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January 15, 2021

Via E-mail to shareholderproposals@sec.gov

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

Re: State Street Corporation
Exclusion of Shareholder Proposal of James McRitchie

Ladies and Gentlemen:

We are writing on behalf of our client, State Street Corporation (the "Company"), to inform you of the Company's intention to exclude from its proxy statement and proxy for its 2021 annual meeting of shareholders (the "Proxy Materials") the enclosed shareholder proposal and supporting statement (collectively, the "Proposal") submitted by James McRitchie (together with his designated representative, John Chevedden, the "Proponent") requesting that the Company's board of directors (the "Board") "provide a report as to how its voting and engagement policies, which focus solely on individual corporation materiality to the exclusion of capital markets materiality, affect the majority of its clients and shareholders, who rely primarily on overall stock market performance for their returns, rather than upon the returns of individual companies."

The Company believes it may properly exclude the Proposal from its Proxy Materials for the reasons discussed below. The Company respectfully requests that the staff of the Division of Corporation Finance (the "Staff") of the Securities and Exchange Commission (the "Commission" or "SEC") advise the Company that it will not recommend any enforcement action to the Commission if the Company excludes the Proposal from its Proxy Materials.

Pursuant to Exchange Act Rule 14a-8(j) and Staff Legal Bulletin No. 14D (November 7, 2008) ("SLB 14D"), the Company is submitting electronically to the Commission this letter, and the Proposal and related correspondence (attached as Exhibit A to this letter), and is concurrently sending a copy to the Proponent, no later than eighty calendar days before the Company intends to file its definitive Proxy Materials with the Commission.

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

I. Company Background

State Street Corporation

State Street Corporation is a financial holding company organized under the laws of the Commonwealth of Massachusetts. Through its subsidiaries, including its principal banking subsidiary, State Street Bank and Trust Company, State Street Corporation provides a broad range of financial products and services to institutional investors worldwide. State Street Corporation's operations are organized into two lines of business: Investment Servicing and Investment Management, which are defined based on products and services provided. The Proposal relates to State Street's Investment Management line of business, which is conducted by State Street Global Advisors (SSGA)[1], the third largest investment manager in the world with over $3.14 trillion in assets under management as of September 30, 2020.

State Street Global Advisors' Corporate Engagement and Proxy Voting Practices

SSGA operates a globally integrated multi-asset class investment advisory business, offering services to clients in nearly every corner of the world, with employees in 31 global offices and more than 500 investment professionals worldwide. SSGA provides investment management services to both institutional and retail investors through investment products ranging from separate accounts and private funds to publicly offered mutual funds and exchange traded funds (ETFs). With nearly 40 years of experience in the Defined Contribution (DC) market, SSGA manages more than $557 billion in DC assets around the world, of which over $413 billion belong to participants in the United States.[2]

From its founding over 40 years ago, SSGA has been a pioneer in index investing and its index or "beta" investment strategies remain a core focus for the firm. On a global basis, as of September 30, 2020, approximately 60% of its $3.14 trillion in assets under management are equity investments held in client accounts that follow an index investment strategy, and the number of indexes and sub-indexes tracked is over 400. As a result of this breadth, SSGA invests in over 10,000 public companies around the world and its corporate engagement and proxy voting obligations are significant. In 2019, for example, SSGA voted over 17,300 proxies and

[1] SSGA refers to the entirety of the Company's asset management business, an enterprise that operates global asset management through multiple global entities.
[2] As of September 30, 2020.

engaged with 726 individual companies,[3] and as of the end of the second quarter in 2020, SSGA had voted over 10,200 proxies and engaged with 409 individual companies.[4]

The primary manner in which SSGA seeks to meet the investment objectives of its equity index funds and accounts is to invest in and hold the shares of the companies included in the applicable index in the same proportion that those companies' shares are included in that index. As long as a company's shares are included in the index, they will be held by SSGA in accounts that track that index. This means that, unlike "active" investment strategies, SSGA cannot divest from a company, or "vote with its feet" if SSGA believes that a company is likely to underperform or is taking unreasonable business risks.

SSGA has acknowledged that the obligation to own index constituent companies makes SSGA a long-term investor and heightens the need for SSGA to engage with the companies it owns on issues that enhance long term value and mitigate risk. SSGA's Chief Executive Officer, Cyrus Taraporevala has noted:

> On the index side of our business, our portfolio managers don't have that luxury [to sell a stock they don't like]. As long as the company is in the index it's going to be in their portfolios. So in that side of our business, a large part of our business, we're as close to permanent capital as it comes. We have to engage with the companies and with the boards to drive value.[5]

In furtherance of this obligation, SSGA has, for many years, devoted significant resources and attention to corporate engagement activities and has focused increasingly on engagement around non-company specific issues of sustainability, corporate governance and culture and diversity at the board and executive management level. For example, beginning in 2017, SSGA launched a multi-year engagement program focused on gender-diversity at the board level, which was announced publicly with the placement of the "Fearless Girl" statue in opposition to the famous Charging Bull statue in New York City's Bowling Green Park near Wall Street. SSGA has subsequently broadened this campaign to focus on racial and ethnic diversity in addition to gender diversity.[6]

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[3] SSGA Q4 2019 Stewardship Report, https://www.ssga.com/library-content/products/esg/stewardship-activity-report-q4-2019.pdf

[4] SSGA Q2 2020 Proxy Season Review, https://www.ssga.com/library-content/products/esg/asset-stewardship-report-q2-2020.pdf

[5] Corporate Board Member Magazine 2019, https://boardmember.com/state-street-ceo-cyrus-taraporevala/4/

[6] See, e.g., https://www.ssga.com/library-content/pdfs/global/letterhead_racial_equity_guidance.pdf, SSGA Q2 2020 Proxy Season Review, https://www.ssga.com/library-content/products/esg/asset-stewardship-report-q2-2020.pdf, SSGA CEO's Letter on Our 2021 Proxy Voting Agenda, https://www.ssga.com/us/en/institutional/etfs/insights/ceo-

In 2019, SSGA introduced a proprietary environmental/social/governance or "ESG" scoring system called "R-Factor™" or Responsibility-Factor that measures the performance of a company's business operations and governance as it relates to financially material ESG issues facing the company's industry. The scoring methodology analyzes data from four leading data providers and leverages the Sustainability Accounting Standards Board (SASB) materiality framework. R-Factor generates unique ESG scores for over 6,000 listed companies globally and allows SSGA to evaluate a company's performance against both regional and global industry peers.

Beginning in 2020, SSGA began using companies' R-Factor scores as an important tool in its corporate engagement activities and continued its longstanding efforts to encourage greater transparency and commitment to addressing ESG issues that detract from long term performance and value. In SSGA's February 2020 CEO Letter on SSGA's 2020 Proxy Voting Agenda, Mr. Taraporevala stated:

> Beginning this proxy season, we will take appropriate voting action against board members at companies in the S&P 500, FTSE 350, ASX 100, TOPIX 100, DAX 30, and CAC 40 indices that are laggards based on their R-Factor scores and that cannot articulate how they plan to improve their score. Beginning in 2022, we will expand our voting action to include those companies who have been consistently underperforming their peers on their R-Factor scores for multiple years, unless we see meaningful change. We believe doing so is in the best interests of investors and companies alike.[7]

In September 2020, SSGA published an overarching document outlining its engagement strategy about driving action on climate change and sustainability across all the companies it invests in on behalf of clients.[8] This document charts SSGA's significant engagement efforts on the environment and sustainability historically and lays out its engagement agenda on these issues going forward.

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letter-2021-proxy-voting-agenda, and Guidance on Enhancing Racial & Ethnic Diversity Disclosures, https://www.ssga.com/library-content/pdfs/asset-stewardship/racial-diversity-guidance-article.pdf.

[7] SSGA CEO's Letter on Our 2020 Proxy Voting Agenda, https://www.ssga.com/us/en/institutional/etfs/insights/informing-better-decisions-with-esg. See also *State Street vows to turn up the heat on ESG standards*, https://www.ft.com/content/cb1e2684-4152-11ea-a047-eae9bd51ceba.

[8] Driving Action on Climate Change, https://www.ssga.com/library-content/products/esg/driving-action-on-climate-change.pdf

In January 2021, SSGA published additional guidance regarding the expansion of its engagement efforts focused on diversity to include race and ethnicity, in addition to gender diversity.[9]

In addition to these engagement efforts, SSGA is also a thought leader regarding sustainable investing principles. It is a signatory to the Principles of Responsible Investing (PRI) and was recognized as part of PRI's Leaders Group for its efforts to advance corporate disclosure around the impact of climate change. In the U.S., SSGA is a founding member and signatory to the Investor Stewardship Group.[10] As noted above, SSGA is an explicit proponent of SASB. SSGA has also recently joined Climate Action 100+.[11] Additionally, SSGA supports the Task Force on Climate-related Financial Disclosures (TCFD)[12] and has held leadership roles with the Council of Institutional Investors (CII) as a member of the Corporate Governance Advisory Council, including most recently as the chair in 2020. SSGA has also participated in a multi-stakeholder working group that published baseline and evolving practices for improving virtual shareholder meetings.[13]

SSGA provides detailed reporting to its clients and the public, including through an annual Stewardship Report and quarterly Asset Stewardship Activity Reports.

II. The Proposal

On December 9, 2020, the Company received the Proposal from the Proponent, which states as follows:

ITEM 4* Market Materiality Disclosure

> **RESOLVED, shareholders ask that the board provide a report as to how its voting and engagement policies, which focus solely on individual corporation materiality to the exclusion of capital markets materiality, affect the majority of its clients and shareholders, who rely primarily on overall stock market**

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[9] SSGA CEO's Letter on Our 2021 Proxy Voting Agenda, https://www.ssga.com/us/en/institutional/etfs/insights/ceo-letter-2021-proxy-voting-agenda, and Guidance on Enhancing Racial & Ethnic Diversity Disclosures, https://www.ssga.com/library-content/pdfs/asset-stewardship/racial-diversity-guidance-article.pdf. See also *State Street to insist companies disclose diversity data*, https://www.ft.com/content/2e512c76-4733-4821-8425-136ab9b98426 (discussing SSGA's new voting policy, to be implemented in 2022, that focuses on diversity in board composition).

[10] https://isgframework.org/

[11] https://www.climateaction100.org/

[12] https://www.ssga.com/library-content/products/esg/statement-of-suppot-for-the-tcfd.pdf

[13] https://cclg.rutgers.edu/news/report-of-the-2020-multi-stakeholder-working-group-on-practices-for-virtual-shareholder-meetings/

performance for their returns, rather than upon the returns of individual companies.

Our Company provides investment management services and has more than $3 trillion in assets under management, primarily weighted towards indexed strategies. Its clients, like its shareholders, are almost all broadly diversified. (Indeed, as of September 2020, the Company itself, along with Vanguard and BlackRock, two asset owners with similarly diversified client bases, own more than 20% of the Company's shares.)

Such diversified shareholders, like the Company's diversified clients, rely on healthy social, economic, and environmental systems to support all corporations. If corporate practices reduce demand[1] or GDP,[2] decreased diversified portfolio returns result.[3] As manager for more than $3 trillion in assets, the Company's stewardship activities – engaging with portfolio companies and voting their shares – could significantly affect overall market performance by ensuring that corporations do not seek profit from activities that degrade the global commons.

However, the Company's position on environmental, social and governance matters focuses largely on "materiality," which only takes into account how those matters affect an individual company.[4] This means that portfolio companies are stewarded to improve ESG performance only if it improves their individual performances. Thus, where a portfolio company can profit through irresponsible social and environmental practices, the Company's stewardship policy may fail to advance the interests of both its clients and its shareholders.

Because the Company's engagement strategy is only focused on company-by-company materiality, it allows corporations in its portfolio to continue practices that externalize costs (thereby harming overall market performance) without harming the individual corporation. The Company's clients and shareholders should be provided the information about corporate practices that harm the economy while increasing individual corporate financial returns.

The difference between company materiality and market materiality is an issue of great social importance. A study would help shareholders determine whether to seek a change in corporate direction, structure or form in order to better serve their interests.

Please vote for: Market Materiality Disclosure – Proposal [4*]

[1] See, e.g., https://www.epi.org/publication/secular-stagnation/(inequality has reduced demand by 2-4% of GDP.)

[2] See, e.g., *Closing the Racial Inequality Gaps: The Economic Cost of Black Inequality in the U.S.,* available at http://citi.us/3olxWHO (closing racial disparity would add $5 trillion to the U.S. economy over the next five years).

[3] See *Universal Ownership: Why Environmental Externalities Matter to Institutional Investors,* Appendix IV (demonstrating linear relationship between GDP and a diversified portfolio) available at https://www.unepfi.org/fileadmin/documents/universal_ownership_full.pdf;cf. https://www.advisorperspectives.com/dshort/updates/2020/11/05/market-cap-to-gdp-an-updated-look-at-the-buffett-valuation-indicator (total market capitalization to GDP "is probably the best single measure of where valuations stand at any given moment") (quoting Warren Buffet).

[4] https://www.ssga.com/library-content/pdfs/ic/global-Proxy-Voting-and-engagement-guidelines-es-issues.pdf

III. Reasons for Excluding the Proposal

As described in more detail below, the Company believes that the Proposal may be properly excluded from the Proxy Materials under (i) Rule 14a-8(i)(2) and Rule 14a-8(i)(6) because if the Proposal is implemented, fundamental aspects of the Proposal would cause the Company to violate federal and state law, and the Company therefore lacks the power or authority to implement the proposal; (ii) Rule 14a-8(i)(3) because the Proposal is materially false and misleading in violation of Rule 14a-9; (iii) Rule 14a-8(i)(7) because the subject of the Proposal relates to the Company's ordinary business operations; and (iv) Rule 14a-8(i)(10) because the Company has substantially implemented the Proposal.

IV. Analysis

A. The Proposal May Be Excluded Pursuant to Rule 14a-8(i)(2) and Rule 14a-8(i)(6) Because If the Proposal Is Implemented, Fundamental Aspects of the Proposal Would Cause the Company to Violate Federal and State Law, and the Company Therefore Lacks the Power or Authority to Implement the Proposal

Rule 14a-8(i)(2) permits a company to exclude a proposal from its proxy materials if implementation of the proposal would cause the company to violate law and Rule 14a-8(i)(6) permits a company to exclude a proposal from its proxy materials if the company lacks the power or authority to implement the proposal. While the Proposal purports to seek a report, its underlying goal is to influence the practices of the Company, as described below. The ultimate

effect of implementing the Proposal would cause SSGA to violate both state and federal law. In addition, because the implementation of the Proposal would violate federal and state law, the Company and the Board do not have the legal power or authority to impose the requirements of the Proposal on SSGA, and SSGA does not have the legal power or authority to violate federal or state law even if directed to do so by the Company or the Board. As such, the Proposal may be excluded pursuant to Rule 14a-8(i)(2) because it would cause the Company to violate the law and pursuant to Rule 14a-8(i)(6) because the Company lacks the power or authority to implement the Proposal.

1. Rule 14a-8(i)(2) permits a company to exclude a proposal from its proxy materials if implementation of the proposal would cause the company to violate law.

SSGA's investment management operations in the United States are carried out through two operating entities: SSGA Funds Management, Inc. (SSGAFM), a Delaware corporation and a SEC-registered investment adviser, and State Street Global Advisors Trust Company (SSGATC), a Massachusetts chartered trust company. SSGAFM's investment advisory activities, including its corporate engagement and proxy voting obligations for client accounts, are governed primarily by the Investment Advisers Act of 1940 (the Advisers Act), while SSGATC's investment advisory activities, including its corporate engagement and proxy voting obligations, are governed by both the laws of the Commonwealth of Massachusetts, including the Massachusetts Uniform Trust Code (Mass. General Laws, Part II, Title II, Chapter 203A) and applicable federal law, most notably the Employee Retirement Income Security Act (ERISA).[14] As discussed more fully below, if the underlying goal of the Proposal is implemented it would cause SSGA to violate its fiduciary obligations under each of these laws and regulations.[15]

The Proposal is premised on an assumption that it would be permissible for SSGA to conduct its corporate engagement with companies it invests in for client accounts ("portfolio companies") and proxy voting obligations with a goal of improving "overall stock market performance" by "ensuring that corporations do not seek profit from activities that degrade the global commons." This assumption fundamentally conflicts with SSGA's obligations under law and regulation, to the extent it suggests SSGA can or should, in its engagement and voting activities on behalf of clients, place the interests of the "global commons" before the interests of its clients.

[14] A substantial percentage of the assets advised by SSGATC are retirement plan assets subject to the requirements of ERISA. Accordingly, the investment advisory activities of SSGATC are conducted in a manner designed to comply with ERISA and Department of Labor regulations thereunder.

[15] The vast majority of SSGA's global AUM is managed by its U.S. operating entities and subject to fiduciary obligations under U.S. law, and many of SSGA's non-U.S. client accounts managed by its foreign operating entities are governed by foreign laws and regulation that have similar constraints.

Section 206 of the Advisers Act, as interpreted by the U.S. Supreme Court in *SEC v. Capital Gains Research Bureau, Inc.*, 375 U.S. 180, 191 (1963) ("*Capital Gains*"), imposes a fiduciary duty on investment advisers, including SSGAFM. The SEC has historically and repeatedly emphasized that an investment adviser's fiduciary duty of loyalty under the Advisers Act requires the adviser to place its client's interest before its own or the interests of others.[16] In its September 2019 interpretive release on the proxy voting obligations of investment advisers, the SEC reiterated that, "to satisfy its fiduciary duty in making any voting determination, the investment adviser must make the determination in the best interest of the client."[17] What flows from this requirement is that, absent direction and/or agreement from a client to the contrary, an investment adviser that engages with a portfolio company and votes a proxy in a manner that is not intended to further its client's interest in a portfolio company violates the fiduciary duty of loyalty to the client. This can subject the adviser to SEC enforcement action and contractual liability to the client.[18]

Similarly, Massachusetts fiduciary and trust law imposes precisely the same obligations on SSGATC to place its clients' interests before its own or others' interests. The Massachusetts Uniform Trust Code's first enumerated duty of loyalty is to "administer the trust solely in the interests of the beneficiaries."[19] Accordingly, if SSGATC engaged portfolio companies in discussions regarding the interests of the "global commons" ahead of the direct interests of the beneficiaries, it would be in violation of its first duty of loyalty under Massachusetts state law.[20]

In addition to the aforementioned federal and state law considerations applicable to the

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[16] The SEC has stated that "the fundamental obligation of the adviser to act in the best interest of his client also generally precludes the adviser from using client assets for the adviser's own benefit or the benefit of other clients, at least without client consent." Commission Guidance Regarding Client Commission Practices Under Section 28(e) of the Securities Exchange Act of 1934, Exchange Act Rel. No. 54165 (July 18, 2006) (emphasis added). The same fundamental obligation precludes an adviser from using client assets for the benefit of third parties absent informed consent.

[17] *Commission Guidance Regarding Proxy Voting Responsibilities of Investment Advisers*, Investment Advisers Act Release No.5325 (September 21, 2019) (the "Proxy Voting Release") (stating that an adviser has a duty to vote proxies in its clients' best interest).

[18] The Proposal acknowledges that SSGA may engage with specific portfolio companies to encourage the company to "improve ESG performance" to the extent it is profitable to the portfolio company to do so and, indeed, SSGA's corporate engagement strategy focuses in large measure on ensuring that portfolio companies are appropriately considering improvement in governance, environmental, and societal practices that can enhance long term profitability and viability. However, this acknowledgement indicates that the Proposal is seeking SSGA to engage with portfolio companies and vote proxies to encourage the companies to take actions to support the "global commons" even where the broader benefits of those actions are not, or have not been evaluated as being, in the best interests of its clients.

[19] Mass. General Laws, Part II, Title II, Chapter 203E, Art.8, Section 802(a)(emphasis added).

[20] To the extent that the bases for exclusion discussed herein are premised on matters of Massachusetts state law, this letter also represents the opinion of Wilmer Cutler Pickering Hale and Dorr LLP as to such state law matters.

Company's fiduciary obligations to its clients' interests in portfolio companies, regulation under ERISA governs SSGATC's actions as an investment fiduciary to a large percentage of its client base. Federal courts have consistently recognized that ERISA's duty of loyalty is "the highest known to the law,"[21] imposing an obligation to administer ERISA plan assets for the "exclusive benefit" of plan beneficiaries. In the context of proxy voting and engagement activities, the Department of Labor (DOL) has consistently emphasized that plan fiduciaries "shall consider only those factors that relate to the economic value of the plan's investment and shall not subordinate the interests of the participants and beneficiaries in their retirement income to unrelated objectives. Votes shall only be cast in accordance with a plan's economic interests." *Interpretive Bulletin Relating to Exercise of Shareholder Rights (Oct. 17, 2008), 29 C.F.R. pt. 2509*.

Moreover, as recently as December 16, 2020, the DOL reiterated this longstanding principle in adopting a new rule governing the exercise of shareholder rights (*i.e.*, engagement activities) and the voting of proxies for retirement plan investors. The new rule, 29 CFR §2550.404a-1(e)(2)(i), which became effective on January 12, 2021, unambiguously sets forth an ERISA fiduciary's obligation:

> When deciding whether to exercise shareholder rights and when exercising such rights, including the voting of proxies, fiduciaries must carry out their duties prudently and solely in the interests of the participants and beneficiaries and for the exclusive purpose of providing benefits to participants and beneficiaries and defraying the reasonable expenses of administering the plan.

The newly amended rule provides further clear guidance under the current formulation of 29 CFR §2550.404a-1(e)(2)(ii), including that to fulfill their fiduciary obligations, when deciding whether to exercise shareholder rights and when exercising shareholder rights, plan fiduciaries must: (A) act solely in accordance with the economic interest of the plan and its participants and beneficiaries; (B) consider any costs involved; and (C) **not subordinate the interests of the participants and beneficiaries in their retirement income or financial benefits under the plan to any nonpecuniary objective, or promote nonpecuniary benefits or goals unrelated to those financial interests of the plan's participants and beneficiaries**….(emphasis added). The Proposal assumes that the Company, through its subsidiary SSGATC, is able to subordinate the interests of participants and beneficiaries to the interests of the "global commons."

Notably, the Shareholder Commons ("Shareholder Commons"), the organization copied on the submission of the Proposal to the Company, has publicly recognized and conceded that legal

[21] Donovan v. Bierwirth, 680 F.2d 263, 272 n. 8 (2d Circuit, 1982).

regulatory reform related to fiduciary duties of directors and investors is needed in order to achieve the goals set forth in the Proposal.[22] Shareholder Commons policies call for "the rules governing capital markets [to] be revised to reflect the importance to investors of a company's impact on the market as a whole, and particularly how it affects diversified portfolios."[23] The call for regulatory reform of fiduciary obligations by Shareholder Commons further bolsters the Company's assertion that the Proposal's apparent goal is to influence the practices of large investors to subordinate their fiduciary obligations under federal and state law in a way that would cause the Company to violate the law.

As described above, the ultimate effect of the Proposal, if implemented, would cause SSGA, SSGAFM and SSGATC to violate federal and Massachusetts law. Therefore, Rule 14a-8(i)(2) permits the Company to exclude the Proposal from its Proxy Materials because implementation of the Proposal would cause the company to violate law.

2. Rule 14a-8(i)(6) permits a company to exclude a shareholder proposal if the company lacks the power or authority to implement the proposal.

Because the ultimate effect of the Proposal would cause SSGA, SSGAFM and SSGATC to violate federal and state law, neither the Company nor the Board has the legal power or authority to impose the requirements of the Proposal on SSGA, SSGAFM or SSGATC. Moreover, the Company is not the investment advisor to SSGA's clients, and the Company could face regulatory liability for imposing its judgment on how SSGA should exercise its fiduciary duties if it imposed the requirements of the Proposal on SSGA. Furthermore, even if directed to do so by the Company or the Board, none of these subsidiaries have the legal power or authority to violate federal or state law and each would be legally required to disregard such direction.

The Staff has consistently concurred in exclusion of proposals under circumstances where implementation of the proposal would cause the company to violate law and, therefore, the company would have neither the power nor the authority to implement the proposal. For example, in *eBay Inc.* (April 1, 2020) the Staff concurred in exclusion pursuant to Rule 14a-8(i)(2) and (i)(6) of a proposal to allow employees to elect 20% of board members, where implementation of the proposal would have caused the company to violate Section 211(b) of the Delaware General Corporation Law. *See also Trans World Entertainment Corporation* (May 2, 2019), in which the SEC staff concurred in exclusion pursuant to Rule 14a-8(i)(2) and (i)(6) of a

[22] *See* https://theshareholdercommons.com/opportunities/#policymakers, which states that "the Shareholder Commons believes that state and federal lawmakers must ensure that the fiduciary duties of both corporate directors and investment professionals allow them to take broader societal concerns into account when it is important to investors that they do so."

[23] *See* https://theshareholdercommons.com/opportunities/#policymakers

proposal requesting that the company's bylaws be amended to provide for an elevated quorum requirement and implementation of such request would have caused the company to violate Section 608(a) of the New York Business Corporation Law.[24]

Neither the Board nor the Company has the legal power or authority to impose engagement activities and proxy voting policies and procedures on SSGA, SSGAFM and SSGATC that, as described in Section IV.A.1., are inconsistent with each such subsidiary's legal and fiduciary obligations to its clients. Accordingly, the Proposal may be excluded pursuant to Rule 14a-8(i)(2) and Rule 14a-8(i)(6) because if the Proposal is implemented, fundamental aspects of the Proposal would cause the Company to violate federal and state law. The Company is not an investment advisor to SSGA's clients, and the Company would be subject itself to potential regulatory liability if it imposed its judgment on how SSGA should exercise its fiduciary duties, and the Company therefore lacks the power or authority to implement the Proposal.

B. The Shareholder Proposal May Be Excluded Pursuant to Rule 14a-8(i)(3) Because It Is Materially False and Misleading in Violation of Rule 14a-9

Rule 14a-8(i)(3) permits a company to exclude all or portions of a shareholder proposal "[i]f the proposal or supporting statement is contrary to any of the Commission's proxy rules, including Rule 14a-9, which prohibits materially false or misleading statements in proxy soliciting materials." Specifically, Rule 14a-9 provides that no solicitation may be made by means of any proxy materials "containing any statement which, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier communication with respect to the solicitation of a proxy for the same meeting or subject matter which has become false or misleading." Further, the Staff takes the view that a proposal may be excluded pursuant to Rule 14a-8(i)(3) on the basis that the proposal is so vague and indefinite as to be misleading where "neither the stockholders voting on the proposal, nor the company in implementing the proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires." Staff Legal Bulletin No. 14B (September 15, 2004). A proposal may be materially misleading as vague and indefinite when the "meaning and application of

[24] We believe the Proposal is distinguishable from the proposal at issue in *Franklin Resources, Inc.* (November 24, 2015) (denying the company's no-action request pursuant to Rule 14a-8(i)(2) and Rule 14a-8(i)(6) with respect to a proposal asking that the company list all instances of proxy votes cast against a climate proposal that are inconsistent with the company's policy positions regarding climate change). Unlike in *Franklin Resources, Inc.*, in which the proposal's apparent goal was transparency and congruency between the company's voting practices and its policy positions, the Proposal's apparent goal is to influence the practices of large investors to subordinate their fiduciary obligations under federal and state law in a way that would cause the Company to violate the law, including the current formulation of 29 CFR §2550.404a-1(e)(2)(ii).

terms and conditions . . . in the proposal would have to be made without guidance from the proposal and would be subject to differing interpretations" such that "any action ultimately taken by the company upon implementation [of the proposal] could be significantly different from the actions envisioned by shareholders voting on the proposal." *See Fuqua Industries, Inc.* (March 12, 1991).

1. A number of statements in the Proposal, including the statements set forth below, are objectively and materially false or misleading in violation of Rule 14a-9.

    i. Contrary to the assertion in the Resolved clause in the Proposal, the Company's policies do not focus solely on individual companies.

The Proposal asserts that the Company's "voting and engagement policies, [] focus solely on individual corporation materiality to the exclusion of capital markets materiality." This statement is materially misleading because, as discussed above, SSGA's engagement policies do not focus solely on individual companies. Rather, SSGA engages on numerous industry-wide and market-wide ESG issues, such as gender diversity, racial diversity and sustainability.

ii. Contrary to the assertion in the Resolved clause in the Proposal, there is no evidence to support that a majority of the Company's shareholders rely primarily on one particular measure of overall stock market performance.

The Proposal states that "the majority of [the Company's] clients and shareholders, [] rely primarily on overall stock market performance for their returns, rather than upon the returns of individual companies" without substantiating such assertion. This statement is materially misleading because clients and shareholders have a variety of objectives and time-horizons, and there is no evidence to support the Proponent's statement that a majority rely on any one particular measure of overall stock market performance. As noted above, SSGA's equity index strategy client accounts track more than 400 indexes and sub-indexes which, in certain cases, relate only to a small part of the "overall stock market." This means that those clients are not relying on overall stock market performance. As a result, the Proposal misleadingly implies that "the majority" of SSGA's clients care more about overall stock market performance than the performance of their individual investment portfolio.

iii. Contrary to the assertion in paragraph 3 of the supporting statement in the Proposal, portfolio companies are not stewarded to improve ESG performance only if it improves their individual performance.

Paragraph 3 of the supporting statement in the Proposal states that the Company's "portfolio companies are stewarded to improve ESG performance only if it improves their individual performances." For the reasons set forth in Section IV.B.1.(i) above and elsewhere in this letter, this statement is materially misleading because the Company's engagements address a number of industry-wide and market-wide issues and are focused on long-term value enhancement.

iv. Contrary to the assertion in paragraph 4 of the supporting statement in the Proposal, the Company's engagement strategy is not only focused on company-by-company materiality.

Paragraph 4 of the supporting statement in the Proposal is premised on the assumption that "the Company's engagement strategy is only focused on company-by-company materiality…" This premise is materially misleading because, as we have discussed above, the Company's engagement strategy is not so limited. Moreover, while company materiality is an important part of the consideration, SSGA determines the particular ESG issues about which to engage based on research and analysis that includes the impact of these ESG issues across industries and market sectors and not only on the impact of these ESG issues on an individual company. Accordingly, the Proposal is misleading in its characterization of the Company's engagement and proxy voting activities.

For the reasons set forth above, each of the Proposal's assertions described in this Section IV.B.1. is materially false or misleading. The Staff has previously concurred that a shareholder proposal was excludable pursuant to Rule 14a-8(i)(3) because it contained statements that were materially false or misleading in violation of Rule 14a-9. For example, in *Ferro Corporation* (March 17, 2015), the Staff concurred in exclusion of a proposal requesting that the company reincorporate in Delaware based on misstatements of Ohio law, which suggested that the shareholders would have increased rights if Delaware law governed the company instead of Ohio law. *See also General Electric Company* (January 6, 2009) (concurring in exclusion of a proposal regarding director service on board committees as false and misleading where the proposal repeatedly referred to "withheld" votes and incorrectly implied that the company offered shareholders the ability to withhold votes in elections of directors) *and Johnson & Johnson* (January 31, 2007) (concurring in exclusion of a proposal as materially false or misleading where the proposal involved an advisory vote to approve the company's compensation committee report but contained misleading implications about the contents of the report in light of SEC disclosure requirements). Accordingly, and consistent with prior no-action letters, the Proposal is properly excludable pursuant to Rule 14a-8(i)(3) because it contains several assertions that are materially false or misleading in violation of Rule 14a-9.

2. The Proposal includes terms, such as the terms set forth below, that are so inherently vague or indefinite that neither the shareholders voting on it, nor the Company in implementing the Proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the Proposal requires.

    i. The Proposal's key terms "market materiality" and "capital markets materiality" are undefined and subject to differing interpretations.

The Proposal asks the Board to evaluate how the Company's voting and engagement policies exclude "capital markets materiality." However, it is unclear on the face of the Proposal what the reference point would be for assessing "market materiality." In conducting such an assessment, the Board's definition of the "market" would affect the related assessment of materiality. For example, if the Board focused on any of the S&P 500, S&P 1500, Russell 3000 or some other collection of companies to determine the "market" in contrast to the others, materiality would vary significantly. Moreover, while the Proposal asks for a report on how market materiality and capital markets materiality affect "the majority of [the Company's] clients and shareholders," each client and shareholder has its own definition of what it would consider to be its market.[25]

    ii. "Global commons" in paragraph 2 of the supporting statement in the Proposal is undefined.

The Proposal suggests that the Company's engagement with portfolio companies could ensure that corporations "do not seek profit from activities that degrade the global commons." The "global commons" is undefined in the Proposal and is an inherently vague and indefinite term that could implicate a myriad of social, economic, political or other considerations without providing any detail as to what is specifically contemplated. Because "global commons" is inherently vague and indefinite, the Board and shareholders would not be able to identify what the Proposal is specifically requiring the Board to consider in its evaluation of the Company's voting and engagement policies.

[25] As noted above, SSGA's equity index client accounts track many distinct and varying indexes that may focus on different sectors of the economy. It would be an erroneous conclusion to think that clients' interests in the overall markets are aligned as a result. For example, a client whose account tracks the U.S. oil and gas industry may not have the same market interest as an investor whose account tracks the renewable energy sector.

iii. The Proposal's request for information about corporate practices that harm the economy is vague and indefinite and unrelated to the Proposal's focus on the Company's voting and engagement policies.

Paragraph 4 of the supporting statement in the Proposal states that "[t]he Company's clients and shareholders should be provided the information about corporate practices that harm the economy while increasing individual corporate financial returns." This statement is vague and indefinite in that it does not suggest specific considerations or metrics to evaluate potential harm to the economy and further does not specify which "economy" the Proposal refers to – this could refer to the U.S. economy or the global economy – a distinction that would drastically impact how the Company would go about seeking to implement the Proposal. Moreover, this statement appears to be asking for information about the businesses of the portfolio companies, while the Proposal otherwise seems to be asking for a report on how the Company's polices affect clients and shareholders. Accordingly, the statement is vague and indefinite such that neither the shareholders voting on it, nor the Company in implementing the Proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires.

iv. The Proposal suggests that a study would help shareholders ascertain whether to seek a change in corporate direction, which is unrelated to the Proposal's focus on the Company's voting and engagement policies.

Paragraph 5 of the supporting statement in the Proposal states that "[a] study would help shareholders determine whether to seek a change in corporate direction, structure or form in order to better serve their interests." As described in the immediately preceding subsection, it is unclear if the purpose of the report is to get information about the Company or about its portfolio companies. Furthermore, it is unclear whether the report should provide information that could be relevant to changing the Company's direction, the structure or form of the Company, or the direction, structure or form of the Company's portfolio companies. Therefore, this statement is vague and indefinite such that neither the shareholders voting on it, nor the Company in implementing the Proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires.

v. The "Thumbs Up" graphic at the end of the supporting statement is irrelevant to the Proposal.

At the end of the supporting statement in the Proposal, the Proponent includes an image that appears to consist of a check mark located in the center of a circle, followed to the right by

> the capitalized word "FOR," and finally concluding with two emoji of a "thumbs up" sign with a strong resemblance to the "like" icon used on the social media platform Facebook (collectively, the "Image"). There is no relationship between the Image and the Proposal's focus on the Company's voting and engagement policies. Therefore, the Image should be excluded from the 2021 Proxy Materials as "irrelevant to a consideration of the subject matter of the proposal."

For the reasons set forth above, each of the Proposal's key terms and the Image described in this Section IV.B.2. are vague or indefinite (and in the case of the Image, irrelevant to the topic of the Proposal) such that neither the Company, nor its shareholders, would be able to determine with any certainty what actions the Proposal is seeking from the Company. Accordingly, and consistent with precedent no-action letters, the Staff has concurred that the proposal may be properly excluded from a company's proxy materials. *See, e.g., Philip Morris International Inc.* (January 8, 2021) (concurring in exclusion of a proposal requesting that the company significantly strengthen its balance sheet while failing to explain what measures it would require); *Apple, Inc.* (December 6, 2019) (concurring in exclusion of a proposal requesting that the company "improve guiding principles of executive compensation," while failing to define many key terms and leaving room for multiple interpretations) *and eBay Inc.* (April 10, 2019) (concurring in exclusion of a proposal requesting that the company "reform [its] executive compensation committee" without further instruction as to how to do so or in what regard it should be "reformed"). The Staff has also concurred in the exclusion of shareholder proposals where no specific measures required to be implemented were specified in such proposals. *See, e.g., Cisco Systems, Inc.* (October 7, 2016) (concurring in exclusion of a proposal requesting that "[t]he board shall not take any action whose primary purpose is to prevent the effectiveness of shareholder vote without a compelling justification for such action" without further specifying what actions or measures were required to implement the proposal *and United Continental Holdings, Inc.* (March 6, 2014) (concurring in exclusion of a proposal requesting the adoption of a bylaw providing that preliminary voting results would be unavailable for solicitations made for "other purposes" but would be available for solicitations made for "other proper purposes"). The Staff has also issued specific guidance regarding the use of images in stockholder proposals in Staff Legal Bulletin No. 14I (November 1, 2017) ("SLB 14I"). Noting the potential for abuse in the use of images in stockholder proposals, SLB 14I provides that exclusion of such images is appropriate where the images are "irrelevant to a consideration of the subject matter of the proposal, such that there is a strong likelihood that a reasonable shareholder would be uncertain as to the matter on which he or she is being asked to vote." *See, e.g., General Electric Co.* (March 6, 2019) (concurring in exclusion of charts purporting to showcase aspects of the company's financial performance which had no relationship to the proposal's request for the adoption of cumulative voting); *General Electric Co.* (March 1, 2018) (concurring in exclusion of a chart, some text and questions, and emoji which had no relationship to the proposal's request

for the adoption of cumulative voting); *and General Electric Co.* (February 3, 2017, recon. granted February 23, 2017) (concurring in exclusion of images consisting of detailed charts, graphs, equations and emoji that had no relationship to the proposal's request for the adoption of cumulative voting).

Because the Proposal includes terms and an irrelevant image that are so inherently vague or indefinite that neither the shareholders voting on it, nor the Company in implementing the proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the Proposal requires, the Proposal may properly be excluded from the Proxy Materials.

C. The Shareholder Proposal May Be Excluded Pursuant to Rule 14a-8(i)(7) Because the Subject Matter of the Shareholder Proposal Relates to the Company's Ordinary Business Operations

Rule 14a-8(i)(7) permits a company to exclude a shareholder proposal if the proposal "deals with a matter relating to the company's ordinary business operations." There are two "central considerations" underlying the ordinary business exclusion. One consideration is that "[c]ertain tasks are so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight." The other consideration is that a proposal should not "seek[] 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." The Proposal implicates both of these considerations.

1. The Proposal seeks to affect the day-to-day management of the Company.

As described in Section I. of this letter, the Company provides investment management services to both institutional and retail investors through investment products ranging from separate accounts and private funds to publicly offered mutual funds and ETFs. The Company's voting and engagement policies are a fundamental component of its interaction with portfolio companies, and these portfolio companies are a central aspect of the investment management services and products that the Company provides. The Proposal ultimately seeks to influence the services and products that the Company provides by affecting the Company's voting and engagement policies with respect to its portfolio companies and therefore the subject of the Proposal is clearly within the scope of the day-to-day management functions of the Company.

The Staff has consistently granted no-action relief pursuant to Rule 14a-8(i)(7) for shareholder proposals that, like the Proposal, relate to the day-to-day operations of the company at issue, including in the context of proposals addressing proxy voting policies and practices. For

example, in *Franklin Resources, Inc.* (December 1, 2014), the Staff concurred in exclusion of a proposal requesting a review of "proxy voting policies and practices, taking into account Franklin's own corporate responsibility and environmental positions and the fiduciary and economic case for the shareholder resolutions presented, and report the results of the review to investors," under Rule 14a-8(i)(7), on the basis that it related to Franklin's ordinary business operations. In *State Street Corp* (February 24, 2009), the Staff concurred in exclusion of this same proposal on the same basis. Additionally, the SEC staff has repeatedly concurred in exclusion of proposals concerning decisions about a company's services, products or manner of doing business. *See, e.g., Amazon.com, Inc.* (March 27, 2015) (concurring in exclusion of a proposal requesting disclosure of potential reputational and financial risks that could result from negative public opinion pertaining to the treatment of animals used to produce products sold by the company on the basis that the proposal related to "the products and services offered for sale by the company"); *Papa John's International, Inc.* (February 13, 2015) (concurring in exclusion of a proposal requesting that the company expand its menu offerings to include vegan cheeses and vegan meats on the basis that the proposal related to "the products offered for sale by the company and does not focus on a significant policy issue"); *Wal-Mart Stores, Inc.* (March 20, 2014) (concurring in exclusion of a proposal requesting board oversight of determinations whether to sell 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"), affirmed and cited in Trinity Wall Street v. Wal-Mart Stores, Inc., 1-14-cv-00405, at *18 (3d Cir. July 6, 2015); *Pepco Holdings, Inc.* (February 18, 2011) (concurring in exclusion of a proposal requesting that the company pursue the solar market on the basis that the proposal related to "the products and services offered for sale by the company"); *Dominion Resources, Inc.* (February 3, 2011) (concurring in exclusion of a proposal requesting that the company initiate a program to provide financing to home and small business owners for installation of rooftop solar or wind power renewable generation on the basis that the proposal related to "the products and services offered for sale by the company"); *General Electric Company* (January 7, 2011) (concurring in exclusion of a proposal requesting that the company focus on defining, growing and enhancing aviation, medical, energy, transportation, power generation, lighting, appliances and technology businesses and deemphasize and reduce the role and influence of GE Capital on the basis such proposal "relates to the emphasis that the company places on the various products and services it offers for sale"). Similarly, the Proposal is directing the Company to evaluate the emphasis it places on various ESG matters and to influence SSGA's engagement with portfolio companies on the basis of such evaluation. For the foregoing reasons and consistent with the letters cited, the Proposal may be excluded in reliance on Rule 14a-8(i)(7) because the Company's voting and engagement policies relate to the day-to-day management of the Company.

2. The Proposal does not implicate a significant policy issue that transcends the Company's ordinary business operations.

As explained in Securities Exchange Act Release No. 34-40018 (May 21, 1998), a proposal that otherwise concerns ordinary business matters may nonetheless be appropriate for a shareholder vote if the proposal raises a policy issue that is sufficiently significant to transcend day-to-day business matters. The Staff explained in SLB 14I that the applicability of the significant policy exception "depends, in part, on the connection between the significant policy issue and the company's business operations." The Staff noted further that whether a policy issue is of sufficient significance to a particular company to warrant inclusion of a proposal that touches upon that issue may involve a "difficult judgment call," which the company's board of directors (or a committee thereof) "is generally in a better position to determine." A well-informed board, the Staff said, exercising its fiduciary duty to oversee management and the strategic direction of the company, "is well situated to analyze, determine and explain whether a particular issue is sufficiently significant because the matter transcends ordinary business and would be appropriate for a shareholder vote."

Where a board concludes that the proposal does not raise a policy issue that transcends the company's ordinary business operations, the company's letter notifying the Staff of the company's intention to exclude the proposal should set forth the board's analysis of "the particular policy issue raised and its significance" and describe the "processes employed by the board to ensure that its conclusions are well-informed and well-reasoned." *See also* Staff Legal Bulletin No. 14J (October 23, 2018) (reiterating Staff's belief that a "well-developed discussion of the board's analysis . . . can assist the Staff in evaluating a company's no-action request") *and* Staff Legal Bulletin No. 14K (October 16, 2019) ("SLB 14K") (noting that "the board's analysis will describe in sufficient detail the specific substantive factors the board considered in arriving at its conclusion, and set forth a non-exclusive list of such factors.").

In SLB 14K, the SEC staff clarified that it takes a "company-specific approach to evaluating significance, rather than recognizing particular issues or categories of issues as universally 'significant'." The SLB also reiterated the staff's position that a well-developed discussion of the board's analysis on whether the particular policy issue raised by a proposal is sufficiently significant in relation to the company can assist the staff in evaluating a proposal. To the extent the Proposal seeks something that the Company is not already doing (and to the extent what the Proposal seeks is not unlawful as described in Section IV.A. of this letter) that aspect of the Proposal does not present a significant policy issue for the Company, as described in further

detail below.

Nominating and Corporate Governance Committee Process

The Proposal seeks to ascertain whether and how the Company's "portfolio companies are stewarded to improve ESG performance" through the Company's voting and engagement strategy. As described in more detail in Sections I. and IV.D. of this letter, the Company has devoted significant resources and attention to corporate engagement activities and has focused increasingly on engagement around non-company specific issues of sustainability, corporate governance and culture and diversity at the board and executive management level.[26]

The Company's Nominating and Corporate Governance Committee (the "Committee") reviews SSGA's voting and engagement strategy at least annually and most recently in December 2020. In January 2021, the Committee reviewed the Proposal against SSGA's current voting and engagement practices including its stewardship of portfolio companies, taking into consideration the Committee's own substantial knowledge of the Company, its ongoing review of SSGA's voting and engagement policies, and the Company's significant investment in climate change, sustainability, gender and racial diversity at the board level and other ESG matters.

Based on this ongoing familiarity and knowledge, and following consideration of numerous factors (including those set forth below), the Committee concluded that the Proposal does not present an issue that transcends the Company's ordinary business operations and therefore the Proposal is not appropriate for inclusion in the Company's Proxy Statement.

Nominating and Corporate Governance Committee Analysis & Factors Considered

In reaching its conclusion that the Proposal does not present an issue that transcends the Company's ordinary business operations, the Committee considered numerous factors, including those set forth below.

As the Committee is aware though its ongoing review of SSGA's voting and engagement policies, SSGA has devoted significant resources and attention to portfolio company engagement activities, including the recent development and rollout of R-Factor, and SSGA provides regular and detailed reporting to its clients and the public regarding stewardship activities.

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[26] *See also* https://www.ssga.com/us/en/institutional/ic/capabilities/esg/asset-stewardship for a discussion of SSGA's active thought leadership to ESG thematic topics, including climate, governance & compensation and diversity & stewardship.

SSGA's engagement with companies on ESG issues is intended to promote long term value and risk avoidance. This engagement has focused increasingly on non-company specific issues of sustainability, corporate governance and culture and diversity at the board and executive management level.

SSGA is a recognized thought leader in promoting sustainable investing principles, a signatory to the Principles of Responsible Investing, a founding member and signatory to the Investor Stewardship Group and an explicit proponent of SASB, TCFD and other ESG-related organizations.

Through the Committee, the Board informs itself regarding how SSGA is addressing ESG and other issues with portfolio companies at least annually. Consequently, the Board is well informed on these topics and is engaged with SSGA on its practices to the extent permitted by SSGA's fiduciary responsibilities.

Accordingly, the delta analysis of what the Proposal appears to be requesting against what SSGA is already doing with respect to promoting long-term value and risk avoidance for the benefit of its clients does not identify gaps that present a significant policy issue for the Company, particularly in light of SSGA's engagement with portfolio companies, and related thought leadership, around non-company specific issues of sustainability, corporate governance, culture and diversity. The Committee therefore determined that the difference, or delta, if any, between what the Proposal requests and what the Company already does is minor, and in any case this delta does not present a significant policy issue.

Additionally, while the Proposal relates to the Company's core business activities because developing and implementing voting and engagement policies on behalf of clients is a core business activity and SSGA's legal duty, the policy issue presented by the Proposal would not have a clear impact on the Company's current voting and engagement policies because it is already undertaking significant efforts in this regard. Any potential impact of expressly addressing the voting and engagement policies of the Company is necessarily speculative and likely immaterial.

Finally, the Company has received objective indications that its shareholders do not have a significant interest in the issue presented by the Proposal, and the Company is not aware of any

shareholder other than the Proponent requesting the type of action or information sought by the Proposal. Moreover, the Proponent did not approach the Company with concerns in this area prior to submitting the Proposal. The Company conducts an extensive, ongoing engagement program with its shareholders (which the Committee reviews) and in 2020, it reached out to the holders of approximately 76% of its common shares and had meetings with the holders of approximately 40% of its common shares. None of the shareholders that the Company reached out to or with which the Company engaged raised the subject matter of the Proposal. Additionally, the Company is not aware of any other shareholder requests that SSGA pursue a strategy that places overall "capital markets materiality" ahead of protecting and promoting the long-term economic value of an individual client's particular investments. This general lack of shareholder feedback on this topic is an objective indication that the issue raised by the Proposal is not one widely viewed by the Company's shareholders as significant to the Company's business.

Based on all of the foregoing, the Committee determined that the Proposal does not relate to a significant policy issue for the Company.

The SEC staff has recently concurred in exclusion of three proposals requesting a report on risks associated with omitting "viewpoint" and "ideology" from the company's written equal employment opportunity policy. *See Alphabet, Inc.* (April 9, 2020), *salesforce.com, inc.* (April 9, 2020), *and Apple, Inc.* (December 20, 2019). In each of the foregoing letters, the company included a board analysis (or board committee analysis) focused on the delta between the company's existing policies and the change the proposal requested, and in each the Staff concurred that the proposal could be excluded as related to the company's ordinary business operations. In particular, the Staff's response in *Apple, Inc.* (December 20, 2019) cited the company's delta analysis as useful to its evaluation of whether the proposal presented a significant policy issue for the company.

For the foregoing reasons and consistent with the above letters, the Proposal may be excluded pursuant to Rule 14a-8(i)(7) on the basis that it relates to the Company's ordinary business operations and does not present a significant policy issue for the Company.

3. The Proposal micromanages the Company.

In addition to interfering with management's day-to-day operations, the Proposal seeks to micromanage the Company by probing too deeply into matters of a complex nature upon

which shareholders, as a group, would not be in a position to make an informed judgment. In SLB 14K, the Staff elaborated on the framework for the micromanagement prong of the ordinary business exclusion, underscoring that the analysis focuses on evaluating the manner in which a proposal seeks to address the subject matter raised. When considering whether a proposal micromanages a company, SLB 14K indicates that the Staff looks at "whether the proposal seeks intricate detail or imposes a specific strategy, method, action, outcome or timeline for addressing an issue, thereby supplanting the judgment of management and the board." In addition, SLB 14K notes that "if 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 and management, the proposal may be viewed as micromanaging the company." The Staff also noted in SLB 14K that "[w]hen a proposal prescribes specific actions that the company's management or the board must undertake without affording them sufficient flexibility or discretion in addressing the complex matter presented by the proposal, the proposal may micromanage the company to such a degree that exclusion of the proposal would be warranted."

In this instance, the Proposal seeks to dictate the standards to be used in developing engagement and voting policies, thereby seeking to supplant SSGA's judgment. By prescribing specific standards without affording SSGA sufficient flexibility or discretion in addressing the complex matter presented by the Proposal, the proposal micromanages SSGA to such a degree that exclusion of the proposal is warranted. The Staff has consistently concurred in exclusion of shareholder proposals that similarly seek to micromanage the Company. *See, e.g., Exxon Mobil Corporation* (March 6, 2020) (concurring in exclusion of a proposal requesting that the board charter a new board committee on climate risk because the proposal "micromanages the Company by dictating that the board charter a new board committee on climate risk"); *and The Goldman Sachs Group, Inc.* (March 12, 2019) (concurring in exclusion of a proposal requesting that the company adopt a policy to reduce the carbon footprint of its loan and investment portfolios). *See also Gilead Sciences, Inc.* (December 3, 2020), *AbbVie Inc.* (February 15, 2019) *and Johnson & Johnson* (February 14, 2019) (each concurring in exclusion of proposals involving senior executive compensation); *Royal Caribbean Cruises Ltd.* (March 14, 2019) (concurring in exclusion of a proposal requesting that any stock buybacks adopted by the board after approval of the proposal not become effective until approved by shareholders); *Walgreens Boots Alliance, Inc.* (November 20, 2018) (concurring in exclusion of a proposal requesting that stock buybacks adopted by the board not become effective until approved by shareholders); *and JPMorgan Chase & Co.* (March 30, 2018) (concurring in exclusion of a proposal requesting the company establish a "Human and Indigenous Peoples' Rights Committee").

The Proposal relates to the Company's ordinary business operations because, consistent with the Committee's analysis, it does not present a significant policy issue and therefore interferes with management's ability to run ordinary day-to-day business operations. Additionally, the Proposal seeks to micromanage the Company by seeking to dictate the standards to be used in developing engagement and voting policies. Accordingly, under either prong of the ordinary business operation exclusion, the Proposal may properly be excluded pursuant to Rule 14a-8(i)(7).

D. The Shareholder Proposal May Be Excluded Pursuant to Rule 14a-8(i)(10) Because the Company Has Substantially Implemented the Proposal

To the extent that what the Proposal seeks is not unlawful as described in Section IV.A. of this letter, the Company has substantially implemented the Proposal because it has taken actions that compare favorably with the guidelines of the Proposal and satisfy its essential objective.

The purpose of the Rule 14a-8(i)(10) exclusion is to "avoid the possibility of shareholders having to consider matters which have already been favorably acted upon by management." Commission Release No. 34-12598 (July 7, 1976). While the exclusion was originally interpreted to allow exclusion of a shareholder proposal only when the proposal was "'fully' effected" by the company, the Commission has revised its approach to the exclusion over time to allow for exclusion of proposals that have been "substantially implemented." Commission Release No. 34-20091 (August 16, 1983) and Commission Release No. 34-40018 (May 21, 1998). In applying this standard, the Staff has noted that "a determination that the [c]ompany has substantially implemented the proposal depends upon whether [the company's] particular policies, practices and procedures compare favorably with the guidelines of the proposal." *See also Texaco, Inc.* (March 6, 1991, *recon. granted* March 28, 1991). In addition, when a company can demonstrate that it already has taken actions that address the "essential objective" of a shareholder proposal, the Staff has concurred that the proposal has been "substantially implemented" and may be excluded as moot, even where the company's actions do not precisely mirror the terms of the shareholder proposal.

In the current instance, to the extent the focus of the Proposal is on having the Company take into consideration and report on ESG issues that are of general importance to society (and therefore to the long-term interests of companies, clients and investors), the Company already takes significant actions to educate SSGA portfolio companies about these issues and provides extensive reporting to clients and investors (and the public) about its approach to stewardship, the reasons for its approach and the outcome of its engagement efforts. As demonstrated in the Company's public statements (see Exhibit B for examples of such statements), the Company's engagement focus is not solely on individual companies, but rather identifies important ESG issues on which the Company engages and on which it already reports to its clients and investors.

As the Company's stewardship efforts make clear, given its focus on preserving long-term economic value, the concepts of company materiality and market materiality with respect to ESG issues are often more intertwined than different, which is why the Company's engagements focus on promoting consideration of societal factors as these societal issues drive long-term value. For example, as described in Section I., SSGA is a signatory to the Principles of Responsible Investing (PRI) and was recognized as part of PRI's Leaders Group for their efforts to advance corporate disclosure on the impact of climate change, it is a founding member and signatory to the Investor Stewardship Group and it is an explicit proponent of SASB. SSGA has also recently joined Climate Action 100+. Accordingly, to the extent the Proposal is focused on considering ESG issues, the Company's policies and engagement strategy already contemplate such issues.

The Staff has consistently permitted the exclusion of shareholder proposals pursuant to Rule 14a-8(i)(10) when it has determined that the company's policies, practices and procedures or public disclosures compare favorably with the guidelines of the proposal or where the company had addressed the underlying concerns and satisfied the essential objective of the proposal, even where the company's actions did not precisely mirror the terms of the shareholder proposal. The Staff recently took this approach in *Apple Inc.* (October 16, 2020), in which the Staff concurred in exclusion of a proposal requesting that the board prepare a report based on a review of whether the company's governance and management systems should be altered to implement a BRT Statement of the Purpose of a corporation signed by the CEO. Apple argued that its core values aligned with the Statement of Purpose, that its core values were disclosed on website and in filings with the SEC, and that the company "has been transparent about its [v]alues and its governance and management systems to implement them." Additionally, in *JPMorgan Chase & Co.* (February 5, 2020), the Staff concurred in exclusion of a proposal requesting that the board provide oversight and guidance as to how the Statement of Purpose should alter the company's governance practices and publish recommendations regarding implementation. The company argued that a committee had already reviewed the Statement of Purpose and determined that the company operates in accordance with the principles set forth in the Statement of Purpose. In granting the no-action request, the Staff noted that the "board's actions compare[d] favorably" with the guidelines of the proposal. *See also The Wendy's Company* (April 10, 2019), in which the Staff concurred in exclusion of a proposal requesting that the Board prepare a report on the Company's process for identifying and analyzing potential and actual human rights risks of operations and supply chain pertaining to ESG issues. In that instance, the company argued that it already had a code of conduct applicable to suppliers and other policies and public disclosures that achieved the proposal's essential objective. The Staff noted that the company's public disclosures "compare[d] favorably" with the guidelines of the proposal.

Therefore, because the Company has substantially implemented the Proposal (to the extent that what the Proposal seeks is not unlawful as described in Section IV.A.), the Proposal is excludable pursuant to Rule 14a-8(i)(10).

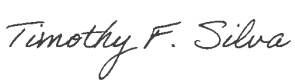
V. Conclusion

For the foregoing reasons, and consistent with the Staff's prior no-action letters, we respectfully request that the Staff concur that it will take no action if the Company excludes the Proposal from its Proxy Materials on the bases set forth herein.

If the Staff has any questions with respect to the foregoing, or if for any reason the Staff does not agree that the Company may exclude the Proposal from its Proxy Materials, please do not hesitate to contact Lillian Brown at lillian.brown@wilmerhale.com or (202) 663-6743, Timothy Silva at timothy.silva@wilmerhale.com or (617) 526-6502, or Jeremy Kream, Head of Legal, Corporate and Global Delivery, State Street Corporation at JKream@StateStreet.com. In addition, should the Proponent choose to submit any response or other correspondence to the Commission, we request that the Proponent concurrently submit that response or other correspondence to the Company, as required pursuant to Rule 14a-8(k) and SLB 14D, and copy the undersigned.

Best regards,

Lillian Brown



Timothy F. Silva

Enclosures

cc: David C. Phelan
Jeremy Kream
John Chevedden

EXHIBIT A

From: John Chevedden ***
Sent: Monday, December 7, 2020 8:27 PM
To: jcarp@statestreet.com
Cc: Stanley, Shannon C; Sara E. Murphy
Subject: [External] Rule 14a-8 Proposal (STT)``
Attachments: 07122020_5.pdf

Mr. Carp,
Please see the attached rule 14a-8 proposal to improve corporate governance and enhance long-term shareholder value at de minimis up-front cost – especially considering the substantial market capitalization of the company.

I expect to forward a broker letter soon so if you acknowledge this proposal in an email message it may very well save you from requesting a broker letter from me.

Sincerely,
John Chevedden

***

Jeffrey N. Carp
Office of the Secretary
State Street Corporation
One Lincoln Street
Boston, Massachusetts 02111
jcarp@statestreet.com

Dear Secretary Carp,

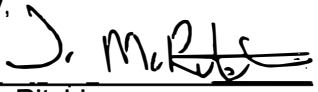
I am submitting the attached shareholder proposal requesting **Market Materiality Disclosure** for a vote at the next annual shareholder meeting. I will meet Rule 14a-8 requirements including the continuous ownership of the required stock value until after the date of the respective shareholder meeting. My submitted format, with the shareholder-supplied emphasis, is intended to be used for definitive proxy publication.

This is my delegation to John Chevedden and/or his designee to act as my agent regarding this Rule 14a-8 proposal, and/or modification and presentation of it before and during the forthcoming shareholder meeting. This delegation does not cover proposals that are not rule 14a-8 proposals and does not grant the power to vote.

Please direct all future communications regarding our rule 14a-8 proposal to John Chevedden (PH: *** at: *** to facilitate prompt and verifiable communications. Please identify this proposal as my proposal exclusively.

Your consideration and the consideration of the Board of Directors is appreciated in responding to this proposal. *We are open to negotiating possible changes to the proposal or withdrawal. We expect to forward a broker letter soon. Therefore, if you simply acknowledge my proposal in an email message to* *** *, it may not be necessary for you to request such evidence of ownership.*

Sincerely,



James McRitchie — December 7, 2020
Date

cc: Sara E. Murphy, Chief Strategy Officer, The Shareholder Commons
sara@theshareholdercommons.com

CorpGov.net

[This line and any below are *not* for publication]
Number 4* to be assigned by the Company

The "FOR"graphic above is intended to be published with the rule 14a-8 proposal.
The graphic would be the same size as the largest management graphic (and accompanying bold or highlighted management text with a graphic) or any highlighted management executive summary used in conjunction with a management proposal or a rule 14a-8 shareholder proposal in the 2021 proxy.

The proponent is willing to discuss the in unison elimination of both shareholder graphic and management graphic in the proxy in regard to specific proposals.

Reference SEC Staff Legal Bulletin No. 14I (CF)
[16] Companies should not minimize or otherwise diminish the appearance of a shareholder's graphic. For example, if the company includes its own graphics in its proxy statement, it should give similar prominence to a shareholder's graphics. If a company's proxy statement appears in black and white, however, the shareholder proposal and accompanying graphics may also appear in black and white.

Notes: This proposal is believed to conform with Staff Legal Bulletin No. 14B (CF), September 15, 2004 including (emphasis added):

> Accordingly, going forward, we believe that it would not be appropriate for companies to exclude supporting statement language and/or an entire proposal in reliance on rule 14a-8(i)(3) in the following circumstances:
>
> - the company objects to factual assertions because they are not supported;
> - the company objects to factual assertions that, while not materially false or misleading, may be disputed or countered;
> - the company objects to factual assertions because those assertions may be interpreted by shareholders in a manner that is unfavorable to the company, its directors, or its officers; and/or
> - the company objects to statements because they represent the opinion of the shareholder proponent or a referenced source, but the statements are not identified specifically as such.
>
> **We believe that it is appropriate under rule 14a-8 for companies to address these objections in their statements of opposition.**

See also Sun Microsystems, Inc. (July 21, 2005)

The stock supporting this proposal will be held until after the annual meeting and the proposal will be presented at the annual meeting. Please acknowledge this proposal promptly by email
***

CorpGov.net

[STT: Rule 14a-8 Proposal, December 7, 2020]
[This line and any line above it – *Not* for publication.]
ITEM 4* – Market Materiality Disclosure

RESOLVED, shareholders ask that the board provide a report as to how its voting and engagement policies, which focus solely on individual corporation materiality to the exclusion of capital markets materiality, affect the majority of its clients and shareholders, who rely primarily on overall stock market performance for their returns, rather than upon the returns of individual companies.

Our Company provides investment management services and has more than $3 trillion in assets under management, primarily weighted towards indexed strategies. Its clients, like its shareholders, are almost all broadly diversified. (Indeed, as of September 2020, the Company itself, along with Vanguard and BlackRock, two asset owners with similarly diversified client bases, own more than 20% of the Company's shares.)

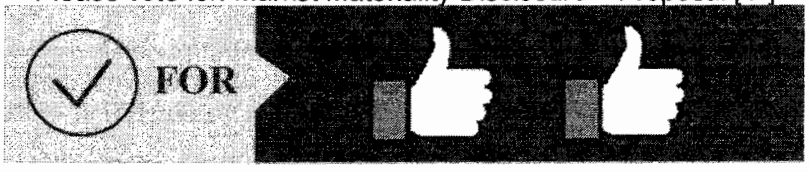
Such diversified shareholders, like the Company's diversified clients, rely on healthy social, economic, and environmental systems to support all corporations. If corporate practices reduce demand[1] or GDP,[2] decreased diversified portfolio returns result.[3] As manager for more than $3 trillion in assets, the Company's stewardship activities—engaging with portfolio companies and voting their shares—could significantly affect overall market performance by ensuring that corporations do not seek profit from activities that degrade the global commons.

However, the Company's position on environmental, social and governance matters focuses largely on "materiality," which only takes into account how those matters affect an individual company.[4] This means that portfolio companies are stewarded to improve ESG performance only if it improves their individual performances. Thus, where a portfolio company can profit through irresponsible social and environmental practices, the Company's stewardship policy may fail to advance the interests of both its clients and its shareholders.

Because the Company's engagement strategy is only focused on company-by-company materiality, it allows corporations in its portfolio to continue practices that externalize costs (thereby harming overall market performance) without harming the individual corporation. The Company's clients and shareholders should be provided with information about corporate practices that harm the economy while increasing individual corporate financial returns.

The difference between company materiality and market materiality is an issue of great social importance. A study would help shareholders determine whether to seek a change in corporate direction, structure or form in order to better serve their interests.

Please vote for: Market Materiality Disclosure – Proposal [4*]



[1] See, e.g., https://www.epi.org/publication/secular-stagnation/ (inequality has reduced demand by 2-4% of GDP.)
[2] See, e.g., *Closing the Racial Inequality Gaps: The Economic Cost of Black Inequality in the U.S.*, available at http://citi.us/3olxWH0 (closing racial disparity would add $5 trillion to the US economy over the next five years).
[3] See *Universal Ownership: Why Environmental Externalities Matter to Institutional Investors,* Appendix IV (demonstrating linear relationship between GDP and a diversified portfolio) available at https://www.unepfi.org/fileadmin/documents/universal_ownership_full.pdf; cf. https://www.advisorperspectives.com/dshort/updates/2020/11/05/market-cap-to-gdp-an-updated-look-at-the-buffett-valuation-indicator (total market capitalization to GDP "is probably the best single measure of where valuations stand at any given moment") (quoting Warren Buffet).
[4] https://www.ssga.com/library-content/pdfs/ic/global-Proxy-Voting-and-engagement-guidelines-es-issues.pdf

***

From: John Chevedden
Sent: Monday, December 07, 2020 8:31 PM
To: Jeffrey N. Carp <jcarp@statestreet.com>
Cc: Stanley, Shannon C <scstanley@statestreet.com>
Subject: [External] Graphic (STT)

Mr. Carp,
This is a better copy of the graphic in the just submitted Rule 14a-8 Proposal.
John Chevedden

From: Stanley, Shannon C
To: John Chevedden
Cc: Sara E. Murphy; DCPhelan@statestreet.com
Subject: RE: [External] Rule 14a-8 Proposal (STT)``

Information Classification: ●● Confidential

Mr. Chevedden,
I hope that you are managing well in these unusual times. I am writing to let you know that yesterday I received the email you sent which included the Rule 14a-8 shareholder proposal submitted to State Street. In addition, I received your email related to the preferred graphic for the proposal. I note that the emails you sent were addressed to Jeff Carp, our former Chief Legal Officer and Corporate Secretary. David Phelan, copied here, is the General Counsel and Corporate Secretary effective July 16, 2020. Going forward, please include David in correspondence intended for the Corporate Secretary and you can always copy me.
Please forward your broker letter as noted below.
Many thanks,
Shannon

Shannon C. Stanley, Managing Director and Senior Counsel

State Street | Legal Division | One Lincoln Street, 2nd Floor, Boston, MA 02111
P +617.664.0589 | scstanley@statestreet.com

From: John Chevedden ***
Sent: Monday, December 07, 2020 8:27 PM
To: Jeffrey N. Carp <jcarp@statestreet.com>
Cc: Stanley, Shannon C <scstanley@statestreet.com>; Sara E. Murphy <sara@theshareholdercommons.com>
Subject: [External] Rule 14a-8 Proposal (STT)``

Mr. Carp,
Please see the attached rule 14a-8 proposal to improve corporate governance and enhance long-term shareholder value at de minimis up-front cost – especially considering the substantial market capitalization of the company.

I expect to forward a broker letter soon so if you acknowledge this proposal in an email message it may very well save you from requesting a broker letter from me.

Sincerely,
John Chevedden

From:	John Chevedden
To:	DCPhelan@statestreet.com
Cc:	Stanley, Shannon C
Subject:	[External] Rule 14a-8 Proposal (STT) blb
Date:	Thursday, December 10, 2020 11:18:23 PM
Attachments:	10122020_10.pdf

Mr. Phelan,
Please see the attached broker letter.
Please confirm receipt.
Sincerely,
John Chevedden

TD Ameritrade

12/10/2020

James McRitchie
***

Re: Your TD Ameritrade Account Ending in ***

Dear James McRitchie,

Thank you for allowing me to assist you today. Pursuant to your request, this letter is to confirm that as of the date of this letter, James McRitchie held and had held continuously for at least 13 months, 50 common shares of State Street Corporation (STT) in an account ending in *** at TD Ameritrade. The DTC clearinghouse number for TD Ameritrade is 0188.

If we can be of any further assistance, please let us know. Just log in to your account and go to the Message Center to write us. You can also call Private Client Services at 800-400-4078. We're available 24 hours a day, seven days a week.

Sincerely,

Jennifer Hickman

Jennifer Hickman
Resource Specialist
TD Ameritrade

EXHIBIT B

Examples of Public Statements Made By The Company

Global Proxy Voting and Engagement Principles (March 2020) (available at https://www.ssga.com/library-content/pdfs/ic/proxy-voting-and-engagement-guidelines-principle.pdf)

"As an investment manager, State Street Global Advisors has discretionary proxy voting authority over most of its client accounts, and State Street Global Advisors votes these proxies in the manner that we believe will most likely protect and promote the long-term economic value of client investments as described in this document."

"We maximize our voting power and engagement by maintaining a centralized proxy voting and active ownership process covering all holdings, regardless of strategy. Despite the vast investment strategies and objectives across State Street Global Advisors, the fiduciary responsibilities of share ownership and voting for which State Street Global Advisors has voting discretion are carried out with a single voice and objective."

"In conducting our engagements, we also evaluate the various factors that influence the corporate governance framework of a country, including the macroeconomic conditions and broader political system, the quality of regulatory oversight, the enforcement of property and shareholder rights, and the independence of the judiciary. We understand that regulatory requirements and investor expectations relating to governance practices and engagement activities differ from country to country. As a result, we engage with issuers, regulators, or a combination of the two depending upon the market. We are also a member of various investor associations that seek to address broader corporate governance related policy at the country level as well as issuer specific concerns at a company level."

"As a fiduciary, State Street Global Advisors takes a comprehensive approach to engaging with our portfolio companies about material environmental and social (sustainability) issues. We use our voice and our vote through engagement, proxy voting, and thought leadership in order to communicate with issuers and educate market participants about our perspective on important sustainability topics."

State Street Global Advisors' Issuer Engagement Protocol (March 2020) (available at https://www.ssga.com/library-content/pdfs/ic/state-street-global-advisors-issuer-engagement-protocol.pdf)

State Street Global Advisors' engagement activities are driven exclusively by our goal to maximize and protect the long-term value of our clients' assets. These guidelines are utilized by State Street Global Advisors' proxy voting and engagement team, known as the Asset Stewardship team, to develop annual engagement objectives and priorities based upon an assessment of the greatest risks and opportunities within our clients' funds. The protocol clearly defines instances in which the Asset Stewardship team is willing to participate in reactive

engagement, thereby allowing the team to focus on active, thematic, or sector specific engagement across our global portfolios."

"Each year, as part of its strategic review process, the Asset Stewardship team develops an annual engagement strategy, and it identifies a target list of companies that we intend to engage with during the year. Factors considered in developing the target list include:

…

• Thematic environmental, social, and governance (ESG) issues that the team identifies as potential risks facing investee companies"

Letter dated August 27, 2020 from SSGA to Board Chairs (available at https://www.ssga.com/library-content/pdfs/global/letterhead_racial_equity_guidance.pdf)

"The ongoing issue of racial equity has caused us to focus more closely on the ways in which racial and ethnic diversity impacts us as investors. As such, we are writing to inform you that starting in 2021, State Street Global Advisors will ask companies in our investment portfolio to articulate their risks, goals and strategy as related to racial and ethnic diversity, and to make relevant disclosure available to shareholders.

. . .

These topics will be part of our engagement conversations. As always, our primary tool is engagement with management and the board with the objective of understanding a company's plan and how the board is carrying out its oversight role. However, if required, we are prepared to use our proxy voting authority to hold companies accountable for meeting our expectations."

Guidance on Enhancing Racial & Ethnic Diversity Disclosures (available at https://www.ssga.com/library-content/pdfs/asset-stewardship/racial-diversity-guidance-article.pdf)

"We have expanded our firm's longstanding focus on gender diversity to include race and ethnicity, and this essential dimension of ESG risk management will be a priority for our Asset Stewardship team in 2021."

Proxy Season Review (Q2 2020) (available at https://www.ssga.com/library-content/products/esg/asset-stewardship-report-q2-2020.pdf)

"The global health, social and economic impacts of COVID-19 intensified during the 2020 proxy season. As a result, many of our discussions with investee companies focused on immediate ESG issues, including employee health, human capital, serving and protecting customers and ensuring the overall safety of supply chains. We also focused on near-term survival issues such as business continuity and resilience (including C-suite succession planning), financial stability, capital allocation and liquidity. That being said, as long-term investors we continued to engage

with our investee companies on long-term issues. To manage a crisis of this magnitude successfully we believe companies need to strike the right balance between managing short-term priorities and staying focused on long-term goals."

Stewardship Report 2018-19 (available at https://www.ssga.com/library-content/products/esg/annual-asset-stewardship-report-2018-19.pdf)

"Overall Engagement and Core Campaigns

In 2018, we engaged with 1,533 companies, which accounts for about 70% of our AUM in equities. Some of the highlights in this report include updates on our core multi-year campaigns of gender diversity and climate change, which will continue to be focus areas until portfolio companies effectively address these issues. I am especially pleased to announce that as of June 30, 2019, 43% or over 580 of the 1,350 companies identified as part of our Fearless Girl campaign responded to our call by either adding a female director or committing to do so. On climate change, we have conducted more than 365 engagements since we began engaging on the issue in 2014. This year, we found that while boards are starting to see climate change as a risk that needs to be mitigated, they are responding in a short-term tactical manner to a long-term strategic challenge. We believe that this is partly due to the time horizon mismatch between a typical three-year strategy-setting process and a longer time horizon over which companies expect climate risk to materialize."

"Social Issues: The Next Frontier of ESG

In 2018, we observed that social issues such as gender diversity, pay equality, wage strategies, sexual harassment in the workplace and worker retraining are raising in prominence as emerging ESG issues facing companies. Overseeing and mitigating these risks are the next frontier of challenges facing boards. Consequently, one of our key collaborative efforts in 2018 was the Embankment Project for Inclusive Capitalism (EPIC) (see page 72). As a member on the Human Capital Deployment Working Group, we explored ways in which companies communicate the value of investing in their workforce and recommended that companies monitor and consider reporting on relevant metrics in this area. Our stewardship team will continue to explore how social issues are challenging our portfolio companies and have identified Human Capital Management as a thematic priority for 2019. We look forward to sharing our insights with you in the coming years."

"In 2019, State Street Global Advisors launched R- Factor™, a new ESG scoring system. The R-Factor™ or the Responsibility Factor Score measures the performance of a company's business operations and governance as it relates to financially material ESG challenges facing the company's industry. It was designed to address market infrastructure challenges around ESG data quality and give companies a road map to implement and improve disclosure of financially material ESG data to all investors, thereby helping build more sustainable capital markets. The

score draws on data from four ESG data providers and leverages widely accepted, transparent materiality frameworks (SASB and corporate governance codes) to generate a unique ESG score for listed companies."

"As near-perpetual holders of the constituents of the world's primary indices, we use our voice and vote to influence companies on long-term governance and sustainability issues. Our approach to stewardship focuses on making an impact. Accordingly, our stewardship program proactively identifies companies for engagement and voting in order to mitigate ESG risks in our portfolios."

"[In] order to maximize our impact, we publish thought leadership, to both inform companies and educate market participants."

"Stewardship Program Philosophy and Objectives

Through our overarching stewardship philosophy of protecting and promoting the long-term economic value of client investments and in an effort to fully embrace our commitment to external initiatives such as the PRI (see page 23), our stewardship objectives are as follows:

Clearly communicate our commitment to responsible investing on behalf of our clients and report on the impact of our stewardship activities We aim to achieve this objective through honest evaluation, continuous enhancement and increased transparency of our stewardship practices.

Develop effective proxy voting and engagement guidelines that enhance and evolve ESG practices in the market We aim to achieve this objective by applying higher voting standards in markets where governance and sustainability practices are below global investors' expectations, and by clearly identifying engagement priorities that focus on sector, thematic and/or market-specific issues. We collaborate with other investors in markets where we believe collective action is needed."

"Our Beliefs

Our approach to proxy voting and issuer engagement is premised on the belief that companies that adopt robust and progressive governance and sustainability practices are better positioned to generate long-term value and manage risk. As near-perpetual holders of the constituents of the world's primary indices, the informed exercise of voting rights coupled with targeted and value-driven engagement is the most effective mechanism of creating value for our clients.

Therefore, we engage as long-term investors through our asset stewardship program on those issues that impact long-term value. Our focus in recent years has been on good governance and other practices that affect a company's ability to generate positive returns for investors over the long run. Those issues span a variety of ESG topics material to sustainable performance. We approach these issues from the perspective of long-term investment value, not from a political or social agenda (aka "values")."

“Market-Level Successes

We track the broader adoption of the thematic ESG issues that we have been championing by assessing the number of market participants that have embraced positions consistent with our thought leadership. Over the years, the following issues are examples of ESG topics where we have published robust thought leadership that has influenced market participants:

• Need for Board Refreshment (US market)

• Effective Independent Board Leadership (Global)

• Incorporating Sustainability into Long-Term Strategy (Global) • Gender Diversity — Fearless Girl Campaign (Global)

• Effective Climate Change Disclosure in High-Impact Sectors (Global)

• Increasing Board Accountability (Europe)

• Aligning Corporate Culture with Long-Term Strategy (Global)

• Monitoring Compliance with Investor Stewardship Group Principles (US market)”

“Selecting Our Sector Focus

Reviewing our global holdings within a sector allows us to identify the business and ESG trends that are impacting our holdings. This strengthens our ability to provide inputs to the board and management when they seek feedback or guidance from large institutional investors. We select focused sectors based on a variety of factors, including:

• **Identification of Emerging Systemic Challenges** We focus on sectors that are meaningfully impacted by wider systemic challenges we observe in the market

• **Timing of Previous Selection for Sector Focus** We revisit sectors we have focused on in the past when sufficient time has passed such that progress has been made and the sector faces new challenges and opportunities

• **Alignment to Our Thematic Priorities** We seek some overlap, in order to be able to leverage viewpoints that we have developed”

“Selecting Our Thematic Priorities

In our view, focusing on thematic topics with the largest material impact on the long-term value of our portfolio companies is a key strength of our asset stewardship program as these topics typically require a multi year approach to effect change, drive impact and create long-term value.”

“In our 2017 annual proxy letter to large portfolio companies, we reinforced the importance of considering the impact of environmental and social sustainability issues on long-term performance.”

“Our asset stewardship program is aimed at engaging our portfolio companies on ESG issues that have a long-term impact on value creation. Our approach to proxy voting and issuer engagement is premised on the belief that companies that adopt robust and progressive governance and sustainability practices will be better positioned to generate long-term value and to manage risk. As a near-perpetual holder of the constituents of the world’s primary indices, our informed exercise of voting rights, in accordance with in-house voting guidelines, coupled with targeted and value-driven engagement, is the most effective mechanism for creating value for our clients.”