutional investors recommend such a separation. For example, Norges Bank Investment Management states that the board should be chaired by an independent director, and CalPERS' Governance and Sustainability Principles recommend an independent chair in all but "very limited circumstances." The Council of Institutional Investors' corporate governance policies favor independent board chairs.

AbbVie has been criticized for anticompetitive practices that prevent market forces from acting to lower the cost of drugs such as AbbVie's Humira, which accounts for a majority of AbbVie's revenue. A federal class action filed on behalf of benefit funds claims that AbbVie engaged in an "anticompetitive scheme to restrain competition in the market for Humira and its biosimilar competitors in the United States," including abusing the patent system and colluding with potential biosimilar manufacturers to prevent market entry.[2] AbbVie was singled out during a February 2019 congressional hearing on high drug prices for aggressive increases in the price of Humira.[3]

Concerns about these risks have led to growing investor interest in the Company's governance practices. In our view, shareholders are best served by an independent board Chair who can provide a balance of power between the CEO and the board. The board is responsible for overseeing management, and conflicts of interest may arise when one person holds both the Chair and CEO positions. A 2019 survey by PwC found that 61% of directors on boards with a unified Chair/CEO believed that at least one fellow director should be replaced, a significantly larger proportion than the 47% of directors on boards with an independent chair or lead independent director who voiced that view.[4]

We believe that AbbVie's board should adopt best practice governance policies, including having an independent board Chair. We urge shareholders to vote for this proposal.

[1] https://www.spencerstuart.com/-/media/2019/ssbi-2019/us_board_index_2019.pdf

[2] https://www.courtlistener.com/recap/gov.uscourts.ilnd.362729/gov.uscourts.ilnd.362729.1.0_3.pdf

[3] https://www.cnbc.com/2019/02/26/sen-ron-wyden-grills-pharma-execs-for-raising-drug-prices.html

[4] https://www.pwc.com/us/en/services/governance-insights-center/assets/pwc-2019-annual-corporate-directors-survey-full-report-v2.pdf.pdf, at 5

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
1440 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005-2111

TEL: (202) 371-7000
FAX: (202) 393-5760
www.skadden.com

DIRECT DIAL
202-371-7233
DIRECT FAX
202-661-8280
EMAIL ADDRESS
MARC.GERBER@SKADDEN.COM

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PARIS
SÃO PAULO
SEOUL
SHANGHAI
SINGAPORE
TOKYO
TORONTO

BY EMAIL (shareholderproposals@sec.gov)

December 20, 2019

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

RE: AbbVie Inc. – 2020 Annual Meeting
Omission of Shareholder Proposal of the
Rhode Island Employees' Retirement Systems
Pooled Trust and the Vermont Pension
Investment Committee

Ladies and Gentlemen:

Pursuant to Rule 14a-8(j) promulgated under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), we are writing on behalf of our client, AbbVie Inc., a Delaware corporation ("AbbVie"), to request that the Staff of the Division of Corporation Finance (the "Staff") of the U.S. Securities and Exchange Commission (the "Commission") concur with AbbVie's view that, for the reasons stated below, it may exclude the shareholder proposal and supporting statement (the "Proposal") submitted by the Rhode Island Employees' Retirement Systems Pooled Trust ("RIERS"), and co-filed by the Vermont Pension Investment Committee ("VPIC"), from the proxy materials to be distributed by AbbVie in connection with its 2020 annual meeting of shareholders (the "2020 proxy materials"). RIERS and VPIC are sometimes referred to collectively as the "Proponents."

*** FISMA & OMB Memorandum M-07-16

In accordance with Section C of Staff Legal Bulletin No. 14D (Nov. 7, 2008) ("SLB 14D"), we are emailing this letter and its attachments to the Staff at shareholderproposals@sec.gov. In accordance with Rule 14a-8(j), we are simultaneously sending a copy of this letter and its attachments to the Proponents as notice of AbbVie's intent to omit the Proposal from the 2020 proxy materials.

Rule 14a-8(k) and Section E of SLB 14D provide that shareholder proponents are required to send companies a copy of any correspondence that the shareholder proponents elect to submit to the Commission or the Staff. Accordingly, we are taking this opportunity to remind the Proponents that if they submit correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should concurrently be furnished to AbbVie.

I. The Proposal

The text of the resolution in the Proposal is set forth below:

> **RESOLVED:** AbbVie Inc. ("AbbVie" or the "Company") shareholders request the Board of Directors adopt as policy (the "Policy"), and amend the bylaws as necessary, to require henceforth that the Chair of the board be an independent member of the board. The Policy should apply prospectively so as not to violate any contractual obligations. If the board determines that a Chair who was independent when selected is no longer independent, the board shall select a new Chair who satisfies the requirements of the policy within a reasonable amount of time. Compliance with this policy is waived if no independent director is available and willing to serve as Chair.

II. Basis for Exclusion

We hereby respectfully request that the Staff concur in AbbVie's view that it may exclude the Proposal from the 2020 proxy materials pursuant to Rule 14a-8(i)(7) because the Proposal deals with matters relating to AbbVie's ordinary business operations.

III. Background

On November 8, 2019, AbbVie received the Proposal, accompanied by a cover letter from RIERS, dated November 5, 2019, and a letter from BNY Mellon Asset Servicing, dated November 5, 2019, stating that RIERS beneficially owned the requisite number of shares of AbbVie's common stock for at least one year as of November 4, 2019. On November 18, 2019, AbbVie sent a letter to RIERS via

email requesting a written statement verifying that RIERS beneficially owned the requisite number of shares of AbbVie's common stock for at least one year preceding and including November 7, 2019, the date the Proposal was submitted to AbbVie (the "Deficiency Letter"). Also on November 18, 2019, AbbVie received a copy of the Proposal from VPIC, indicating it was co-filing the Proposal with RIERS. On November 19, 2019, AbbVie received a second letter from BNY Mellon Asset Servicing verifying RIERS's stock ownership in AbbVie. Copies of the Proposal, cover letters, broker letters, Deficiency Letter and related correspondence are attached hereto as Exhibit A.

IV. The Proposal May be Excluded Pursuant to Rule 14a-8(i)(7) Because the Proposal Deals with Matters Relating to AbbVie's Ordinary Business Operations.

Under Rule 14a-8(i)(7), a shareholder proposal may be excluded from a company's proxy materials if the proposal "deals with matters relating to the company's ordinary business operations." In Exchange Act Release No. 34-40018 (May 21, 1998) (the "1998 Release"), the Commission stated that the policy underlying the ordinary business exclusion rests on two central considerations. The first recognizes that certain tasks are so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight. The second consideration relates to the degree to which the proposal seeks to "micro-manage" the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment.

A. The Proposal seeks to micromanage AbbVie by unduly limiting the Board of Directors' ability to organize itself.

The Proposal seeks to supplant the judgment of AbbVie's Board of Directors (the "Board") as to how best to organize itself to optimally carry out its oversight function and fulfill its fiduciary duties. We are aware that in the past the Staff has declined to permit exclusion under Rule 14a-8(i)(7) of proposals similar to the Proposal. *See, e.g.*, *Clear Channel Communications, Inc.* (Mar. 5, 2003); *The Gap, Inc.* (Mar. 18, 2002). While some of these no-action requests briefly argued that the proposals micromanaged the companies, they did not specifically address the prescriptive nature of the proposal. *See, e.g.*, *American Int'l Group* (Mar. 17, 2005). We also are aware that, in certain instances, the Staff has declined to permit exclusion under Rule 14a-8(i)(7) of proposals relating to corporate governance matters. Those proposals can be distinguished, however, because they involved

corporate governance matters relating to shareholder suffrage or other significant shareholder rights.

For example, the Staff has declined to permit exclusion under Rule 14a-8(i)(7) of proposals relating to proxy access. *See, e.g.*, *iRobot Corp.* (Mar. 26, 2013) (declining to permit exclusion under Rule 14a-8(i)(7) of a proposal requesting the board amend the company's governing documents to provide shareholders the right to make board nominations and have them appear in the company's proxy materials, noting that the proposal "focuses primarily on corporate governance and shareholder suffrage issues, and not ordinary business"). Similarly, the Staff has declined to permit exclusion under Rule 14a-8(i)(7) of proposals seeking to declassify a company's board of directors so that shareholders could vote on all directors every year. *See, e.g.*, *Netflix, Inc.* (Feb. 29, 2016) (declining to permit exclusion under Rule 14a-8(i)(7) of a proposal requesting the company reorganize the board into one class with each director subject to election by shareholders each year). The Staff also has declined to permit exclusion under Rule 14a-8(i)(7) of proposals seeking to provide shareholders with the right to call special meetings or to act by majority, rather than supermajority, votes. *See, e.g.*, *Becton, Dickinson & Co.* (Nov. 25, 2008) (declining to permit exclusion under Rule 14a-8(i)(7) of a proposal requesting the board amend the company's governing documents to give certain shareholders the power to call a special shareowner meeting); *Netflix, Inc.* (Feb. 26, 2016) (declining to permit exclusion under Rule 14a-8(i)(7) of a proposal requesting that the board take the steps necessary so that each voting requirement in the company's governing documents that calls for a greater than simple majority shareholder vote be eliminated and replaced by a requirement for a majority shareholder vote).

Nevertheless, the mere fact that a proposal falls under the broad umbrella of corporate governance does not preclude exclusion under Rule 14a-8(i)(7). In this regard, the Staff has permitted exclusion under Rule 14a-8(i)(7) in instances where a corporate governance-related proposal does not relate to shareholder suffrage or similar significant shareholder rights. For example, the Staff has permitted exclusion under Rule 14a-8(i)(7) of proposals relating to the conduct of a company's annual meeting. *See, e.g.*, *Comcast Corp.* (Feb. 28, 2018) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting that the board adopt a corporate governance policy affirming the continuation of in-person annual meetings in addition to virtual meetings, noting that the proposal related to the determination of whether to hold annual meetings in person); *Servotronics, Inc.* (Feb. 19, 2015) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting a question-and-answer period to be included in conjunction with the company's annual shareholder meetings, noting that

"[p]roposals concerning the conduct of shareholder meetings generally are excludable under Rule 14a-8(i)(7)").

Unlike those proposals that could not be excluded as ordinary business, the specific Proposal here does not relate to shareholder suffrage or a significant shareholder right, such as the ability to call a special meeting of shareholders or act by a majority vote. Rather, the Proposal relates to the Board's choice as to how to best organize itself as a body, its decision as to how to effectively carry out its duties and its determination of who is best qualified to serve in a particular board function or role. These are quintessential board judgments relating to its operations and performance, and thus distinct from the type of corporate governance-related proposals where the Staff has declined to permit exclusion under Rule 14a-8(i)(7).

Moreover, the Staff has consistently agreed that shareholder proposals attempting to micromanage a company by probing too deeply into matters of a complex nature upon which shareholders, as a group, are not in a position to make an informed judgment are excludable under Rule 14a-8(i)(7). *See* the 1998 Release; *see also Abbott Laboratories* (Feb. 28, 2019) (permitting exclusion on the basis of micromanagement of a proposal that requested the adoption of a policy requiring compensation committee approval of certain sales of shares by senior executives); *Walgreens Boots Alliance, Inc.* (Nov. 20, 2018) (permitting exclusion on the basis of micromanagement of a proposal that requested open market share repurchase programs or stock buybacks subsequently adopted by the board not become effective until approved by shareholders). In Staff Legal Bulletin No. 14J (Oct. 23, 2018), the Staff reminded companies and proponents that in assessing whether a proposal micromanages, the Staff looks to the manner in which a proposal addresses an issue and not whether a proposal's subject matter itself is proper for a shareholder proposal under Rule 14a-8.

Recently, in Staff Legal Bulletin No. 14K (Oct. 16, 2019), the Staff stated that micromanagement depends on the level of prescriptiveness of a proposal. When a proposal prescribes specific actions that the company's management or the board must undertake without affording them sufficient flexibility or discretion, the proposal may micromanage the company to such a degree that exclusion of the proposal would be warranted.

In this case, the Proposal imposes a specific action – mandating that AbbVie's Board cannot select certain persons to serve as Board chair – thereby supplanting the judgment of the Board. Decisions concerning the Board's leadership structure require a level of board judgment and flexibility that the Proposal would eliminate. Indeed, in adopting amendments to Item 407 of Regulation S-K to require

disclosure of a company's board leadership structure and an explanation of why the company believes it is the most appropriate structure at the time of disclosure, the Commission itself observed that "different leadership structures may be suitable for different companies depending on factors such as the size of a company, the nature of a company's business, or internal control considerations, among other things." *See* Proxy Disclosure Enhancements, SEC Release No. 33-9089 (Dec. 16, 2009). Moreover, as described in AbbVie's Governance Guidelines, the Board is uniquely situated to assess these structures as:

> The board of directors believes that it is important to retain the flexibility to allocate the responsibilities of the offices of chairman of the board and chief executive officer in any manner that it determines to be in the best interests of AbbVie. The board of directors specifically reserves the right to vest the responsibilities of chairman of the board and chief executive officer in the same individual and currently believes that it is in AbbVie's best interests for the chief executive officer to serve as the chairman of the board.[1]

As is evident by the statement above, the Board's ability to retain flexibility in organizing itself is a necessary element for its optimal operation. For example, page 16 of AbbVie's definitive proxy statement for the 2019 annual meeting of shareholders (the "2019 Proxy Statement") states that the Board "has determined that the current leadership structure, in which the offices of chairman of the board and chief executive officer are held by one individual with a board appointed lead independent director, ensures the appropriate level of oversight, independence, and responsibility is applied to all board decisions, including risk oversight, and is in the best interests of AbbVie and its stockholders."[2]

However, this specific Proposal, if adopted, would foreclose the Board's ability to exercise such flexibility. By preventing the Board from being able to select certain directors to serve as Board chair, the Proposal would supplant the Board's nuanced judgment with a rigid mandate. As a result, the Proposal would unduly limit the ability of the Board to manage complex matters with a level of flexibility necessary to fulfill its fiduciary duties to shareholders. Therefore, the Proposal seeks

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1 *See* AbbVie's Governance Guidelines, available at https://investors.abbvie.com/static-files/e57e1cb4-d889-4f45-91d6-265b76397204.

2 *See* AbbVie's Definitive Proxy Statement for its 2019 Annual Meeting of Stockholders, available at https://www.sec.gov/Archives/edgar/data/1551152/000104746919001544/a2238040zdef14a htm.

to micromanage AbbVie and, thus, is precisely the type of request Rule 14a-8(i)(7) is intended to prevent.

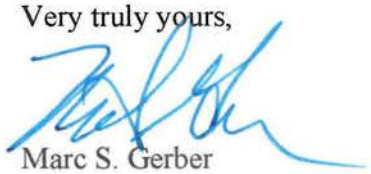
Accordingly, for the reasons discussed above, the Proposal is excludable pursuant to Rule 14a-8(i)(7) as relating to AbbVie's ordinary business operations.

V. Conclusion

Based upon the foregoing analysis, AbbVie respectfully requests that the Staff concur that it will take no action if AbbVie excludes the Proposal from its 2020 proxy materials.

Should the Staff disagree with the conclusions set forth in this letter, or should any additional information be desired in support of AbbVie's position, we would appreciate the opportunity to confer with the Staff concerning these matters prior to the issuance of the Staff's response. Please do not hesitate to contact the undersigned at (202) 371-7233.

Very truly yours,



Marc S. Gerber

Enclosures

cc: Laura J. Schumacher
Vice Chairman, External Affairs and Chief Legal Officer
AbbVie Inc.

Seth Magaziner
General Treasurer
Rhode Island Employees' Retirement Systems Pooled Trust

Elizabeth A. Pearce
State Treasurer
Vermont Pension Investment Committee

EXHIBIT A

(see attached)

State of Rhode Island and Providence Plantations
Office of the General Treasurer
State House – Room 102
Providence, Rhode Island 02903

Seth Magaziner
General Treasurer

November 5, 2019

Laura J. Schumacher, Corporate Secretary, Vice Chair of External Affairs & Chief Legal Officer
AbbVie Inc.
1 North Waukegan Road,
North Chicago, Illinois 60064

Dear Ms. Schumacher,

As shareowners of AbbVie, Inc. (the Company) stock, the Employees' Retirement System of Rhode Island believes that it is in the long-term financial interests of investors, including our members, for the Chair of the Company's board of directors be an independent member of the board.

Independent board chairs serve vitally important roles because they set the board agenda and thereby empower the board by establishing a clear leader who is focused on the functioning of the board. Selecting an independent chair would free the CEO to focus on managing the Company and enable the chair to focus on oversight and strategic guidance, while providing constructive oversight to executive management.

I am writing to inform you that Employees' Retirement System of Rhode Island is submitting the enclosed resolution for inclusion in the company's proxy statement in accordance with Rule 14a-8 of the general rules and regulations of the Securities Exchange Act of 1934. A representative from Employees' Retirement System of Rhode Island will attend the annual meeting to move the resolution as required by SEC rules.

Attached, please find a letter from BNY Mellon, which confirms Rhode Island Employees' Retirement Systems Pooled Trust's ownership of Abbvie, Inc. shares. The Trust intends to continue to hold the requisite number of shares through the date of the Company's annual meeting of stockholders.

We, along with other members of Investors for Opioid and Pharmaceutical Accountability, look forward to continuing the conversation with the Company on this very important issue. Please contact my colleague, Randy Rice, by phone at 401-487-3258 or by email at randall.rice@treasury.ri.gov, if you would like to discuss this matter further.

Sincerely,

Seth Magaziner

RECEIVED
NOV 8 2019
L.J. SCHUMACHER

www.treasury.ri.gov
(401) 222-2397 / Fax (401) 222-6140

RESOLVED: AbbVie Inc. ("AbbVie" or the "Company") shareholders request the Board of Directors adopt as policy (the "Policy"), and amend the bylaws as necessary, to require henceforth that the Chair of the board be an independent member of the board. The Policy should apply prospectively so as not to violate any contractual obligations. If the board determines that a Chair who was independent when selected is no longer independent, the board shall select a new Chair who satisfies the requirements of the policy within a reasonable amount of time. Compliance with this policy is waived if no independent director is available and willing to serve as Chair.

Supporting Statement

We believe:

- The role of the Chief Executive Officer (CEO) and management is to run the company.
- The role of the Board is to provide independent oversight of management and the CEO.
- There is a potential conflict of interest for a CEO to have a non-independent director act as Chair.

As of October 2018, 50% of companies in the S&P 500 have separated the CEO and Chair roles. Numerous institutional investors recommend such a separation. For example, Norges Bank Investment Management states that the board should be chaired by an independent director, and CalPERS' Governance and Sustainability Principles recommend an independent chair in all but "very limited circumstances." The Council of Institutional Investors' corporate governance policies favor independent board chairs.

AbbVie has been condemned for anticompetitive practices that prevent market forces from acting to lower the cost of drugs such as AbbVie's Humira, which accounts for a majority of AbbVie's revenue. A federal class action filed on behalf of benefit funds claims that AbbVie engaged in an "anticompetitive scheme to restrain competition in the market for Humira and its biosimilar competitors in the United States," including abusing the patent system and colluding with potential biosimilar manufacturers to prevent market entry.[1] AbbVie was singled out during a February 2019 congressional hearing on high drug prices for aggressive increases in the price of Humira.[2]

Concerns about these risks have led to growing investor interest in the Company's governance practices. In our view, shareholders are best served by an independent board Chair who can provide a balance of power between the CEO and the board. The board is responsible for overseeing management, and conflicts of interest may arise when one person holds both the Chair and CEO positions. A 2019 survey by PwC found that 61% of directors on boards with a unified Chair/CEO believed that at least one fellow director should be replaced, a significantly larger proportion than the 47% of directors on boards with an independent chair or lead independent director who voiced that view.[3]

We believe that AbbVie's board should adopt best practice governance policies, including having an independent board Chair. We urge shareholders to vote for this proposal.

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[1] https://www.courtlistener.com/recap/gov.uscourts.ilnd.362729/gov.uscourts.ilnd.362729.1.0_3.pdf

[2] https://www.cnbc.com/2019/02/26/sen-ron-wyden-grills-pharma-execs-for-raising-drug-prices.html

[3] https://www.pwc.com/us/en/services/governance-insights-center/assets/pwc-2019-annual-corporate-directors-survey-full-report-v2.pdf.pdf, at 5

BNY MELLON
ASSET SERVICING

November 5, 2019

Re: Rhode Island Employees' Retirement Systems Pooled Trust Accounts ***

This letter is to confirm that The Bank of New York Mellon currently holds as custodian for the above mentioned client 87,351 shares of common stock in ABBVIE Inc., ticker – ABBV. The above-mentioned client has also held over $2,000 worth of the above-mentioned stock for over a twelve-month period as of November 4, 2019.

These shares are currently being held in the Bank of New York Mellon's omnibus account at Depository Trust Company account number 901. This letter serves as confirmation that The Bank of New York Mellon holds the shares on behalf of the above-mentioned client.

Sincerely,

James F. Mahoney, Jr.
Vice President

135 Santilli Highway, 026-0017
Everett, MA 02149
www.bnymellon.com

abbvie

November 18, 2019

VIA EMAIL AND OVERNIGHT DELIVERY

Mr. Randy Rice
Employees' Retirement System of Rhode Island
State of Rhode Island and Providence Plantations
Office of the General Treasurer
State House – Room 102
Providence, RI 02903
randall.rice@treasury.ri.gov

Re: Shareholder Proposal for the AbbVie Inc. 2020 Annual Meeting

Dear Mr. Rice:

On November 8, 2019, AbbVie Inc. ("AbbVie") received a letter from Employees' Retirement System of Rhode Island (the "proponent") submitting a shareholder proposal pursuant to Rule 14a-8 under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), for consideration at AbbVie's 2020 Annual Meeting of Shareholders.

Rule 14a-8(b) under the Exchange Act provides that a shareholder is eligible to submit a proposal if it meets certain ownership criteria. Specifically, the proponent must submit sufficient proof that it has continuously held at least $2,000 in market value, or 1%, of the company's shares entitled to vote on the proposal for at least one year preceding and including November 7, 2019, the date the proposal was submitted.

AbbVie's stock records do not indicate that the proponent is a record owner of a sufficient number of shares to satisfy the ownership requirement. Accordingly, please provide a written statement from the record holder of the proponent's shares (usually a bank or broker) and a participant in the Depository Trust Company (DTC) verifying that, at the time the proposal was submitted, which was November 7, 2019, the proponent had beneficially held the requisite number of shares of AbbVie common stock continuously for at least one year preceding and including November 7, 2019.

Sufficient proof may be in the form of a written statement from the record holder of the proponent's shares (usually a broker or bank) and a participant in the Depository Trust Company (DTC) verifying that, at the time the proposal was submitted, the proponent continuously held the requisite number of shares for at least one year.

Emily A. Weith
Division Counsel,
Governance

AbbVie Inc.
1 North Waukegan Rd
North Chicago, IL 60064
(847) 935-9142
emily.weith@abbvie.com

abbvie

If the broker or bank holding the proponent's shares is not a DTC participant, the proponent also will need to obtain proof of ownership from the DTC participant through which the shares are held. You should be able to find out who this DTC participant is by asking the proponent's broker or bank. If the DTC participant knows the proponent's broker or bank's holdings, but does not know the proponent's holdings, the proponent can satisfy Rule 14a-8 by obtaining and submitting two proof of ownership statements verifying that, at the time the proposal was submitted, the required amount of shares were continuously held for at least one year – one from the proponent's broker or bank confirming the proponent's ownership, and the other from the DTC participant confirming the broker or bank's ownership.

The rules of the SEC require that a response to this letter, correcting all deficiencies described in this letter, be postmarked or transmitted electronically no later than 14 calendar days from the date you receive this letter.

Once we receive any response, we will be in a position to determine whether the proposal is eligible for inclusion in the proxy materials for our 2020 Annual Meeting of Shareholders. We reserve the right to seek relief from the SEC as appropriate.

Sincerely,

Emily A. Weith

ELIZABETH A. PEARCE
STATE TREASURER

RETIREMENT DIVISION
TEL: (802) 828-2305
FAX: (802) 828-5182

UNCLAIMED PROPERTY DIVISION
TEL: (802) 828-2407

ACCOUNTING DIVISION
TEL: (802) 828-2301
FAX: (802) 828-2884

STATE OF VERMONT
OFFICE OF THE STATE TREASURER

November 18, 2019

Ms. Laura J. Schumacher
Executive Vice President, External Affairs, General Counsel and Corporate Secretary
AbbVie Inc.
1 North Waukegan Road
North Chicago, IL 60064

Dear Ms. Laura J. Schumacher,

The Vermont Pension Investment Committee (VPIC) considers social, environmental, governance, and financial factors in our investment decisions. The VPIC has a long-term investment strategy consistent with the duration of Retirement System liabilities. It strives to be a thoughtful, analytical, and patient investor that believes portfolio risk management is a central fiduciary responsibility. The VPIC believes that good governance is imperative for the long-term health and growth of shareholder value. The VPIC is filing this resolution with the belief that a Board of Directors with an independent Chair will protect long-term shareholder value and strengthen the corporation's governance structure.

Vermont Pension Investment Committee is the owner of over $2,000 of AbbVie Inc. stock held continuously for over one year. Vermont Pension Investment Committee intends to continue to hold this stock until after the upcoming Annual Meeting and will provide proof of ownership from a DTC participant in a separate letter. I hereby notify AbbVie Inc. of Vermont Pension Investment Committee's intention to co-file the enclosed shareholder resolution and am submitting the enclosed shareholder proposal for inclusion in the 2020 proxy statement, in accordance with Rule 14a-8 of the General Rules and Regulations of the Securities Exchange Act of 1934. Vermont Pension Investment Committee is co-filing this resolution with the Employees' Retirement System of Rhode Island, who is the lead filer of this resolution and is authorized to act on our behalf in all aspects of the resolution including negotiation and withdrawal of the resolution.

We would note that VPIC is a member of the Investors for Opioid and Pharmaceutical Accountability (IOPA), a coalition of 58 institutional investors and service providers that represents $4.3 trillion in assets under management and advisement. A representative of the lead filer will attend the stockholders' meeting to move the resolution as required. We look forward to discussing the issues surrounding the requested report at your earliest convenience.

Sincerely,

Elizabeth A. Pearce
Vermont State Treasurer

RESOLVED: AbbVie Inc. ("AbbVie" or the "Company") shareholders request the Board of Directors adopt as policy (the "Policy"), and amend the bylaws as necessary, to require henceforth that the Chair of the board be an independent member of the board. The Policy should apply prospectively so as not to violate any contractual obligations. If the board determines that a Chair who was independent when selected is no longer independent, the board shall select a new Chair who satisfies the requirements of the policy within a reasonable amount of time. Compliance with this policy is waived if no independent director is available and willing to serve as Chair.

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[1] https://www.courtlistener.com/recap/gov.uscourts.ilnd.362729/gov.uscourts.ilnd.362729.1.0_3.pdf

[2] https://www.cnbc.com/2019/02/26/sen-ron-wyden-grills-pharma-execs-for-raising-drug-prices.html

[3] https://www.pwc.com/us/en/services/governance-insights-center/assets/pwc-2019-annual-corporate-directors-survey-full-report-v2.pdf.pdf, at 5

BNY MELLON
ASSET SERVICING

November 19, 2019

Re: Rhode Island Employees' Retirement Systems Pooled Trust Accounts ***

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These shares are currently being held in the Bank of New York Mellon's omnibus account at Depository Trust Company account number 901. This letter serves as confirmation that The Bank of New York Mellon holds the shares on behalf of the above-mentioned client.

Sincerely,

James F. Mahoney, Jr.
Vice President

135 Santilli Highway, 026-0017
Everett, MA 02149
www.bnymellon.com