

February 12, 2021

VIA E-MAIL

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

Re: *The Home Depot, Inc.*
Shareholder Proposal of The Green Century Equity Fund
Securities Exchange Act of 1934—Rule 14a-8

Ladies and Gentlemen:

In a letter dated January 15, 2021, we requested that the staff of the Division of Corporation Finance concur that our client, The Home Depot, Inc. (the “Company”), could exclude from its proxy statement and form of proxy for its 2021 Annual Meeting of Shareholders a shareholder proposal (the “Proposal”), including statements in support thereof, received from The Green Century Equity Fund (the “Proponent”).

Enclosed as Exhibit A is a letter executed by the Proponent and the Company, dated February 12, 2021, confirming that the Proponent has withdrawn the Proposal. In reliance on this letter, we hereby withdraw the January 15, 2021 no-action request.

Please do not hesitate to call me at (202) 955-8287, or Stacy S. Ingram, the Company’s Associate General Counsel and Deputy Corporate Secretary, at (770) 384-2858.

Sincerely,



Elizabeth A. Ising

Enclosures

cc: Stacy S. Ingram, The Home Depot, Inc.
Annalisa Tarizzo, Green Century Capital Management

EXHIBIT A



Isabel Janci
Vice President – Investor Relations and Treasurer
The Home Depot, Inc.
2455 Paces Ferry Road
Atlanta, GA 30339

RE: Terms of withdrawal of shareholder proposal on pesticides

Dear Ms. Janci,

Thank you for engaging with Green Century on the topic of glyphosate-based herbicide products. We appreciate your willingness to discuss our concerns as shareholders and hope to continue our dialogue in the future.

To form the basis of a withdrawal agreement, we propose the following steps:

1. Home Depot will work to increase the visibility and accessibility of natural pesticide products and pesticide product options for use in organic gardening in its online store and incorporate links to educational articles about pollinators or organic gardening where appropriate within 6 months of executing this agreement.
2. Home Depot will continue marketing its natural pesticide products and pesticide product options for use in organic gardening directly to customers in order to increase awareness of their availability and benefits.
3. Home Depot and Green Century will meet again within a year of executing this agreement to discuss progress toward the above steps.

Your signature below affirms the company's commitment to the steps outlined above. With your signature, this letter shall serve as notice that Green Century Funds, as filer of the pesticides proposal, hereby withdraws that proposal.

Thank you again for your willingness to engage investors on these concerns.

Sincerely,

Leslie Samuelrich
Green Century Capital Management, Inc./2-12-21

DocuSigned by:

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Isabel Janci
The Home Depot, Inc./2-12-21

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Securities and Exchange Commission
100 F Street, NE
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Re: *The Home Depot, Inc.*
Shareholder Proposal of The Green Century Equity Fund
Securities Exchange Act of 1934—Rule 14a-8

Ladies and Gentlemen:

This letter is to inform you that our client, The Home Depot, Inc. (the “Company”), intends to omit from its proxy statement and form of proxy for its 2021 Annual Meeting of Shareholders (collectively, the “2021 Proxy Materials”) a shareholder proposal (the “Proposal”), including statements in support thereof, received from The Green Century Equity Fund (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 2021 Proxy Materials with the Commission; and
- concurrently sent copies of this correspondence to the Proponents.

Rule 14a-8(k) and Staff Legal Bulletin No. 14D (Nov. 7, 2008) (“SLB 14D”) provide that shareholder proponents are required to send companies a copy of any correspondence that the proponents elect to submit to the Commission or the staff of the Division of Corporation Finance (the “Staff”). Accordingly, we are taking this opportunity to inform the Proponent that if the Proponent elects to submit additional correspondence to the Commission or the Staff with respect to this Proposal, a copy of that correspondence should be furnished concurrently to the undersigned on behalf of the Company pursuant to Rule 14a-8(k) and SLB 14D.

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THE PROPOSAL

The Proposal states:

Resolved: Shareholders request that the board of directors conduct an assessment of any environmental and health risks, as well as reputational, regulatory, legal and financial risks to the Company, posed by the Company's current policies on pesticides. The assessment should include any recommendations for changes to policy and practice that the board deems appropriate.

A copy of the Proposal, including statements in support thereof, as well as related correspondence with the Proponent, is attached to this letter as Exhibit A.

BASIS FOR EXCLUSION

We respectfully request that the Staff concur in our view that the Proposal may be excluded from the 2021 Proxy Materials pursuant to Rule 14a-8(i)(7) because the Proposal relates to the Company's ordinary business operations and does not focus on a significant policy issue.

ANALYSIS

The Proposal May Be Excluded Under Rule 14a-8(i)(7) Because The Proposal Relates To The Company's Ordinary Business Operations.

A. Background On The Ordinary Business Standard Under Rule 14a-8(i)(7)

Rule 14a-8(i)(7) permits a company to omit from its proxy materials a shareholder proposal that relates to the company's "ordinary business" operations. According to the Commission's release accompanying the 1998 amendments to Rule 14a-8, 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." Exchange Act Release No. 40018 (May 21, 1998) (the "1998 Release").

In the 1998 Release, the Commission stated that the underlying policy of the ordinary business exclusion is "to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting," and identified two central considerations that underlie this policy. As relevant here, one of these considerations was

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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.”

Framing a 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 of indirect environmental consequences of its primary automobile manufacturing business).

Although the Commission has stated that “proposals . . . focusing on sufficiently significant social policy issues (e.g., significant discrimination matters) generally would not be considered excludable,” the Staff has subsequently indicated that proposals relating to both “ordinary business matters” and “significant social policy issues” (within the meaning of Rule 14a-8(i)(7)) may be excludable in their entirety in reliance on Rule 14-8(i)(7) if they do not “transcend the day-to-day business matters” discussed in the proposals. *See* 1998 Release. In this regard, when assessing proposals under Rule 14a-8(i)(7), the Staff considers the terms of the resolution and its supporting statement as a whole. *See* Staff Legal Bulletin No. 14C, part D.2 (June 28, 2005) (“In determining whether the focus of these proposals is a significant social policy issue, we consider both the proposal and the supporting statement as a whole.”).

Additionally, a proposal’s request for a board-level review of certain risks does not preclude exclusion if the underlying subject matter of the proposal is ordinary business. In Staff Legal Bulletin No. 14E (Oct. 27, 2009) (“SLB 14E”), the Staff explained how it evaluates proposals relating to risk:

[R]ather than focusing on whether a proposal and supporting statement relate to the company engaging in an evaluation of risk, we will instead focus on the subject matter to which the risk pertains or that gives rise to the risk
[S]imilar to the way in which we analyze proposals asking for the preparation of a report, the formation of a committee or the inclusion of disclosure in a Commission-prescribed document—where we look to the underlying subject matter of the report, committee or disclosure to determine whether the proposal relates to ordinary business—we will consider whether the

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underlying subject matter of the risk evaluation involves a matter of ordinary business to the company.

The Staff has continued to concur in the exclusion of proposals seeking risk assessments when the subject matter concerns ordinary business operations. *See, e.g., Amazon.com, Inc. (Oxfam America, Inc.)* (avail. Apr. 3, 2019) (concurring with the exclusion of a proposal urging the company's board of directors to conduct a human rights impact assessment for certain food products that the company sells that present a high risk of adverse human rights impacts); *McDonald's Corp.* (avail. Mar. 22, 2019) (concurring with the exclusion of a proposal asking the company to disclose the economic risks it faced from campaigns targeting the company over concerns about cruelty to chickens because it "focuse[d] primarily on matters relating to the [c]ompany's ordinary business operations"); *Exxon Mobil Corp.* (avail. Mar. 6, 2012) (concurring with the exclusion of a proposal asking the board to prepare a report on "environmental, social and economic challenges associated with the oil sands," which involved ordinary business matters).

SLB 14E also gives specific guidance applicable to proposals that implicate a board's role in risk oversight. It states:

[T]here is widespread recognition that the board's role in the oversight of a company's management of risk is a significant policy matter regarding the governance of the corporation. In light of this recognition, a proposal that focuses on the board's role in the oversight of a company's management of risk may transcend the day-to-day business matters of a company and raise policy issues so significant that it would be appropriate for a shareholder vote.

Consistent with its positions in SLB 14E, the Staff has repeatedly concurred with the exclusion of proposals related to the board's role in the oversight of a company's management of risk, when those proposals also request a review of risks and the underlying subject matter of the risk review involves ordinary business. *See, e.g., Rite Aid* (avail. Mar. 24, 2015) (concurring with the exclusion of a proposal requesting that a committee of the company's board "[p]rovide oversight concerning the formulation, implementation and public reporting of policies and standards that determine whether or not the [c]ompany should sell a product that (1) [e]specially endangers public health and well-being[,] (2) [h]as substantial potential to impair the reputation of the [c]ompany and/or (3) [w]ould reasonably be considered by many to be offensive to the values integral to the [c]ompany's promotion of its brand"); *Sempra Energy* (avail. Jan. 12, 2012, *recon. denied* Jan. 23, 2012) (concurring with the exclusion of a proposal requesting that the audit committee or any other independent committee of the company's board review and report on the company's management of certain "risks posed by Sempra operations in any country that may pose an elevated risk of

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corrupt practices,” where “the underlying subject matter of these risks appears to involve ordinary business matters”); *The Western Union Co.* (avail. Mar. 14, 2011) (concurring with the exclusion of a proposal requesting the establishment of a board risk committee and a report by the committee on how the company was monitoring and controlling particular risks, where the subject matters of the risks involved ordinary business matters).

B. The Proposal May Be Excluded Under Rule 14a-8(i)(7) Because The Thrust And Focus Of The Proposal Is The Company’s Sale Of Particular Products

The Proposal is excludable pursuant to Rule 14a-8(i)(7) as relating to the Company’s ordinary business operations because the thrust and focus of the Proposal, as demonstrated by the several “Whereas” paragraphs (the “Recitals”), is the sale of particular products by the Company. As noted above, when evaluating whether a proposal may be excluded under Rule 14a-8(i)(7), the Staff evaluates whether the underlying subject matter of the resolution and its supporting statements, taken as a whole, involve a matter of ordinary business to the company. SLB 14C, at part D.2. Here, the Recitals demonstrate that the thrust and focus of the Proposal concerns particular products—Roundup and other products containing glyphosate—offered for sale by the Company. The Recitals take issue with the Company’s ongoing sales of Roundup, in contrast to other companies that have “stop[ped] selling Roundup and other glyphosate-based products,” and reference a “campaign calling on [the Company] and Lowe’s to stop selling glyphosate-based products.” In this regard, the Proposal is comparable to many proposals that the Staff has concurred may be excluded under Rule 14a-8(i)(7), where the resolution addresses one topic but the supporting statements demonstrate that the proposal is a referendum on ordinary business matters.

For example, in *The TJX Companies, Inc.* (avail. Apr. 16, 2018), the proposal requested that the board “develop and disclose a new universal and comprehensive animal welfare policy applying to all of [the company’s] stores, merchandise and suppliers.” In its no-action request, the company argued that while the proposal purported to focus on the humane treatment of animals (which the Staff had found in some cases to implicate a significant policy issue), the supporting statement made clear that the proposal’s thrust and focus was on the company’s sale of products containing fur in its retail stores. Specifically, the supporting statement criticized the company’s “retail stores [that] carry products containing angora wool and fur,” suggested “avoiding the sale of fur products altogether,” and called into question the company’s goal of avoiding “knowingly selling products that contain real fur” before suggesting that the company instead make progress “towards carrying increasingly more ethically sourced products” (which could be viewed, the company argued, as another way of saying “avoiding the sale of fur products altogether”). The Staff concurred with the exclusion of the proposal under Rule 14a-8(i)(7), noting that “the [p]roposal relates to the products and services offered for sale by the [c]ompany.” *See also Comcast Corp.* (avail.

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Mar. 10, 2015) (concurring with the exclusion of a proposal requesting a review of human rights policies where the company argued that the proposal “attempts to avoid [exclusion under Rule 14a-8(i)(7)]” by relocating the underlying focus of the proposal “from the ‘resolved’ clause of the [p]roposal to a subsequent sentence nominally labeled ‘supporting statement’”); *General Electric Co. (St. Joseph Health System)* (avail. Jan. 10, 2005) (concurring with the exclusion of a proposal requesting that the compensation committee “include social responsibility and environmental (as well as financial) criteria” in setting executive compensation where the supporting statement included repeated references to an alleged link between teen smoking and the depiction of smoking in movies and, in response the company argued that the supporting statement evidenced the proponents’ intent to “obtain[] a forum for the [p]roponents to set forth their concerns about an alleged link between teen smoking and the depiction of smoking in movies,” the Staff concurred, noting that “the thrust and focus of the proposal [was] on the ordinary business matter of the nature, presentation and content of programming and film production”).

The Staff has also consistently concurred with the exclusion under Rule 14a-8(i)(7) of proposals relating to the sale of particular products or services, as relating to a company’s ordinary business operations. For example, in *Mondelēz International, Inc.* (avail. Feb. 23, 2016), a proposal sought a report on the company’s use of nanomaterials, including a description of products or packaging that contained nanoparticles, an explanation as to why nanoparticles were being used, and a description of what actions management was taking to reduce or eliminate nanoparticles’ risks to human health and the environment. It also sought to eliminate the use of nanomaterials until or unless long-term testing proved they were safe. The company argued that the proposal related to its ordinary business decisions, specifically “decisions regarding the ingredients or materials contained in the [c]ompany’s products and/or packaging,” and fell into a “well established” category of proposals “relating to the development of products and product lines, including the choices of processes and supplies used in the preparation of a company’s products and any packaging thereof [that were] excludable as relating to a company’s ordinary business operations.” The Staff concurred with the proposal’s exclusion as the proposal “relate[d] to [the company’s] product development.” As in *Mondelēz*, here the Proposal also targets the Company’s sale of particular products—Roundup and glyphosate-containing products—and seeks an assessment of any risks that arise from Company policies related to those and other products. Similarly, in *Wal-Mart Stores, Inc. (Green Century)* (avail. Mar. 24, 2006), a proposal requested that the board of directors issue “a report evaluating [c]ompany policies and procedures for systematically minimizing customers’ exposure to toxic substances in products” the company sells. The Staff concurred with the exclusion of the proposal under Rule 14a-8(i)(7), noting that the proposal related to the “sale of particular products.” See also *Amazon.com, Inc.* (avail. Mar. 11, 2016) (concurring with the exclusion of a proposal

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requesting that the company “issue a report addressing animal cruelty in the supply chain,” where the supporting statement requested that the report address a number of concerns relating to the company’s policies and guidelines regarding animal cruelty associated with products sold on its website, and the Staff noted that “[p]roposals concerning the sale of particular products and services are generally excludable under [R]ule 14a-8(i)(7)”); *Amazon.com, Inc.* (avail. Mar. 27, 2015) (concurring with the exclusion of a proposal requesting that the company disclose the “reputational and financial risks it may face . . . pertaining to the treatment of animals used to produce products it sells” as relating to “the products and services offered for sale by the company”); *Papa John’s International Inc.* (avail. Feb. 13, 2015) (concurring with the exclusion of a proposal requesting that the company include more vegan offerings in its restaurants, despite asserting the proposal would promote animal welfare, as related to “the products offered for sale by the company”); *Wal-Mart Stores, Inc.* (avail. Mar. 20, 2014) (concurring with the exclusion of a proposal requesting board oversight of determinations as to whether selling certain products that endanger public safety and well-being could impair the reputation of the company and/or would be offensive to family and community values, on the basis that the proposal related to “the products and services offered for sale by the company”), *aff’d and cited in Trinity Wall Street v. Wal-Mart Stores, Inc.*, 792 F.3d 323, 327 (3d Cir. 2015)).

Just as in *The TJX Companies*, the thrust and focus of the Proposal is on the sale of particular products: specifically, the Company’s sale of products containing glyphosate, including Roundup. This is evidenced by the Recitals, which—like the proposal in *The TJX Companies*—reveal the intended purpose of the Proposal despite the language of the resolution. For example, the Recitals describe the potential health risks allegedly identified with “glyphosate, the primary ingredient in Roundup” and assert that “[c]ompanies that merchandise pesticides” (i.e., the Company) face a number of risks. The Recitals then refer to a campaign that called on the Company “to *stop selling glyphosate-based products*” before describing how the Company’s “continued *sale of certain pesticides*” and “current practices” will result in legal, reputational, and financial risk “if [the Company] does not *take action*” (emphases added). The Recitals then highlight companies that announced they would “phase out” or “*stop selling Roundup and other glyphosate-based products*” before contrasting them with the Company, which “*failed to include synthetic pesticides in its recently announced Chemical Strategy* [i.e., a policy related to pesticides] and does not provide sufficient information about how it is effectively managing toxic pesticides *in its products offerings*” (emphases added).

Decisions regarding the products the Company sells implicate a myriad of factors that must be considered by the Company’s management, including ensuring safe products, as well as the tastes and preferences of customers, maintaining product diversity, the products offered

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by the Company's competitors, laws and regulatory requirements where products are sold, the availability of sufficient quantity and quality of products to meet demand, and the costs and revenue associated with those sales. This analysis far exceeds the scope of shareholder expertise. This is exactly the type of analysis that Rule 14a-8(i)(7) recognizes as a proper function for management, which has the requisite knowledge and resources on these topics to appropriately analyze and weigh these factors in light of the Company's business operations. Further, the Proposal, as in *Mondelēz*, seeks a report regarding particular Company policies and practices, including consideration of environmental and health risks, and thus relates to ordinary business decisions regarding the products the Company offers for sale.

Thus, as in *The TJX Companies*, *Mondelēz International* and the other precedents cited above regarding the excludability of proposals relating to the sale of products, the Recitals demonstrate that the Proposal's thrust and focus concerns specific products the Company offers for sale, which demonstrates that the Proposal would operate as a referendum on the Company's ordinary business operations and is therefore excludable under Rule 14a-8(i)(7).

C. *The Proposal May Be Excluded Under Rule 14a-8(i)(7) Because It Relates To The Company's Policies Regarding The Products It Sells*

The Proposal seeks an assessment of risks ("environmental and health risks, as well as reputational, regulatory, legal and financial risks") to the Company "posed by [its] current policies on pesticides," including recommendations on changes to such policies. The Company is the world's largest home improvement retailer. The Company's process for determining which products to sell and related policies implicate routine management decisions encompassing legal, operational, and financial considerations, among others. The Company recognizes the responsibility it has for the environmental impact of its organization and that its biggest impact is the products it sells.¹ The Company is committed to continuing the drive toward minimizing the environmental impact of products sold, as reflected in the Company's Chemical Strategy, which addresses the Company's commitment to increasing its assortment of products across a number of different product categories (e.g., paint, flooring, insulation, cleaning products, and gardening), the transparency of product ingredients and meeting high environmental standards. The Chemical Strategy likewise addresses a variety of products and pesticides that are non-toxic and organic, some of which are also biodegradable, plant-based, not tested on animals, and do not contain harmful

¹ See Chemical Strategy, available at https://corporate.homedepot.com/sites/default/files/image_gallery/PDFs/Chemical%20Strategy%2010_2017.pdf.

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chemicals.² The Company carefully assessed and determined the approach and scope reflected in its Chemical Strategy and evaluates this strategy annually to confirm that its approach, goals, and disclosure are appropriate and meet the needs of its stakeholders.³

In addition to the Chemical Strategy, the Company has prepared a number of guidelines that encompass pesticides, including the Home Pest Control Solutions summary, providing “tips and advice” to customers trying to avoid insects and other pests in their homes and gardens;⁴ the Pest Problem Solver Guide, helping customers identify the best approach to their weed and pest-related issues;⁵ and a number of Project and Inspiration Guides, such as “How to Humanely Control Pests in Your Garden,” which provides advice on creating “a diverse ecology” for “a healthy garden that can handle problem pests and still thrive.”⁶ Beyond customer-facing statements, the Company’s internal policies and procedures, such as its Responsible Handling of Hazardous Materials policy (the “Responsible Handling Policy”), also address pesticides. The Responsible Handling Policy includes written standard operating procedures governing how associates do their jobs on a day-to-day basis and provides instructions on the proper handling of pesticides, among other items.⁷ Additionally, the Company’s supplier agreements include standards that require compliance with legal and regulatory requirements, including content and labeling requirements that apply to a variety of products (including pesticides). The Company also has internal operating procedures to assist suppliers with onboarding products, some of which address information relevant to product safety and content. The Proposal implicates a comprehensive review of all of the foregoing Company policies and procedures pertaining to mundane matters relating to pesticides.

The Staff has concurred consistently with the exclusion of proposals that relate to company policies regarding the sale of its products and services. For example, in *Lowe’s Companies, Inc.* (avail. Mar. 8, 2017), a proposal sought a report on “risks and opportunities that the issue of human lead exposures from unsafe practices pose to the company, its employees, contractors, and customers.” The company noted that it had “carefully assessed and

² *Id.*

³ *Id.*

⁴ See Pest Control, available at <https://www.homedepot.com/b/Outdoors-Garden-Center-Pest-Control/N-5yc1vZbx4w#Guides>.

⁵ Available at <https://custom.homedepot.com/pestproblemsolver>.

⁶ Available at <https://www.homedepot.com/c/ai/how-to-humanely-control-pests-in-your-garden/9ba683603be9fa5395fab901282ecf76>.

⁷ Available at https://corporate.homedepot.com/sites/default/files/Hazardous_Materials.pdf.

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implemented a lead-safety compliance program” and that “decisions regarding changing or expanding [its] policies [regarding lead-safe practices] require a careful analysis of many factors” and such analysis “is a proper function for management and far exceeds the scope of shareholder expertise.” The Staff concurred with the proposal’s exclusion, noting it related to the company’s “ordinary business operations.” Like the proposal in *Lowe’s*, the Proposal here requests an assessment by the Company’s board of directors (the “Board”) on risks arising from its policies regarding pesticides and the Board’s “recommendations for changes,” similarly seeking to modify the carefully prepared policies of the Company’s management with regard to the products it sells. *See also FMC Corp.* (avail. Feb. 25, 2011, *recon. denied* Mar. 16, 2011) (concurring with the exclusion of a proposal recommending that the company establish a “product stewardship program” for certain of its pesticides, noting that the proposal related to “products offered for sale by the company”); *The Walt Disney Co.* (avail. Dec. 22, 2010) (concurring with the exclusion of a proposal that would require the company to implement a policy preventing children from entering designated smoking areas at the company’s theme parks, noting that the proposal related to “the policies and procedures regarding the products and services that the company offers”); *General Electric Co. (Balch)* (avail. Jan. 28, 1997) (concurring with the exclusion of a proposal recommending that the company adopt a policy of recalling and refunding defective products, noting that the proposal related to the company’s “recall and refund procedures”).

As discussed above, and consistent with the foregoing precedent, the Proposal likewise involves the Company’s policies regarding the Company’s products and services, and may therefore be excluded pursuant to Rule 14a-8(i)(7). Like the policy assessments and reviews requested in *Lowe’s Companies*, the Proposal directly addresses the policies regarding products the Company sells. In particular, the Proposal asks for an assessment of certain risks “posed by the Company’s *current policies on pesticides*” and states that the assessment “should include any recommendations for *changes to policy and practice*” (emphases added). The Proposal also takes issue with how the Company is “managing toxic pesticides in its product offerings and the associated business risks.” As in *Lowe’s*, this focus on how the Company manages its products clearly relates to an ordinary business matter, properly excludable pursuant to Rule 14a-8(i)(7). By seeking to intervene in decisions regarding the policies the Company adopts with respect to the products it chooses to sell, the Proposal would interfere with management’s ability to manage the Company’s products and services—not just regarding the sale of such products, but also regarding how such products are used by customers (such as in the Inspiration Guides) and handled by employees in their day-to-day work (such as the Responsible Handling Policy and related operating procedures). Just as the company argued in *Lowe’s Companies*, “decisions regarding changing or expanding [company] policies will require a careful analysis of many factors,” and are inappropriate for shareholder oversight. Because the Proposal relates to the policies

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regarding the Company's products and services, the Proposal may be excluded under Rule 14a-8(i)(7), consistent with the precedents discussed above.

D. The Proposal May Be Excluded Under Rule 14a-8(i)(7) Because It Relates To The Company's Litigation Strategy In Pending Litigation

We believe that the Proposal may be excluded from the 2021 Proxy Materials pursuant to Rule 14a-8(i)(7) because the Proposal implicates the Company's litigation strategy in pending lawsuits involving the Company and is therefore excludable as relating to the Company's ordinary business operations.

The Company believes that it may omit the Proposal from its 2021 Proxy Materials because disclosure of the information requested by the Proposal would adversely affect the litigation strategy of the Company in multiple pending lawsuits concerning Roundup. The pending lawsuits involve claims for (i) personal injury from exposure to Roundup and/or the glyphosate contained in Roundup and (ii) economic damages based on the lack of disclosure of an alleged scientific debate about the health consequences of Roundup. A principal legal issue in the foregoing lawsuits, and which forms the basis for the Proposal, is whether glyphosate-based products, including Roundup, do in fact cause harm to human health and/or the environment. Thus, the very effects of Roundup are one of the legal issues, and implementing the Proposal to provide a report on "any environmental and health risks . . . posed by the Company's current policies on pesticides," as the Proposal requests, would necessarily harm the Company's litigation strategy where the litigation concerns the health impacts of one such policy – the Company's policy permitting the sale of products, including pesticides, that contain glyphosate. Implementing the Proposal to report on the requested risks posed by the Company's existing pesticides policies could therefore be construed as an implied admission by the Company that Roundup and/or glyphosate are harmful, or that there is a material risk that such products and ingredients might be harmful. This is particularly the case where the supporting statement asks the Board to "consider the benefits and drawbacks of triggering any changes in the Company's approach once a substantial body of scientific literature has evidenced the potential for significant harm to human health or the environment from a pesticide." In addition, the Company's position is that the labeling and sale of Roundup products are in compliance with applicable law. The Company relies on the Environmental Protection Agency's (the "EPA") guidance regarding the sale of such products and the EPA has classified glyphosate as "not likely to be carcinogenic to

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humans.”⁸ The Company also offers several alternative products that do not contain glyphosate.

The Staff has consistently concurred with the exclusion under Rule 14a-8(i)(7) of shareholder proposals that implicate and seek to oversee a company’s ordinary business operations, including when the subject matter of the proposal is the same as or similar to that which is at the heart of litigation in which a company is then involved. For example, in *Johnson & Johnson* (avail. Feb. 14, 2012) (“*Johnson & Johnson*”), the proposal requested a report describing “new initiatives instituted by management to address the health and social welfare concerns of people harmed by adverse effects from Levaquin.” The company argued that the proposal “would adversely affect the litigation strategy of the [c]ompany in thousands of pending lawsuits concerning LEVAQUIN in which it has been named as defendant.” Moreover, the company argued that the principal legal issue in the lawsuits, and which formed the basis of the proposal, was whether the plaintiffs have been harmed by LEVAQUIN. The company also argued that the proposal “would require the [c]ompany to publish a report describing the [c]ompany’s initiatives to ‘address the health and social welfare concerns of people harmed by adverse effects from LEVAQUIN.’” The Staff concurred with exclusion of the proposal pursuant to Rule 14a-8(i)(7), noting in particular that “the company is presently involved in litigation relating to the subject matter of the proposal” and “[p]roposals that would affect the conduct of ongoing litigation to which the company is a party are generally excludable under [R]ule 14a-8(i)(7).” As in *Johnson & Johnson*, the disclosure requested by the Proposal here would adversely affect the Company’s litigation strategy because a primary issue being litigated (whether there are health risks) and the premise of the supporting statement demonstrate that the Proponent believes that Roundup has negative health effects. As such, the Proposal goes to the heart of pending litigation and, consistent with *Johnson & Johnson*, is properly excludable.

The Staff’s position on the excludability of proposals under Rule 14a-8(i)(7) where the subject matter of the proposal implicates pending litigation is longstanding. *See, e.g., Walmart Inc.* (avail. Apr. 13, 2018) (concurring with the exclusion of a proposal requesting a report on risks associated with emerging public policies on the gender pay gap, where the company was involved in numerous pending lawsuits regarding gender-based discrimination in pay and related claims before the U.S. Equal Employment Opportunity Commission, as “affect[ing] the conduct of ongoing litigation relating to the subject matter of the [p]roposal to which the [c]ompany is a party”); *General Electric Co.* (avail. Feb. 3, 2016) (concurring

⁸ *See* [https://www.epa.gov/ingredients-used-pesticide-products/glyphosate#:~:text=No%20evidence%20that%20glyphosate%20causes,Research%20for%20Cancer%20\(IARC\).](https://www.epa.gov/ingredients-used-pesticide-products/glyphosate#:~:text=No%20evidence%20that%20glyphosate%20causes,Research%20for%20Cancer%20(IARC).)

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with the exclusion of a proposal requesting that the company issue a report assessing all potential sources of liability related to PCB discharges in the Hudson River while the company was a defendant in multiple pending lawsuits alleging damages related to the company's alleged past release of chemicals into the Hudson River, noting "the company is presently involved in litigation relating to the subject matter of the proposal"; *Chevron Corp.* (avail. Mar. 19, 2013) (concurring with the exclusion of a proposal requesting that the company review its "legal initiatives against investors" as relating to the company's ordinary business operations (i.e., litigation strategy) because "[p]roposals that would affect the conduct of ongoing litigation to which the company is a party are generally excludable under rule 14a-8(i)(7)"); *Reynolds American Inc.* (avail. Mar. 7, 2007) (concurring with the exclusion of a proposal requesting that the company provide information on the health hazards of secondhand smoke, including legal options available to minors to ensure their environments are smoke free, where the company was currently litigating six separate cases alleging injury as a result of exposure to secondhand smoke and a principal issue concerned the health hazards of secondhand smoke, as relating to litigation strategy); *AT&T Inc.* (avail. Feb. 9, 2007) (concurring with the exclusion of a proposal requesting that the company issue a report containing specified information regarding the alleged disclosure of customer records to governmental agencies, while the company was a defendant in multiple pending lawsuits alleging unlawful acts by the company in relation to such disclosures, as relating to ordinary business operations (i.e., litigation strategy)); *Reynolds American Inc.* (avail. Feb. 10, 2006) (concurring with the exclusion of a proposal requesting that the company notify African Americans of the unique health hazards to them associated with smoking menthol cigarettes, where the company noted that undertaking such a campaign would be inconsistent with positions it was taking in denying such health hazards as defendant in a lawsuit alleging that the use of menthol cigarettes by the African American community poses unique health risks to this community, as relating to litigation strategy); *Philip Morris Companies Inc.* (avail. Feb. 4, 1997) (concurring with the exclusion of a proposal where the Staff noted that although it "has taken the position that proposals directed at the manufacture and distribution of tobacco-related products by companies involved in making such products raise issues of significance that do not constitute matters of ordinary business," the company could exclude a proposal that "primarily addresses the litigation strategy of the [c]ompany, which is viewed as inherently the ordinary business of management to direct").

As demonstrated in Section B above, the thrust and focus of the Proposal is the Company's sale of Roundup and other glyphosate-based products. The very effects of Roundup and glyphosate are one of the legal issues at the heart of pending litigation involving the Company. Thus, implementing the Proposal to provide a report on "any environmental and health risks . . . posed by the Company's current policies on pesticides," as the Proposal requests, would necessarily harm the Company's litigation strategy where the litigation

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concerns the health impacts of one such policy – the Company’s policy permitting the sale of products, including pesticides, that contain glyphosate. Implementing the Proposal to report on the requested risks posed by the Company’s existing pesticides policies could therefore be construed as an implied admission by the Company that Roundup and/or glyphosate are harmful, or that there is a material risk that such products and ingredients might be harmful and that such risks should have been disclosed to consumers.

The Proposal, if implemented, would require the Company to publish a report describing and assessing any “environmental and health risks, as well as reputational, regulatory, legal and financial risks to the Company, posed by the Company’s current policies on pesticides.” As discussed above, the Company’s policies on pesticides do not prohibit the sale of Roundup and other glyphosate-based products. Further, the existence and nature of potential adverse effects from Roundup and other products including glyphosate, and the need for disclosure thereof, are legal issues that the Company is currently litigating in approximately 20 cases. Thus, by requesting the Company issue a public report on “environmental and health risks” posed by the Company’s pesticides policies, including its policies pertaining to the sale of glyphosate-based products, the Proposal interferes with the Company’s defense of pending litigation. Specifically, the Proposal would obligate the Company to take a public position, outside the context of pending litigation and the discovery process, with respect to the alleged adverse effects of Roundup and other products containing glyphosate that the Company may sell. It would also potentially compel the Company to disclose its internal assessment of the existence and nature of any potential adverse effects that Roundup and other products containing glyphosate may cause. Any such assessment may prematurely disclose the Company’s litigation strategy to its opposing parties in pending litigation. The premise of the Proposal’s request is that “glyphosate, the primary ingredient in Roundup, was classified as ‘probably carcinogenic to humans’” and calls on the Company to “stop selling glyphosate-based products.” Thus, all information covered by the Proposal’s request for a report on “any environmental and health risks . . . posed by the Company’s current policies on pesticides” as well as “any recommendation for changes to policy and practice that the [B]oard deems appropriate” is legally prejudicial information because disclosure of any such risk assessment and corresponding changes in policy could be construed as an implied admission of liability in litigation against the Company.

Every company’s management has a basic responsibility to defend the company’s interests against unwarranted litigation. A shareholder proposal that interferes with this obligation is inappropriate, particularly when the company is involved in pending litigation on the very issues that form the basis for the proposal. For that reason, the Staff consistently has viewed shareholder proposals that implicate a company’s conduct of litigation or its litigation strategy as properly excludable under the “ordinary course of business” exception contained

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in Rule 14a-8(i)(7). *See, e.g., NetCurrents, Inc.* (avail. May 8, 2001) (concurring with exclusion of a proposal as relating to company's ordinary business operations (i.e., litigation strategy) where the proposal required the company to file suit against certain of its officers for financial improprieties); *Benihana National Corp.* (avail. Sept. 13, 1991) (concurring with exclusion of a proposal requesting the company to publish a report prepared by a board committee analyzing claims asserted in a pending lawsuit).

In summary, the Proposal requests that the Company take action (i) that could facilitate the goals of the plaintiffs in pending litigation against the Company at the same time that the Company is actively challenging those plaintiffs' allegations and (ii) on the very subject matter that the Company is actively litigating. In this regard, the Proposal seeks to substitute the judgment of shareholders for that of the Company on decisions involving litigation strategy. Thus, implementation of the Proposal would intrude upon Company management's exercise of its day-to-day business judgment with respect to pending litigation in the ordinary course of its business operations. Accordingly, we believe that the Proposal may be excluded from the Company's 2021 Proxy Materials under Rule 14a-8(i)(7) as relating to the Company's ordinary business operations.

E. The Proposal Does Not Focus On A Significant Policy Issue That Transcends The Company's Ordinary Business Operations

The well-established precedent set forth above demonstrates that the Proposal addresses ordinary business matters and therefore is excludable under Rule 14a-8(i)(7). While the Staff stated in the 1998 Release that proposals "focusing on sufficiently significant social policy issues . . . generally would not be considered to be excludable," here, the Proposal does not focus on a significant policy issue. Although the Proposal touches on health and environmental harms and risks, the plain language of the Proposal encompasses numerous other risks as well (i.e., "reputational, regulatory, legal and financial") and would require an assessment of any and all risks posed to the Company by any policies touching on pesticides. In this regard, the Proposal's request is not limited to policies on glyphosate-based products alone, or even policies pertaining to potentially harmful pesticides; instead, it would encompass the full range of products addressed by any Company policy related to pesticides, including those that do not present any environmental or health risks. One such policy is the Company's Chemical Strategy, which addresses the Company's strategies for a number of other products beyond pesticides, including paints, flooring, gardening, insulation, and cleaning products. The Company's Responsible Handling Policy would also be implicated, expanding the risk assessment to ordinary matters such as employee training on their day-to-day responsibilities in the Company's retail stores. Additionally, any Company policy addressing products such as the organic pesticides sold by the Company would also be

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implicated.⁹ In addition, the Proposal appears to be primarily concerned with the “associated business risks” and “further legal and financial risk[s]” of the Company’s product offerings. This is evidenced by the discussion in the Recitals, noting that “[c]ompanies that merchandise pesticides” face “reputational, regulatory, legal and competitive risks” and that the Company’s “current practices” and “continued sale of certain pesticides” could pose “reputational damage,” force it to “comply with an increasingly complex patchwork of restrictions,” and subject it to “further legal and financial risk.” As such, the overbreadth of the assessment requested by the Proposal underscores its ordinary business focus.

Consistent with the 1998 Release, the Staff routinely concurs with the exclusion of proposals that relate to ordinary business decisions even where the proposal references a significant policy issue. For example, in *PetSmart, Inc.* (avail. Mar. 24, 2011), the proposal asked that suppliers be required to certify they had not violated “the Animal Welfare Act, the Lacey Act, or any state law equivalents,” the principal purpose of which was preventing animal cruelty. The Staff concurred with exclusion under Rule 14a-8(i)(7) and stated, “[a]lthough the humane treatment of animals is a significant policy issue, we note your view that the scope of the laws covered by the proposal is ‘fairly broad in nature from serious violations such as animal abuse to violations of administrative matters such as record keeping.’”

The Staff’s position that proposals are excludable even when they touch upon a policy issue, including health and environmental concerns that may be significant, is well established. Notably, in *The Home Depot, Inc.* (avail. Mar. 4, 2009), a proposal recommended that the Company issue a report “on policy options to reduce consumer exposure and increase consumer awareness regarding mercury and any other toxins contained in its private label . . . products.” In its no-action request, the Company argued that the proposal did not focus on a significant policy issue and that the proposal’s intent was “to have the Company’s Board of Directors evaluate the business policies and practices related to product selection and labeling, notwithstanding that the [p]roposal refers to environmental concerns.” Further, as the “world’s largest home improvement retailer,” the Company argued, “[d]ecisions concerning product selection and the packaging and marketing of products” were “ordinary business concerns.” The Staff concurred with the exclusion of the proposal, noting the proposal “relat[ed] to Home Depot’s ordinary business operations (i.e., the sale of particular products).” Here, too, the Proposal seeks a varied risk assessment whose scope focuses on a number of ordinary business matters relating to its sales of products and related policies generally, despite its reference to potential health and environmental risks.

⁹ See the Company’s 2020 Responsibility Report, available at <https://cloud.3dissue.net/17127/17182/17296/36349/index.html>.

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Additionally, in *Amazon.com, Inc.* (avail. Mar. 17, 2016) (“*Amazon 2016*”), the Staff concurred with exclusion of a proposal requesting a report “on the company’s policy options to reduce potential pollution and public health problems from electronic waste generated as a result of its sales to consumers, and to increase the safe recycling of such wastes,” noting that the proposal “relates to the company’s products and services and does not focus on a significant policy issue.” Here, as in *Amazon 2016*, and as established above, notwithstanding the Proposal’s request for the report to address environmental and health risks stemming from certain of the Company’s business practices, the Proposal is likewise excludable as focusing on the Company’s products and services and policies related thereto, because, as illustrated above, the focus of the requested report is not limited to those risks or to the environmental or health impacts of the Company’s pesticides policies. *See also Amazon.com, Inc.* (avail. Mar. 27, 2015) (concurring with the exclusion of a proposal requesting that the company disclose any reputational and financial risks it may face as a result of negative public opinion pertaining to the treatment of animals used to produce products it sells); *Dominion Resources, Inc.* (avail. Feb. 19, 2014) (concurring with the exclusion of a proposal relating to use of alternative energy because, while touching on a significant policy issue, it related to the company’s choice of technologies for use in its operations); *Danaher Corp.* (avail. Mar. 8, 2013) (concurring with the exclusion of a proposal, where, the company argued that “[e]ven if a portion of the report requested by the [p]roposal were viewed as implicating a social policy issue [health concerns related to amalgam products], the scope of the requested report [was] so broad that the preponderance of the report [did] address ordinary business matters” that “directly involve[d] the [c]ompany’s ordinary business operations”); *Mattel, Inc.* (avail. Feb. 10, 2012) (concurring with the exclusion of a proposal that requested the company require its suppliers publish a report detailing their compliance with the International Council of Toy Industries Code of Business Practices, noting that it encompasses “several topics that relate to . . . ordinary business operations and are not significant policy issues”); *Union Pacific Corporation* (avail. Feb. 25, 2008) (concurring with the exclusion of a proposal requesting disclosure of efforts to safeguard operations from homeland security incidents).

As described above, the focus of the Proposal is on the Company’s sale of particular products and related policies. Although the Proposal refers to potential health and environmental risks, it does not focus on them. Instead, it seeks an assessment of an array of risks facing the Company, including “reputational, regulatory, legal and financial risks,” arising from its policies that address pesticides. For these reasons, and similar to the proposals in the precedent above, while the Proposal at most touches on significant policy issues, the Proposal’s express text demonstrates that its main focus is more broad—on assessment of risks arising from certain Company policies concerning a wide array of Company’s products.

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Accordingly, because the Proposal concerns ordinary business matters and does not focus on a significant policy issue, the Proposal may be excluded pursuant to Rule 14a-8(i)(7).

CONCLUSION

Based upon the foregoing analysis, we respectfully request that the Staff concur that it will take no action if the Company excludes the Proposal from its 2021 Proxy Materials.

We would be happy to provide you with any additional information and answer any questions that you may have regarding this subject. Correspondence regarding this letter should be sent to shareholderproposals@gibsondunn.com. If we can be of any further assistance in this matter, please do not hesitate to call me at (202) 955-8287, or Stacy S. Ingram, the Company's Associate General Counsel and Deputy Corporate Secretary, at (770) 384-2858.

Sincerely,



Elizabeth A. Ising

Enclosures

cc: Stacy S. Ingram, The Home Depot, Inc.
Annalisa Tarizzo, Green Century Capital Management

EXHIBIT A



December 2, 2020

Teresa Wynn Roseborough
Corporate Secretary
The Home Depot, Inc.
2455 Paces Ferry Road, Building C-22
Atlanta, Georgia 30339

Dear Ms. Wynn Roseborough,

The Green Century Equity Fund hereby submits the enclosed shareholder proposal with The Home Depot, Inc. (HD) for inclusion in the company's 2021 proxy statement in accordance with Rule 14a-8 of the General Rules and Regulations of the Securities and Exchange Act of 1934 (17 C.F.R. § 240.14a-8).

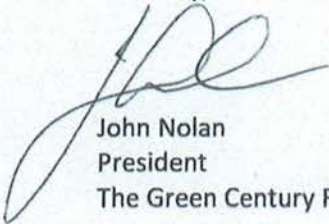
Per Rule 14a-8, the Green Century Equity Fund is the beneficial owner of at least \$2,000 worth of Home Depot stock. We have held the requisite number of shares for over one year, and we will continue to hold sufficient shares in the company through the date of the annual shareholders' meeting. Verification of ownership from a DTC participating bank is enclosed.

Due to the importance of the issue, we are filing the enclosed proposal for inclusion in the proxy statement for a vote at the next shareholders' meeting. Green Century is the lead filer of this proposal.

We welcome the opportunity to discuss the subject of the enclosed proposal with company representatives. Please direct all correspondence to Annalisa Tarizzo, Shareholder Advocate at Green Century Capital Management. She may be reached via email at atarizzo@greencentury.com.

Thank you for your attention to this matter.

Sincerely,



John Nolan
President
The Green Century Funds

Whereas: Homeowners use up to ten times more pesticides per acre than farmers. Numerous studies highlight the correlation between consistent pesticide exposure and increased cancer risk. According to the International Agency for Research on Cancer, glyphosate, the primary ingredient in Roundup, was classified as, “probably carcinogenic to humans.” University of Washington researchers found that glyphosate could increase the risk of cancer to those exposed to the chemical by 41 percent.

Companies that merchandise pesticides, in particular those that pose risks to human health, may face reputational, regulatory, legal and competitive risks.

As consumer awareness of the impact of pesticides grows, Home Depot’s current practices could pose reputational damage to the Company. A Consumer Reports survey found that pesticides are a concern for 86 percent of Americans. A Friends of the Earth campaign calling on Home Depot and Lowe’s to stop selling glyphosate-based products has been supported by 66 nonprofits and over 157,000 consumers.

Regulatory actions are increasing, and the continued sale of certain pesticides will require Home Depot to comply with an increasingly complex patchwork of restrictions. Twenty-five states have some sort of regulation on synthetic pesticides in place and dozens of cities have legislated full or partial bans of glyphosate locally, including Los Angeles County, CA; Miami, FL; Chicago, IL and others.

Furthermore, Home Depot and Lowe’s have both been sued over insufficient consumer warnings of Roundup’s cancer risk, and the Company could face further legal and financial risk if it does not take action. Bayer, purchaser of Roundup maker Monsanto, has been faced with 125,000 legal claims as of November 2020, most of which allege that the consistent use of Roundup has led to cancers such as non-Hodgkin’s Lymphoma. Bayer’s stock price dropped over 40% after acquiring Monsanto in 2018, and the company now owes billions of dollars in damages.

In light of these risks, companies have made changes to adapt. In May 2019, Costco announced it would stop selling Roundup and other glyphosate-based products. In May 2020, British home improvement retailer B&Q announced it would phase out glyphosate-based products.

Home Depot, in contrast, failed to include synthetic pesticides in its recently announced Chemical Strategy and does not provide sufficient information about how it is effectively managing toxic pesticides in its product offerings and the associated business risks.

Resolved: Shareholders request that the board of directors conduct an assessment of any environmental and health risks, as well as reputational, regulatory, legal and financial risks to the Company, posed by the Company’s current policies on pesticides. The assessment should include any recommendations for changes to policy and practice that the board deems appropriate.

Supporting statement: Proponents recommend that the report be prepared at reasonable cost and omit proprietary information, and that the board consider the benefits and drawbacks of triggering any changes in the Company’s approach once a substantial body of scientific literature has evidenced the potential for significant harm to human health or the environment from a pesticide.



December 2, 2020

John Nolan
Senior Vice President, Green Century Capital Management, Inc.
President, Green Century Funds
[114 State Street, Suite 200, Boston, MA 02109](mailto:John.Nolan@umb.com)

This letter is to confirm that as of December 2, 2020, UMB Bank, N.A. 2450, a DTC participant, in its capacity as custodian, held 26,348 shares of The Home Depot Inc (HD) Stock on behalf of the Green Century Equity Fund. These shares are held in the Bank's position at the Depository Trust Company registered to the nominee name of Cede & Co.

Further, this is to confirm that the position in The Home Depot Inc (HD) Stock held by the bank on behalf of the Green Century Equity Fund has been held continuously for a period of more than one year, including the period commencing prior to December 2, 2019 and through December 2, 2020. During that year prior to and including December 2, 2020 the holdings continuously exceeded \$2,000 in market value.

Sincerely,

Mande Crawford
Vice President
UMB Bank, NA

UMB Bank, n.a.

928 Grand Boulevard
Kansas City, Missouri 64106

umb.com

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UNITED STATES US

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BUILDING C-22
ATLANTA GA 30339

*TORCSA
Rosborough*

(770) 384-2871
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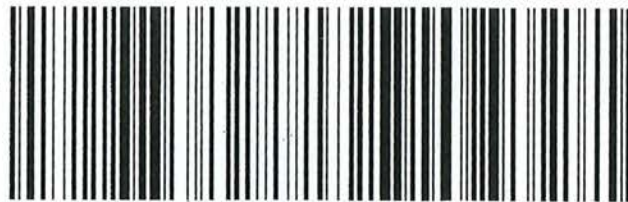
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From: Ingram, Stacy <STACY_INGRAM@homedepot.com>
Sent: Friday, December 11, 2020 1:57 PM
To: Annalisa Tarizzo <atarizzo@greencentury.com>
Subject: Shareholder Proposal sent to The Home Depot

Ms. Tarizzo,

Please see the attached letter regarding the shareholder proposal Green Century Equity Fund sent to The Home Depot.

Thank you,

Stacy S. Ingram | Associate General Counsel and Deputy Corporate Secretary
The Home Depot | 2455 Paces Ferry Road, C20 | Atlanta, GA 30339
Phone: 770.384.2858 | Cell: 404.797.7180 | Fax: 770.384.5842 | stacy_ingram@homedepot.com

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The Home Depot, Inc. • 2455 Paces Ferry Road • Atlanta, GA 30339-4024
Email: stacy_ingram@homedepot.com
(770) 384-2858 • Fax: (770) 384-5842

December 11, 2020

Stacy Ingram
Associate General Counsel and Deputy Corporate Secretary

VIA UPS OVERNIGHT AND EMAIL

Annalisa Tarizzo
Shareholder Advocate
Green Century Capital Management
c/o Green Century Funds
114 State Street, Suite 200
Boston, MA 02109
atarizzo@greencentury.com

Dear Ms. Tarizzo:

I am writing on behalf of The Home Depot, Inc. (the "Company"), which received on December 7, 2020, the shareholder proposal you submitted on behalf of the Green Century Equity Fund (the "Proponent") pursuant to Securities and Exchange Commission ("SEC") Rule 14a-8 for inclusion in the proxy statement for the Company's 2021 Annual Meeting of Shareholders (the "Proposal").

The Proposal contains certain procedural deficiencies, which SEC regulations require us to bring to your attention. Rule 14a-8(b) under the Securities Exchange Act of 1934, as amended, provides that shareholder proponents must submit sufficient proof of their continuous ownership of at least \$2,000 in market value, or 1%, of a company's shares entitled to vote on the proposal for at least one year as of the date the shareholder proposal was submitted. The Company's stock records do not indicate that the Proponent is the record owner of sufficient shares to satisfy this requirement. In addition, to date we have not received adequate proof that the Proponent has satisfied Rule 14a-8's ownership requirements as of the date that the Proposal was submitted to the Company. The December 2, 2020 letter from UMB Bank that you provided is insufficient because it states the number of shares of Company stock held on the Proponent's behalf as of December 2, 2020 and for the one year period "commencing prior to December 2, 2019 and through December 2, 2020", but does not cover the full one-year period preceding and including December 4, 2020, the date the Proposal was submitted to the Company.

To remedy this defect, the Proponent must obtain a new proof of ownership letter verifying the Proponent's continuous ownership of the required number or amount of Company shares for the one-year period preceding and including December 4, 2020, the date the Proposal was submitted to the Company. As explained in Rule 14a-8(b) and in SEC staff guidance, sufficient proof must be in the form of:

- (1) a written statement from the "record" holder of the Proponent's shares (usually a broker or a bank) verifying that the Proponent continuously held the required number or amount of Company shares for the one-year period preceding and including December 4, 2020; or
- (2) if the Proponent has filed with the SEC a Schedule 13D, Schedule 13G, Form 3, Form 4 or Form 5, or amendments to those documents or updated forms, reflecting the Proponent's ownership of the required number or amount of Company shares as of or before the date on which the one-year eligibility period begins, a copy of the schedule and/or form, and any subsequent amendments reporting a change in the ownership level and a written statement

that the Proponent continuously held the required number or amount of Company shares for the one-year period.

If the Proponent intends to demonstrate ownership by submitting a written statement from the "record" holder of the Proponent's shares as set forth in (1) above, please note that most large U.S. brokers and banks deposit their customers' securities with, and hold those securities through, the Depository Trust Company ("DTC"), a registered clearing agency that acts as a securities depository (DTC is also known through the account name of Cede & Co.). Under SEC Staff Legal Bulletin No. 14F, only DTC participants are viewed as record holders of securities that are deposited at DTC. You can confirm whether the Proponent's broker or bank is a DTC participant by asking the Proponent's broker or bank or by checking DTC's participant list, which is available at <http://www.dtcc.com/~media/Files/Downloads/client-center/DTC/alpha.ashx>. In these situations, shareholders need to obtain proof of ownership from the DTC participant through which the securities are held, as follows:

- (1) If the Proponent's broker or bank is a DTC participant, then the Proponent needs to submit a written statement from the Proponent's broker or bank verifying that the Proponent continuously held the required number or amount of Company shares for the one-year period preceding and including December 4, 2020.
- (2) If the Proponent's broker or bank is not a DTC participant, then the Proponent needs to submit proof of ownership from the DTC participant through which the shares are held verifying that the Proponent continuously held the required number or amount of Company shares for the one-year period preceding and including December 4, 2020. You should be able to find out the identity of the DTC participant by asking the Proponent's broker or bank. If the Proponent's broker is an introducing broker, you may also be able to learn the identity and telephone number of the DTC participant through the Proponent's account statements, because the clearing broker identified on the account statements will generally be a DTC participant. If the DTC participant that holds the Proponent's shares is not able to confirm the Proponent's individual holdings but is able to confirm the holdings of the Proponent's broker or bank, then the Proponent needs to satisfy the proof of ownership requirements by obtaining and submitting two proof of ownership statements verifying that, for the one-year period preceding and including December 4, 2020, the required number or amount of Company shares were continuously held: (i) one from the Proponent's broker or bank confirming the Proponent's ownership, and (ii) the other from the DTC participant confirming the broker or bank's ownership.

The SEC's rules require that any response to this letter be postmarked or transmitted electronically no later than 14 calendar days from the date you receive this letter. Please send any response to me by email at stacy_ingram@homedepot.com. You may also send the response to me at The Home Depot, Inc., 2455 Paces Ferry Road, C20, Atlanta, GA 30339.

If you have any questions with respect to the foregoing, please contact me at (770) 384-2858. For your reference, I enclose a copy of Rule 14a-8 and Staff Legal Bulletin No. 14F.

Ms. Tarizzo
Green Century Capital Management
December 11, 2020
Page 3

Sincerely,



Stacy S. Ingram
Associate General Counsel and Deputy Corporate
Secretary

Enclosures

From: Annalisa Tarizzo
Sent: Monday, December 14, 2020 4:06 PM
To: 'Ingram, Stacy' <STACY_INGRAM@homedepot.com>
Subject: RE: Shareholder Proposal sent to The Home Depot

Hello Stacy,

My apologies for our oversight on this. Attached is an updated proof of ownership. Please let me know if it is sufficient and whether you need anything else from us. We look forward to discussing the contents of our proposal with the company.

Best,
Annalisa

Annalisa Tarizzo
Shareholder Advocate
Green Century Capital Management
(617)-482-0800 | atarizzo@greencentury.com
114 State Street, Suite 200, Boston, MA 02109
www.greencentury.com [greencentury.com]

From: Ingram, Stacy <STACY_INGRAM@homedepot.com>
Sent: Friday, December 11, 2020 1:57 PM
To: Annalisa Tarizzo <atarizzo@greencentury.com>
Subject: Shareholder Proposal sent to The Home Depot

Ms. Tarizzo,

Please see the attached letter regarding the shareholder proposal Green Century Equity Fund sent to The Home Depot.

Thank you,

Stacy S. Ingram | Associate General Counsel and Deputy Corporate Secretary
The Home Depot | 2455 Paces Ferry Road, C20 | Atlanta, GA 30339
Phone: 770.384.2858 | Cell: 404.797.7180 | Fax: 770.384.5842 | stacy_ingram@homedepot.com

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December 4, 2020

John Nolan
Senior Vice President, Green Century Capital Management, Inc.
President, Green Century Funds
114 State Street, Suite 200, Boston, MA 02109

This letter is to confirm that as of December 4, 2020, UMB Bank, N.A. 2450, a DTC participant, in its capacity as custodian, held 26,348 shares of The Home Depot Inc (HD) Stock on behalf of the Green Century Equity Fund. These shares are held in the Bank's position at the Depository Trust Company registered to the nominee name of Cede & Co.

Further, this is to confirm that the position in The Home Depot Inc (HD) Stock held by the bank on behalf of the Green Century Equity Fund has been held continuously for a period of more than one year, including the period commencing prior to December 4, 2019 and through December 4, 2020. During that year prior to and including December 4, 2020 the holdings continuously exceeded \$2,000 in market value.

Sincerely,

Mandee Crawford
Vice President
UMB Bank, NA

UMB Bank, n.a.

928 Grand Boulevard
Kansas City, Missouri 64106

umb.com

Member FDIC