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

DIVISION OF
CORPORATION FINANCE

March 26, 2022

Edward S. Best
Mayer Brown LLP

Re: Chubb Limited (the "Company")
Incoming letter dated January 14, 2022

Dear Mr. Best:

This letter is in response to your correspondence concerning the shareholder proposal (the "Proposal") submitted to the Company by Green Century Equity Fund for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders.

The Proposal requests that the board adopt and disclose new policies to help ensure that the Company's underwriting practices do not support new fossil fuel supplies, in alignment with the IEA's Net Zero Emissions by 2050 Scenario.

We are unable to concur in your view that the Company may exclude the Proposal under Rule 14a-8(i)(3). We are unable to conclude that the Proposal, taken as a whole, is so vague or indefinite that it is rendered materially misleading.

We are unable to concur in your view that the Company may exclude the Proposal under Rule 14a-8(i)(7). In our view, the Proposal transcends ordinary business matters and does not seek to micromanage the Company.

We are unable to concur in your view that the Company may exclude the Proposal under Rule 14a-8(i)(10). Based on the information you have presented, it appears that the Company's public disclosures do not substantially implement the Proposal.

Copies of all of the correspondence on which this response is based will be made available on our website at https://www.sec.gov/corpfin/2021-2022-shareholder-proposals-no-action.

Sincerely,

Rule 14a-8 Review Team

cc: Sanford Lewis

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January 14, 2022

Via Email

Shareholderproposals@sec.gov
Securities and Exchange Commission
Division of Corporation Finance
Office of Chief Counsel
100 F Street, N.E.
Washington, D.C. 20549

Re: Chubb Limited – Shareholder Proposal Submitted by
Green Century Equity Fund – Rule 14a-8

Ladies and Gentlemen:

On behalf of Chubb Limited ("Chubb" or the "Company") and pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934 (the "Exchange Act"), I hereby request confirmation that the staff (the "Staff") of the Division of Corporation Finance (the "Division") of the Securities and Exchange Commission (the "SEC" or the "Commission") will not recommend enforcement action if, in reliance on Exchange Act Rule 14a-8, Chubb excludes a proposal submitted by Green Century Capital Management, Inc., on behalf of a shareholder, Green Century Equity Fund (collectively, the "Proponent"), from the proxy materials for Chubb's 2022 annual general meeting of shareholders (the "Proxy Materials").

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

- filed this letter with the SEC no later than 80 calendar days before the Company intends to file its definitive 2022 proxy materials with the SEC; and
- concurrently sent copies of this correspondence to the Proponent.

The Proposal

On December 6, 2021, Chubb received the following proposal for consideration at Chubb's 2022 annual general meeting of shareholders:

> **RESOLVED:** Shareholders request that Chubb's Board of Directors adopt and disclose new policies to help ensure that its underwriting practices do not support new fossil fuel supplies, in alignment with the IEA's Net Zero Emissions by 2050 Scenario.

Pursuant to Rule 14a-8(j), I have enclosed a copy of the proposed resolution, together with the recitals in support of the resolution and the supporting statement, as Exhibit A (collectively, the "Proposal"), as transmitted to Chubb. A copy of this letter is simultaneously being sent to the Proponent.

Bases for Exclusion

Chubb believes that the Proposal may be properly omitted from Chubb's 2022 proxy materials pursuant to Rule 14a-8 under each of the following three grounds for exclusion, each of which is analyzed in separate sections of this letter:

1. **Rule 14a-8(i)(10):** The Proposal has been substantially implemented. Chubb already has adopted and disclosed a policy restricting coal underwriting, and prominently provides public disclosure of additional goals, efforts and achievements in reducing its greenhouse gas ("GHG") emissions and using its underwriting activities to support an orderly transition away from new fossil fuel supplies.

2. **Rule 14a-8(i)(3) and Rule 14a-9:** The Proposal is vague and indefinite, rendering the Proposal in violation of the proxy rules, namely because it fails to define the IEA's Net Zero Emissions by 2050 Scenario and what alignment with it actually means. In addition, the Proposal is subject to multiple interpretations where shareholders may be confused about what they would be voting on and therefore interpret the purpose of the Proposal differently.

3. **Rule 14a-8(i)(7):** The Proposal focuses on Chubb's "ordinary business" operations, that is, fundamental factors involving its offering insurance products and services and seeks to micromanage Chubb's business by determining which products and services Chubb should or should not provide to its customers.

I. The Proposal may be omitted under Rule 14a-8(i)(10) because it has been substantially implemented.

Rule 14a-8(i)(10) permits a company to exclude a shareholder proposal if "the company has already substantially implemented the proposal." The standard for this exclusion is whether the company's actions compare favorably to the shareholder proposal and satisfactorily address the proposal's essential objectives, which is the case here. The Proposal requests that Chubb's Board of Directors adopt and disclose new policies to help ensure that its underwriting practices do not support new fossil fuel supplies. Chubb has substantially implemented the essential objective of the Proposal because it has both (1) adopted restrictions on certain fossil fuel underwriting and (2) adopted the Task Force on Climate–related Financial Disclosures ("TCFD") framework and has a publicly available annual climate-related financial disclosure and environmental report in full accordance with that framework ("TCFD Report") that clearly explains the Company's policies, practices and approach to fossil fuel underwriting, its support for a global transition to a net zero economy by 2050, and reducing GHG emissions in its operations. Therefore, as further explained below, Chubb has clearly taken the steps that address the underlying concerns of the Proposal, global warming and new fossil fuel supplies.

Chubb recognizes the existential threat of global warming and as an insurer is uniquely situated to observe how natural catastrophes contribute to climate change. The Company recognizes that a changing climate affects everyone – customers, employees, shareholders, business partners and the communities it serves. As a result, the Company recognizes the necessity to move away from a reliance on the fossil fuel carbon emissions that contribute to global warming. The below actions the Company has taken and will continue to take and develop over time are in alignment with this philosophy as well as the essential objective of the Proposal, which is for Chubb to do its part to work towards a global transition to a net zero economy.

A. Chubb's existing coal policy is directly responsive to the Proposal and demonstrates that the Proposal has been substantially implemented.

Chubb already has a policy concerning thermal coal-related underwriting and investment, which it adopted in 2019. This policy is publicly available on its website at https://www.chubb.com/us-en/about-chubb/chubb-coal-policy.html and described elsewhere in the Company's public reports, including its TCFD Report. In terms of underwriting, this policy provides:

- *New Coal Plant Construction & Operation.* Chubb will not underwrite risks related to the construction and operation of new coal-fired plants. (Exceptions to this policy will be considered until 2022 (i) in regions that do not have practical near-term alternative energy sources, and (ii) taking into account the insured's commitments to reduce coal dependence.)
- *Coal Mining.* Chubb will not underwrite new risks for companies that generate more than 30% of revenues from thermal coal mining. Chubb will phase out coverage of existing risks that exceed this threshold by 2022.
- *Utilities.* Chubb will not underwrite new risks for companies that generate more than 30% of their energy production from coal. Chubb will phase out coverage of existing risks that exceed this threshold beginning in 2022, taking into account the viability of alternative energy sources in the impacted region.

In terms of investments, Chubb's coal policy provides that Chubb will not make new debt or equity investments in companies that generate more than 30% of revenues from thermal coal mining or that generate more than 30% of energy production from coal.

Chubb's investment management and underwriting operations both monitor the implementation of Chubb's coal policy and, as disclosed on page 16 of Chubb's TCFD Report discussed below, to date Chubb has implemented its coal policy as written.

The Proposal specifically requests that Chubb adopt and disclose policies to help ensure its underwriting practices do not support new fossil fuel supplies, and specifically references coal. But the Company has already taken the step consistent with the purpose of the Proposal by adopting a coal underwriting policy nearly two years ago. In fact, Chubb's coal policy goes beyond the Proposal's request by not just covering "new" coal development and exploration, but also phases out existing coal-related risks. The Proposal's statements mention other fossil fuels in addition to coal, such as oil and gas, but as the Staff has repeatedly stated, a proposal may be excluded even if the Company did not take the exact action requested or did not implement every detail of the proposal (although Chubb does address other fossil fuels as described below in Section I.B). Under the "substantially implemented" standard, a company may exclude a shareholder proposal when the company's actions address the shareholder proposal's underlying concerns, even if the company does not implement every aspect of the shareholder proposal. Chubb has already taken action directly in line with the Proposal and therefore the Proposal has been substantially implemented. Plus, as described below, Chubb is taking additional steps and is in process of evaluating its coverage of carbon-intensive industries as part of its public pledge to support a global transition away from fossil fuels, thereby further demonstrating that the Proposal has already been substantially implemented.

B. Chubb's TCFD Report describes the Company's goals, strategies and commitments to support the transition away from fossil fuel dependence and reduce greenhouse gas emissions, further demonstrating that the Proposal has been substantially implemented.

In addition to its coal policy, Chubb has taken other steps that contribute to the substantial implementation of the Proposal. In 2021 Chubb adopted the TCFD framework and released its first annual TCFD Report in full accordance with that framework, which is available on its website at: https://www.chubb.com/content/dam/chubb-sites/chubb-com/us-en/about-chubb/environment/doc/Chubb_2021_Climate-Related_Financial_Disclosure_and_Environmental_Report.pdf.

Chubb's TCFD Report includes Chubb's specific goals, strategies and commitments to transition away from fossil fuel dependence in an orderly and responsible manner consistent with the intent of the Proposal. The TCFD Report also clearly establishes the Company's current policy with respect to fossil fuel underwriting.

Chubb's public support for a global transition to a net zero economy by 2050. As disclosed on page 5 of Chubb's TCFD Report, Chubb "recognizes the existential threat of global warming" and "the necessity to move away from reliance on the fossil fuel carbon emissions that contribute to it. This understanding led Chubb in 2021 to formally support a global transition to a net zero economy by 2050." To solidify and provide details around its support, page 5 of the TCFD Report further discloses additional pledges to drive an orderly transition to a net zero economy that will minimize disruption to modern social and economic activity but also seek to ultimately over time reduce new fossil fuel underwriting and society's reliance on fossil fuels:

- Chubb has set a new goal to achieve carbon neutrality in its own global operations (Scope 1 and Scope 2 emissions) by year-end 2022. This will be achieved through a combination of renewable energy and carbon offset purchases and is in complement to Chubb's previously announced greenhouse gas reduction goals.
- Chubb will continue to develop and offer new insurance solutions for low- and zero-emission technologies.
- Chubb will seek to encourage the transition through its decisions on specific underwriting and investment risks.
- Chubb will continue to assess its coverage of carbon-intensive industries and their related strategies and plans for transitioning to a lower-carbon economy. This approach will ensure the company's underwriting and investment positions evolve as practical alternatives become available.
- Chubb adopted the TCFD framework and has released its first TCFD Report.

The TCFD Report contains a clear road map on Chubb's policies and positions to support the transition as well as the policies and strategies it is taking in assessing risks in carbon-intensive industries and fossil fuel underwriting in general. As stated on page 9 of Chubb's TCFD Report:

> Chubb will seek to encourage the transition through its products and service offerings and through its decisions on specific underwriting and investment risks. We will continue to assess our coverage of carbon-intensive industries and their related strategies and plans for transitioning to a lower-carbon economy. In this way, we will ensure the company's underwriting and investment positions evolve as practical alternatives become available. Declining to underwrite or invest in all fossil fuel-related activity on a categorical basis does not represent a reasonable path to a net zero economy. Chubb will continue to develop and offer new insurance solutions for low- and zero-emission technologies.
>
> At the same time, Chubb is realistic about what a single company can achieve in limiting the effects of global warming and advancing sustainability goals. Only government can raise the cost of carbon use by putting a price on carbon, through tax, cap-and-trade or other measures. Measures should recognize the cost to the planet of carbon and provide economic incentives to move to less carbon-intensive fuels as well as carbon-free alternative sources of energy.

Chubb emphasizes on pages 5 and 9 of its TCFD Report that it is seeking to drive an *orderly* transition to a net zero economy that will reduce disruption to modern social and economic activity. As explained throughout its TCFD Report, Chubb is seeking to encourage the transition through its decisions on underwriting and investment risks, including its coal policy and assessment of its coverage of individual risks in carbon-intensive industries. Additionally, as an underwriter of environmental liabilities and pollution risks, Chubb already restricts underwriting in certain industries, including mining and reclamation operations, oil refining, pipeline and related distribution operations, and chemical manufacturing and distribution.

Page 9 of the TCFD Report plainly discloses Chubb's policy on fossil fuel underwriting – that it does not believe that blanket exclusions for all fossil fuels represent a reasonable path to a transition to net zero at this time. Use of fossil fuels still permeates day-to-day life to a very high degree, such as automobile and other travel and home and commercial heating, and alternative energy sources are in many cases not realistic to adopt in some areas of society, particularly impoverished areas. It would be unreasonable and not in line with Chubb's underwriting philosophy to adopt a blanket exclusion where there are no suitable energy replacements on the scale of fossil fuels at this time.

Chubb's Board and management are keenly aware of the threat of climate change and what is needed to reduce its potentially catastrophic impacts. Chubb's Board of Directors and its management-level Executive Committee, which includes the Chairman and CEO, General Counsel, Chief Risk Officer and the Vice Chairman who has responsibility for Chubb's global environmental program and climate sustainability strategy, provide oversight for the Company's climate and sustainability policies, strategies and programs. To carry out the above strategies and commitments, in 2021 Chubb bolstered its governance around climate and environmental strategy, and has the mechanisms in place to further assess underwriting of specific risks, including those relating to fossil fuel risks. In particular Chubb created two committees composed of senior leaders: (i) an Operational Climate Committee which oversees operationally-focused climate and sustainability policies, strategies and programs, including GHG measurement and reduction activities; and (ii) a Climate Advisory Group which pursues opportunities to develop and expand climate-relevant products and services.

The Company agrees with the Proponent's concerns, but disagrees about how Chubb can address those concerns in the most practical and responsible way. Chubb has made a careful, analytical and thoughtful determination of the role it is best suited to play to support the transition, and its views and strategies are evolving. The Company is prudently evaluating its underwriting of fossil fuels, including through the established and robust governance mechanisms noted above. Chubb assesses each risk presented to it on an individual basis, including risks associated with climate change, and makes underwriting decisions accordingly. In looking at individual energy risks, for example, Chubb may consider the environmental consequences of a particular project, and whether there are alternative methods of producing the energy that pose less risk.

While Chubb continues to monitor and assess its underwriting of fossil fuels, it is continuing to develop and offer new insurance solutions for low- and zero-emission technologies, such as renewables, solar, wind, and clean technology. For example, Chubb's Offshore Wind Farm Policy has been developed to support green energy providers through the entire offshore wind farm process – from project inception through to energy production, storage, and distribution. The Company believes and has expressed that, with supporting actions by governments, this is the path to reduce dependence on fossil fuels. Conversely, blanket underwriting exclusions on energy sources that at this time do not have suitable broadly available energy replacements would neither benefit society or the economy, nor efficiently address the Proponent's objectives.

In terms of risk management, page 13 of the TCFD Report discloses Chubb's offerings and continuing development of insurance coverages supporting the clean tech industry:

> As climate change effects and our collective response progress, risks inherent in transitioning to a low-carbon economy will concurrently increase. For several years, Chubb has offered a suite of coverages through the specialized clean tech industry insurance program. We also support transitional efforts through specialized products, such as our green building restoration coverages. We will continue developing products and services as the opportunities and need arise.

Chubb's commitment to the renewal energy industry is discussed further on pages 13-14 of the TCFD Report, with its specialized clean tech industry insurance program providing coverage in the following areas:

- Renewable and alternative energy producers;
- Software and hardware companies, including energy efficiency and smart grid technologies;
- Emerging companies, including those in research and development stage with a focus on biorenewables; and
- Manufacturers and service providers, especially component parts manufacturers or distributors supporting clean technologies, renewable energy producers and clean transportation.

Furthermore, as part of its policy to support a transition to a net zero economy, Chubb is in the process of reviewing its coverage of carbon-intensive industries and their strategies and plans for transitioning to a lower-carbon economy, ensuring that its underwriting positions evolve as practical alternatives become available. While it seems, based on the language in the Proposal and supporting statement, the Proponent seeks for Chubb to adopt blanket restrictions for all fossil fuels now, the Company is instead taking a more nuanced, thoughtful and pragmatic approach to move away from fossil fuels that is still consistent with the Proponent's intent. This is not a disagreement on the ultimate goal, but the optimal and most realistic way to get there. Again, the purpose of the Proposal is to adopt and disclose a policy ensuring Chubb's underwriting practices do not support new fossil fuel supplies. The Company clearly supports the transition away from fossil fuels and has documented its methods and approach in doing so, including adopting underwriting restrictions on coal. While the Company does not believe adopting further blanket exclusions is currently the right course of action , there are other ways that the Company is already limiting fossil fuel support that are substantially in line with the objective of the Proposal.

The Proponent's supporting statement says that Chubb should set the "scope, time frames and parameters" of its policy. But Chubb has already done so in a way that makes the most practical sense to the Company while still delivering on the goal to transition away from carbon-intensive energy sources. The coal policy, coupled with the pledges and other disclosures set out above in its TCFD Report to reduce fossil fuel reliance and promote cleaner energy sources, demonstrate that Chubb's underwriting policies are in line with the Proponent's objective and the specific requests of the Proposal.

Chubb's corporate greenhouse gas reduction program. Chubb's TCFD Report also discusses Chubb's corporate greenhouse gas reduction goals, further demonstrating its support of a transition away from fossil fuel use. Page 10 of the TCFD Report notes that while its own contribution to global greenhouse gas emissions is comparatively small, Chubb announced a company-wide goal to reduce its:

> global greenhouse gas (GHG) emissions 20% on an absolute basis by 2025 and established a long-term goal to reduce absolute GHG emissions 40% by 2035. Both goals use 2016 emissions as the baseline and are aligned with the two-degree Celsius target outlined in the Paris Climate Agreement as well as the quantitatively supported science-based standards methodology of the United Nations Environment Program.
>
> As of year-end 2019, Chubb achieved the first of its two goals. We reduced our GHG emissions by 22% off a 2016 baseline, exceeding our goal of reducing emissions 20% by 2025. As of year-end 2020, Chubb also reached the second of its two goals by reducing our GHG emissions 41% off a 2016 baseline. However, because of the anomalous effects of the Covid–19 pandemic, we do not consider the second goal "achieved" on a year-over-year basis. Chubb continues to pursue our long-term goal to reduce GHG emissions 40% by 2035.

In addition, page 10 of Chubb's TCFD Report disclosed that in 2021, as part of its support for a global transition to a net zero economy by 2050, Chubb pledged to achieve carbon neutrality in its own global operations (Scope 1 and Scope 2 emissions) by year-end 2022. Chubb's metrics and targets for GHG reduction are further discussed on page 16 of the TCFD Report.

Chubb's Environmental Statement. Chubb's substantial implementation of the Proposal is also reflected in its Environmental Statement on pages E-1 and E-2 of its 2020 Annual Report, available at https://s1.q4cdn.com/677769242/files/doc_financials/2021/Chubb-Limited-Annual-Report-2020.pdf. Chubb intends to include an updated Environmental Statement in its 2021 Annual Report. The Environmental Statement provides detailed information regarding Chubb's companywide goals to reduce GHG emissions globally 20% on an absolute basis by 2025 and 40% by 2035, as described above. The Environmental Statement provides detailed information regarding, Chubb's corporate GHG inventory program which uses methodology based on the World Resources Institute and the World Business Council for Sustainable Development (WRI/WBCSD) GHG Protocol for data collection and analysis. The Environmental Statement also contains an independent third-party Verification Opinion Declaration from Apex Companies, LLC.

C. There is considerable no-action precedent in support of the Company's position that it has substantially implemented the Proposal in accordance with Rule 14a-8(i)(10).

The Staff has a long history of concurring with the exclusion of a shareholder proposal on the grounds that it has been substantially implemented in accordance with Rule 14a-8(i)(10), even if the company did not implement every aspect of the proposal, where the company's actions addressed the underlying concerns of the Proposal. See *Masco Corporation* (Mar. 29, 1999) (permitting exclusion on substantial implementation grounds where the company adopted a version of the proposal with slight modification and clarification as to one of its terms). See also *JPMorgan Chase & Co.* (Feb. 5, 2020) (concurring with the exclusion on substantial implementation grounds where the proposal requested the board review the Statement of the Purpose of a Corporation, provide oversight and guidance as to how the new statement of stakeholder theory should alter the Company's governance and management system, and publish recommendations regarding implementation where "the board's actions compare favorably with the guidelines of the Proposal"); *Exxon Mobil Corp. (Rossi)* (Mar. 19, 2010) (permitting differences between a company's actions and a shareholder proposal so long as the company's actions satisfactorily address the proposal's essential objectives); and *Exxon Mobil Corp. (Burt)* (Mar. 23, 2009) (concurring with the exclusion on substantial implementation grounds of a proposal requesting a political contribution report where the proponent argued there were differences between the company's current procedures and practices and actions sought by the proposal). Further, the Staff has concurred with the exclusion of shareholder proposals seeking a report when the contents of the requested report were disclosed in multiple pages or in multiple tabs on the company's corporate website. *Comcast Corp.* (Apr. 9, 2021).

The substantial implementation standard has been applied to environment-related shareholder proposals in situations where the company has already provided the requested information in a report satisfying the "essential objective" of a proposal, even if the company did not take the exact action requested by the proponent, did not implement the proposal in every detail, or exercised discretion in determining how to implement the proposal. See *Exxon Mobil Corp.* (*As You Sow/Schubiner)* (Mar. 9. 2021) (permitting exclusion of a proposal requesting a report on the risk of stranded assets related to environmental impacts of its petrochemical investments based on disclosures the company already made in its energy and carbon summary and its sustainability report that address the essential objective of the proposal); *Hess Corporation* (Apr. 11, 2019) (permitting exclusion of a proposal requesting that the company issue a report on how it can reduce its carbon footprint in alignment with greenhouse gas reductions necessary to achieve the Paris Agreement's goal where the company had already provided the requested information in its sustainability report and CDP (formerly known as Carbon Disclosure Project) report); and *Exxon Mobil Corporation* (Apr. 3, 2019) (permitting exclusion of a proposal requesting the company issue a report on how it can reduce its carbon footprint in alignment with greenhouse gas emissions reductions in line with the Paris Agreement where the requested information was readily available in the company's public disclosures).

D. In conclusion, the Company has substantially implemented the Proposal.

As explained above, the Company has carefully considered its ongoing approach to greenhouse gas emissions, including with respect to its fossil fuel and clean energy underwriting practices. It has already adopted a policy restricting coal-related underwriting. It has further adopted and publicly disclosed additional policies, goals and strategies to reducing greenhouse gas emissions and support a global transition away from new fossil fuel supplies. The actions Chubb has taken compare favorably with the Proposal's request and objective. Accordingly, Chubb has substantially implemented the Proposal. Therefore, the Proposal may be omitted from the Company's Proxy Materials pursuant to Rule 14a-8(i)(10).

II. The Proposal may be omitted under Rule 14a-8(i)(3) and Rule 14a-9 because it is vague and indefinite, rendering it in violation of the proxy rules.

Rule 14a-8(i)(3) provides that a shareholder proposal may be excluded from a registrant's proxy materials "[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." As described below, exclusion of the Proposal is warranted because the inclusion of the supporting statement *and* the proposed resolution contained in the Proposal in the Company's forthcoming Proxy Materials would result in the Company filing a proxy statement containing a proposal so inherently vague and indefinite that it is materially misleading, even if certain elements or statements included therein were to be excluded.

A shareholder proposal should be excluded under Rule 14a-8(i)(3) if shareholders cannot make an informed decision as to whether to vote for a proposal. The Staff has explained that exclusion of a proposal may be appropriate where "the resolution contained in the proposal is so inherently vague or indefinite that neither the stockholders voting on the proposal, nor the company in implementing the proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires." Staff Legal Bulletin No. 14B (Sept. 15, 2004); *see also Cisco Systems, Inc.* (Oct. 7, 2016) and *Alaska Air Group, Inc.* (Mar. 10, 2016). The Staff has concurred in a registrant's exclusion of a proposal on vague and indefinite grounds where the registrant and its shareholders might interpret the proposed resolution differently such that actions taken by the registrant could significantly differ from the action intended by the shareholders voting on the proposal. *See Pugent Energy Inc.* (Mar. 7, 2002) (citing *Occidental Petroleum Corp.* (Apr. 4, 1990)). Recently, the Staff concurred in the exclusion of a shareholder proposal that sought to "improve guiding principles of executive compensation," noting that such proposal "lack[ed] sufficient description about the changes, actions or ideas for the company and its shareholders to consider that would potentially improve [such] guiding principles." *Apple Inc.* (Dec. 6, 2019). Additionally, courts have ruled on cases involving vague proposals, finding that "shareholders are entitled to know precisely the breadth of the proposal on which they are asked to vote" and that a proposal should be excluded when "it [would be] impossible for the board of directors or the stockholders at large to comprehend precisely what the proposal would entail." *New York City Employees' Retirement System v. Brunswick Corp.*, 789 F. Supp. 144, 146 (S.D.N.Y. 1992); *Dyer v. SEC*, 287 F.2d 773, 781 (8th Cir. 1961). In Staff Legal Bulletin No. 14G (Oct. 16, 2012), the Staff explained that "[i]n evaluating whether a proposal may be excluded on this basis, we consider only the information contained in the proposal and supporting statement and determine whether, based on that information, shareholders and the company can determine what actions the proposal seeks."

A. The proposed resolution in the Proposal is inherently vague and indefinite because it fails to define external guidelines central to the Proposal.

The Staff has consistently concurred with the exclusion of proposals pursuant to Rule 14a-8(i)(3) to the extent that the proposal fails to define key terms. *See, e.g., Boeing Co.* (Feb. 23, 2021) (concurring with the exclusion of a proposal that failed to define key terms related to a requirement that the registrant's directors have an "aerospace/aviation/engineering executive background" but setting forth "incomplete and often conflicting explanations" of such requirement); *AT&T Inc.* (Feb. 21, 2014) (concurring in the exclusion of a proposal requesting a review of policies and procedures related to the "directors' moral, ethical and legal fiduciary duties and opportunities," where such phrase was undefined); *Berkshire Hathaway Inc.* (Jan. 31, 2012) (concurring in the exclusion of a proposal seeking to require specified company personnel "to sign-off by means of an electronic key . . . that they have observed and approve or disapprove of [certain] figures and policies," noting that the proposal "does not sufficiently explain the meaning of 'electronic key' or 'figures and policies' and that, as a result, neither stockholders nor the company would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires"); *AT&T Inc.* (Feb. 16, 2010) (concurring in the exclusion of a proposal that sought disclosures on, among other things, payments for "grassroots lobbying" without sufficiently clarifying the meaning of that term); *Moody's Corp.* (Feb. 10, 2014) (concurring in the exclusion of a proposal when the term "ESG risk assessments" was not defined).

More specifically, the Staff has concurred with the exclusion of proposals pursuant to Rule 14a-8(i)(3) when a central aspect of the proposal relies on an understanding of a definition that is not included in the proposal or the supporting statement. For instance, the Staff granted no-action relief to McKesson Corporation for a proposal requesting that the board adopt a policy that the chairman of the board be independent "according to the definition set forth in the New York Stock Exchange listing standards." In granting relief, the Staff explained:

> There appears to be some basis for your view that McKesson may exclude the proposal from its proxy materials under rule 14a-8(i)(3), as vague and indefinite. In arriving at this position, we note that the proposal refers to the "New York Stock Exchange listing standards" for the definition of an "independent director," but does not provide information about what this definition means. In our view, this definition is a central aspect of the proposal. As we indicated in Staff Legal Bulletin No. 14G (Oct. 16, 2012), we believe that a proposal would be subject to exclusion under rule 14a-8(i)(3) if neither the shareholders voting on the proposal, nor the company in implementing the proposal (if adopted), would be able to determine with reasonable certainty exactly what actions or measures the proposal requires. In evaluating whether a proposal may be excluded on this

> basis, we consider only the information contained in the proposal and supporting statement and determine whether, based on that information, shareholders and the company can determine what actions the proposal seeks. Accordingly, because the proposal does not provide information about what the New York Stock Exchange's definition of "independent director" means, we believe shareholders would not be able to determine with any reasonable certainty exactly what actions or measures the proposal requires.

McKesson Corporation (Apr. 17, 2013, *recon. denied* May 31, 2013). *See also Ashford Hospitality Trust, Inc.* (Mar. 15, 2013); *KeyCorp* (Mar. 15, 2013); *Chevron Corporation* (Mar. 15, 2013).

As further examples, the Staff has concurred with the exclusion of proposals pursuant to Rule 14a-8(i)(3) when the proposals referenced an SEC Staff Legal Bulletin (*General Electric Company* (Jan. 15, 2015)) and an SEC rule (*Dell Inc.* (Mar. 30, 2012)) without providing an explanation of what those references entailed. In *Dell Inc.*, the Staff in its no-action letter explained its reasoning:

> [T]he proposal provides that Dell's proxy materials shall include the director nominees of shareholders who satisfy the "SEC Rule 14a-8(b) eligibility requirements." The proposal, however, does not describe the specific eligibility requirements. In our view, the specific eligibility requirements represent a central aspect of the proposal. While we recognize that some shareholders voting on the proposal may be familiar with the eligibility requirements of rule 14a-8(b), many other shareholders may not be familiar with the requirements and would not be able to determine the requirements based on the language of the proposal. As such, neither shareholders nor Dell would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires.

Similarly, the Staff has concurred with the exclusion of proposals pursuant to Rule 14a-8(i)(3) where the proposals requested that the companies take action applying the board independence standards set by the Council of Institutional Investors, without explaining what those standards entailed. *See Boeing Co.* (Feb. 10, 2004) (concurring with the exclusion of a proposal requesting that the board amend the by-laws to require that the chairman of the board be "an independent director, according to the 2003 Council of Institutional Investors definition"). *See also JPMorgan Chase & Co.* (Mar. 5, 2008); *PG&E Corporation* (Mar. 7, 2008); and *Schering-Plough Corporation* (Mar. 7, 2008) (all concurring with the exclusion of proposals requesting that the board appoint an independent lead director applying the standard of independence set by the Council of Institutional Investors).

Here, the Proposal requests that Chubb's Board of Directors "adopt and disclose new policies…in alignment with the IEA's Net Zero Emissions by 2050 Scenario." The IEA's Net Zero Emissions by 2050 Scenario (the "IEA Report") is a central aspect of the Proposal because implementation requires knowledge of the content of the IEA Report.

The Proposal's supporting statement does not provide any information with respect to what the IEA Report entails or how the Company could adopt policies in alignment with it. In fact, while the Proponent used the limited number of words available for a supporting statement to provide information about several *different* organizations and publications focused on climate change, such as the Intergovernmental Panel on Climate Change, the United Nations Environment Programme Finance Initiative and the Paris Agreement, there is only one reference to the contents of the IEA Report. That reference provides no insight into what the IEA Report entails for insurance companies. Instead, the Proposal states:

> the International Energy Agency (IEA) issued a report, *Net Zero by 2050,* which provides a comprehensive pathway for the energy sector to transition to net zero emissions by 2050. The report is unequivocal about the expansion of fossil fuel supplies, saying "Beyond projects already committed as of 2021, there are no new oil and gas fields approved for development in our pathway, and no new coal mines or mine extensions are required" to ensure stable and affordable energy supplies.

This brief mention of the report bears no relation to what the Proposal is asking of the Company and does not provide adequate information about what "alignment with" the report means. In fact, it refers only to the IEA Report's application to the energy sector, not the insurance sector. (The subtitle of the IEA Report, "A Roadmap for the Global Energy Sector", was omitted from the Proposal.) It provides no guidance to shareholders voting on the Proposal as to what they are being asked to vote for.

The IEA Report that provides the Net Zero Emissions by 2050 Scenario is over 200 pages long and contains a vast amount of detail. For instance, it provides more than 400 milestones "for what needs to happen, and when, to transform the global economy…" The foreword to the report explains that the IEA's Net Zero Emissions by 2050 Scenario "requires vast amounts of investment, innovation, skilful policy design and implementation, technology deployment, infrastructure building, international cooperation and efforts across many other areas." In addition to the IEA's Net Zero Emissions by 2050 Scenario being admittedly complicated to implement, it is notable that nowhere in the report is "underwriting" mentioned, and the single reference to "insurance" is to distance-based vehicle insurance, which is not relevant to the Proposal's focus on new fossil fuel supplies. It would be difficult for anyone who has read the report to understand how to implement a policy in accordance with it; it would be unreasonable to expect shareholders voting on the Proposal to understand with any reasonable certainty what actions or measures the Proposal requires of one particular insurance company.

The Proponent nonetheless asks shareholders to commit the Company to blanket restrictions on its underwriting, without providing an understanding of what it would mean to Chubb or if it would have any realistic impact on the Proponent's ultimate societal goal beyond what the Company has already pledged to do.

The Proposal is similar to the proposal in *Exxon Mobil Corp. (Naylor)* (Mar. 21, 2011) in which the Staff considered the following proposal:

> Resolved: Shareholders request the Board of Directors oversee the publication of a report (issued at a reasonable expense and excluding proprietary information) on the community and environmental impact of its logistics decisions, using guidelines from the Global Reporting Initiative.

The Staff agreed with the company that the proposal could be excluded under Rule 14a-8(i)(3) as being vague and indefinite, stating "We note in particular your view that the proposal does not sufficiently explain the 'guidelines from the Global Reporting Initiative' and that, as a result, neither stockholders nor the company would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires." The Staff's position in *Exxon Mobil Corp.* is consistent with prior no-action letters issued by the Staff concurring with the exclusion under Rule 14a-8(i)(3) of proposals requesting sustainability reports based upon the Global Reporting Initiative. *See, e.g.*, *The Ryland Group* (Jan. 19, 2005); *The Kroger Co.* (Mar. 19, 2004).

The Proposal is distinguishable from those where the Staff did not concur with the argument that a proposal could be excluded under Rule 14a-8(i)(3) for having an undefined term. For instance, in *Cheniere Energy, Inc.* (Mar. 20, 2020), the company argued that the proposal could be excluded under Rule 14a-8(i)(3) for failing to define the terms "net zero emissions" and "2C target." While the meaning of those specific terms has become better understood by the general public in recent years, the undefined term at issue in the Proposal is a several-hundred page report that not only would it be unreasonable to expect shareholders to have read, but the Proposal does not even explain how it would be applied to the Company or insurers generally. Because the Staff considers only the information contained in the proposal and supporting statement to determine whether, based on that information, shareholders and the company can determine what actions the proposal seeks, this Proposal should be excluded pursuant to Rule 14a-8(i)(3) for failing to define the IEA Report and what alignment with it actually means. The principles described by the Staff in *McKesson Corporation* above are directly applicable to the Proposal. The resolution contained in the Proposal specifies alignment with IEA's Net Zero Emissions by 2050 Scenario. Though this alignment is a central aspect of the Proposal, the Proposal does not specify what alignment means thereby making the Proposal vague and indefinite for voting shareholders.

B. The Proposal is misleading because it is inherently vague and indefinite and subject to multiple interpretations.

The Proposal requests "alignment with the IEA's Net Zero Emissions by 2050 Scenario." As discussed above, the IEA Report is a long, complex and detailed document that is external to the Proposal. There are multiple possible interpretations of what is meant by a request to adopt policies that align with the IEA Report. For example, it is not clear whether the Proposal is requesting that the Company discontinue underwriting certain customers that have any involvement with fossil fuels. Would the Proposal permit the Company to underwrite other insurance risks of customers unrelated to fossil fuels, even if the customer engages in fossil fuels as all or a component of its business? Is the Proposal requesting that the Company cease any underwriting relating to fossil fuels, or only related to projects committed to as of 2021? How is the Company expected to treat existing contracts that relate to fossil fuel supplies or those that come up for renewal? What if the Company seeks to insure a replacement energy project that uses fossil fuels but is environmentally more friendly than the energy source being replaced? The answers to these real-world scenarios are not clear from reading the Proposal, but are necessary to understand it and what implementing it would entail.

In addition, the Proposal asks that the Board of Directors of the Company to adopt policies to ensure that its underwriting practices "do not support new fossil fuel supplies." The Proposal provides no clear guidance as to what is intended by the term "support," and it is not reasonably ascertainable from either the Proposal itself or the supporting statement. For example, as discussed in Section I, the Company already believes it has substantially implemented the Proposal through its coal policy and other actions demonstrating that it supports net zero, including its public support and concrete actions to promote through its insurance offerings the transition to low or no-carbon alternative energy sources.

Additionally, while certain companies, such as fossil fuel exploration and extraction companies, may be said to directly support new fossil fuel supplies, the Proposal does not distinguish between direct and indirect support. As such, it is unclear whether companies that indirectly support new fossil fuel supplies should be covered by the policy. Companies and entities that could also possibly be subject to the Proposal would include the following:

- individual homes using gas as a source of heating;
- automobiles and other forms of transportation;
- national and sub-national governments that implement policies that permit, facilitate or incentivize the extraction of fossil fuels from their territories;
- energy generation companies, which are significant purchasers of global fossil fuels;
- companies that provide the equipment and other materials to exploration and extraction companies, such as heavy machinery manufacturers;
- direct and indirect participants in the transportation sector, which are among the largest consumers of fossil fuels in the United States;
- companies and other entities that provide services to exploration and extraction companies and any other direct participants in the fossil fuel exploration and extraction industries, such as professional service providers, like legal service providers and accountants; and
- any other business or individual that is a consumer of fossil fuels, and thus contributes to global demand for fossil fuels.

The Proposal does not provide a limitation as to what level of involvement in the fossil fuel industry is necessary to be subject to its requested policy. In fact, the Proposal could require the Company to cease providing insurance to companies that have or are developing a strategy to reduce their participation in the fossil fuel industry. Without more specificity as to what policy the Proposal is asking shareholders to endorse, shareholders would have difficulty determining how to vote. Moreover, management would not have reasonable certainty as to exactly how the Proponent or shareholders intended such a policy to be implemented. Shareholders must understand the proposed scope and breadth of the policy in order to make any informed judgment on the Proposal, especially in light of its possible far-reaching effects on the Company's business.

The supporting statement to the Proposal further increases the confusion as to what is requested, compared to what the Company is already doing. The supporting statement provides that the "board and management, in its discretion, should define the scope, time frames and parameters of the policy." However, the Company has already done so through implementation of its coal policy, public support for a global transition to a net zero economy and the actions it pledges to take including reviewing the carbon intensity of its portfolio and evolve its underwriting positions, and develop and offer new insurance solutions for low- and zero-emission technologies. The Company has also set parameters on this by stating in the TCFD Report it is declining to adopt any further blanket policies at this time regarding fossil fuel underwriting, since it does not believe it represents a reasonable path to a net zero economy. Therefore, it is confusing to see how the Proposal is giving the Board and management any discretion to implement the Proposal if passed that differs from the current course, policies and actions.

As a result of the alternative interpretations of the Proposal and because of the lack of clarity with respect to terms central to the Proposal, neither the shareholders 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. This makes the Proposal impermissibly vague and indefinite so as to be misleading. Accordingly, the Company believes that the Proposal may be omitted from its Proxy Materials pursuant to Rule 14a-8(i)(3).

III. The Proposal is excludable under Rule 14a-8(i)(7) because it deals with matters relating to the Company's ordinary business operations.

Under Rule 14a-8(i)(7), a registrant may omit from its proxy materials a shareholder proposal that relates to the registrant's "ordinary business" operations. In the 1998 amendments to Rule 14a-8, the Commission noted that the term "ordinary" in "ordinary business" "is rooted in the corporate law concept of providing management with flexibility in directing certain core matters involving the company's business and operations." Exchange Act Release No. 40018 (May 21, 1998) (the "1998 Release"). In the 1998 Release, the Commission noted that the principal policy for this exclusion is "to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting," and identified two central considerations that underlie this policy. The first was 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" and the second "relates to the degree to which the proposal seeks to 'micro-manage' the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment." *Id.*

A. The subject matter of the Proposal is fundamental to management's ability to run the Company's day-to-day business because it requests that the Board of Directors adopt new policies applicable to its underwriting practices, which is at the very core of the Company's business model.

When evaluating whether the actions sought by a proposal implicate tasks that are so fundamental to management's ability to run a company on a day-to-day basis that they could not be subject to direct shareholder oversight, the Staff has consistently acknowledged that shareholder proposals that could undermine a company's core business model and/or relate to the products and services offered by the company are appropriately excludable under Rule 14a-8(i)(7). In *Wells Fargo & Co.* (Jan. 28, 2013, *recon. denied* Mar. 4, 2013), for example, the Staff granted no-action relief under Rule 14a-8(i)(7) where the proposal requested that the company prepare a report discussing the adequacy of the registrant's policies in addressing the social and financial impacts of the registrant's direct deposit advance lending service, noting in particular that "the proposal relates to the products and services offered for sale by the [registrant]" and that "[p]roposals concerning the sale of particular products and services are generally excludable under rule 14a-8(i)(7)." Similarly, in *JPMorgan Chase & Co.* (Mar. 16, 2010), the Staff concurred in the exclusion of a proposal under Rule 14a-8(i)(7) where such proposal sought that the company's board of directors implement a policy mandating that the company cease issuing refund anticipation loans, which the proponent claimed were predatory loans. There, the company acknowledged that the proposal addressed an issue that the Staff itself recognized as a "significant policy issue." The company noted, however, that its "decisions as to whether to offer a particular product to its clients and the manner in which the [c]ompany offer those products and services, including pricing, are precisely the kind of fundamental, day-to-day operational matters meant to be covered by the ordinary business operations exception under Rule 14a-8(i)(7)." *See also Pfizer Inc.* (Mar. 1, 2016) (excluding a shareholder proposal requesting a report describing steps taken by Pfizer to prevent the sale of its medicines for use in executions, commenting that the proposal "relates to the sale or distribution" of the company's products); *The Walt Disney Co.* (Nov. 23, 2015) (excluding a proposal requesting Walt Disney's Board approve the release of a certain film on Blu-ray, noting that the proposal "relates to the products and services offered for sale by the company."). The Company's ability to write insurance is, indeed, its core business model.

The subject matter of the Proposal relates to certain of the Company's insurance product offerings, *i.e.*, insurance policies involving new fossil fuel supplies. The Staff has consistently permitted proposals relating to the content and sale of particular products and services to be excluded pursuant to Rule 14a-8(i)(7) as dealing with a matter relating to a company's ordinary business operations even when the proposal touches upon a social issue. The Staff has repeatedly affirmed this position, stating in its replies to no-action requests regarding such shareholder proposals that: "[p]roposals concerning the sale of particular products and services are generally excludable under rule 14a-8(i)(7).” See, for example, *Amazon Inc.* (Mar. 11, 2016) (concurring with the exclusion of a proposal relating to animal cruelty in the supply chain) and *Rite Aid Corporation* (Mar. 24, 2015) (concurring with the exclusion of a proposal requesting that Rite Aid’s board adjust its governance policies with the aim of it reconsidering the sale of tobacco products in its stores). See also *The Home Depot, Inc.* (Mar. 20, 2020) (concurring with the exclusion of a proposal requesting that the company’s board of directors provide an annual report to shareholders on prison labor, summarizing the extent of known usage of prison labor in the company’s supply chain) and *Viacom Inc.* (Dec. 18, 2015) (concurring with exclusion of a proposal requesting a company to issue a report assessing the company’s policy responses to public concerns regarding linkages of food and beverage advertising to impacts on children’s health).

In addition, the Staff repeatedly has acknowledged that proposals addressing a company’s management of its relationship with customers implicates ordinary business concerns under Rule 14a-8(i)(7). For example, the Staff concurred with the exclusion under Rule 14a-8(i)(7) of a proposal involving customer relations in the context of monitoring customers’ adherence to and compliance with contracts, particularly concerns raised by employees regarding highly public policy issues. *See Amazon.com, Inc. (Dan Phung)* (Apr. 1, 2020). Similarly, the Staff has consistently recognized that a company’s decisions regarding the way it advertises and communicates with customers about certain products relate to a company’s ordinary business operations and thus may be excluded under Rule 14a-8(i)(7). See, for example, *Campbell Soup Co*. (Aug. 21, 2009) (concurring with the exclusion of a proposal requesting that the company “take a leadership role in educating people on [a] healthy diet” and use “its wonderful advertising techniques” to highlight consumer health because it addressed the “manner in which a company advertises its products”); and *The TJX Companies, Inc*. (Apr. 16, 2018) (concurring with the exclusion of a proposal requesting the company’s board to develop and disclose a new universal and comprehensive animal welfare policy applying to the company’s sale of products, with the majority of the proposal focusing on the company’s sale of products containing fur).

B. Even though the Proposal touches upon a significant social policy issue, its primary focus is ordinary business matters.

The Staff has recognized that, regardless of whether certain proposals may extend beyond the topic of the subject companies’ practices to implicate broader societal issues, if the essence of the proposal nevertheless impermissibly targets the ordinary business operations of a company, such proposals are excludable. *See Amazon.com, Inc.* (Mar. 17, 2016) (concurring with the exclusion of a proposal asking the company’s board to prepare a report on the company’s policy options to reduce potential pollution and public health problems from electronic waste generated as a result of its sales to consumers, and to increase the safe recycling of such wastes under Rule 14a-8(i)(7), noting that “the proposal relate[d] to the company’s products and services and [did] not focus on a significant policy issue”); *Chipotle Mexican Grill, Inc.* (Dec. 30, 2015) (concurring with the exclusion of a proposal asking the company’s board to adopt principles for minimum wage reform under Rule 14a-8(i)(7) because the proposal “relate[d] to general compensation matters”); *CIGNA Corp*. (Feb. 23, 2011) (concurring with the exclusion under

Rule 14a-8(i)(7) when, although the proposal addressed the potential significant policy issue of access to affordable health care, it also asked CIGNA to report on expense management, an ordinary business matter); *General Electric Co.* (Dec. 7, 2007) (concurring with the exclusion of a shareholder proposal requesting that the company's board establish an independent committee to prepare a report on the potential damage to the registrant's brand as a result of sourcing products and services from the People's Republic of China, with the Staff noting in its response that the proposal "relat[ed] to [the company's] ordinary business operations (*i.e., evaluation of risk)*" (emphasis added)); and *PPG Industries, Inc.* (Feb. 26, 2015) (concurring in the exclusion of a proposal requesting a report on options for policies and practices the company could adopt to reduce health hazards by eliminating the use of lead in paint and coatings under Rule 14a-8(i)(7) because the proposal related to the company's product development).

The Staff recently explained in Staff Legal Bulletin No. 14L (Nov. 3, 2021) ("SLB 14L") that during the past four years, "an undue emphasis was placed on evaluating the significance of a policy issue to a particular company at the expense of whether the proposal *focuses on* a significant social policy" (emphasis added). While SLB 14L specified that the Staff will no longer consider whether a sufficient "*nexus*" exists between a proposal and the company at issue, there is a separate and distinct argument for exclusion under Rule 14a-8(i)(7) for a proposal that does not *focus on* a significant social policy issue. The requirement that a proposal must focus on a significant social policy issue was explained by the Commission in the 1998 Release: [P]roposals . . . *focusing on* sufficiently significant social policy issues. . .generally would not be considered to be excludable, because the proposals would transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote" (emphasis added). The question of the *nexus* of a proposal to a *company* discussed in SLB 14L is different from the examination of whether a proposal that references a significant policy issue *focuses* primarily on such issue. SLB 14L does not address or affect the excludability under Rule 14a-8(i)(7) of a proposal that references a significant social policy where the central focus of the proposal is on products that a company offers as part of its ordinary business operations. The Staff has a long history of excluding proposals on this basis, which is consistent with the realigned approach explained in SLB 14L.

The Staff has concurred with the exclusion of proposals submitted to financial institutions requesting policies regarding lending and credit decisions that arguably involved a social issue. For example, the proposal in *Bank of America Corporation* (Feb. 24, 2010) requested a report describing, among other things, the company's policy regarding funding of companies engaged predominantly in mountain top removal coal mining. The Staff concurred with the exclusion of the proposal under Rule 14a-8(i)(7) stating "the proposal addresses matters beyond the environmental impact of Bank of America's project finance decisions, such as Bank of America's decisions to extend credit or provide other financial services to particular types of customers. Proposals concerning customer relations or the sale of particular services are generally excludable under rule 14a-8(i)(7)." *See also JPMorgan Chase & Co.* (Mar. 12, 2010) (concurring in the exclusion of a proposal requesting a report assessing the adoption of a policy barring future financing of companies engaged in mountain top removal coal mining).

The Company is in the business of underwriting insurance. Although the Proposal refers to greenhouse gas emissions, at its core it is an attempt to influence the ordinary business operations of the Company by restricting its product offerings. The action requested by the Proposal is literally for the Company to "adopt…new policies" for "its underwriting practices," which relate to the products that the Company offers to its customers, and, therefore, are at the core of the Company's ordinary business. The Proposal makes clear that its target is the Company's underwriting of policies relating to fossil fuels. The recitals, an integral part of the Proposal, asserts that it is "fundamentally incompatible" for the Company to underwrite insurance policies protecting homes and businesses while simultaneously underwriting policies for the fossil fuel industry. The underlying thrust of the Proposal is to request the Company cease or limit certain of its product offerings, *i.e*., insurance policies involving new fossil fuel supplies, and therefore the Proposal involves itself directly in the Company's core business function – blanketly determining which risks it should and should not accept in exchange for premium. Consequently, the Proposal's subject matter falls squarely within the Company's ordinary business operations and if implemented would substitute the judgment of shareholders for that of management on critical day-to-day business operations and is therefore excludable under excludable under Rule 14a-8(i)(7).

C. 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.

Even if a proposal involves a significant social policy issue, the proposal may nevertheless be excluded under Rule 14a-8(i)(7) if it seeks to micromanage the company by specifying in detail the manner in which the company should address the policy issue. *See Exxon Mobil Corporation* (Mar. 6, 2020) (concurring with the exclusion of a proposal requesting that the company's board charter a new board committee on climate risk, noting that as a result, "the Proposal unduly limits the board's flexibility and discretion in determining how the board should oversee climate risk"); *JPMorgan Chase & Co. (*C*hristensen Fund)* (Mar. 30, 2018) (concurring on the basis of micromanagement with the exclusion of a proposal that requested a report on the reputational, financial and climate risks associated with project and corporate lending, underwriting, advising and investing for tar sands production and transportation, noting that the proposal sought to "impose specific methods for implementing complex policies"); and *Amazon.com, Inc.* (Jan. 18, 2018) (concurring with the exclusion of a proposal requesting the company list certain efficient showerheads before others on its website and describe the benefits of these showerheads).

The Staff recently explained in SLB 14L that "in order to assess whether a proposal probes matters "too complex" for shareholders, as a group, to make an informed judgment, [the Staff] may consider the sophistication of investors generally on the matter, the availability of data, and the robustness of public discussion and analysis on the topic." In addition, the Staff stated with respect to proposals that request companies adopt timeframes or targets to address climate change: "Going forward we would not concur in the exclusion of [] proposals that suggest targets or timelines *so long as the proposals afford discretion to management as to how to achieve such goals*." (emphasis added).

An informed vote on the Proposal requires an understanding of the IEA Report because the requested action must be "in alignment with the IEA's Net Zero Emissions by 2050 Scenario." A reasonable investor would not be sophisticated on the matter as it relates to insurance underwriting because it is an emissions reduction scenario applicable to the global energy sector, not insurance companies. Additionally, the Proponent has not provided, and Chubb is not aware of, any evidence of, available data or robust public discussion and analysis on the subject of insurance underwriting practices and the "support" of new fossil fuel supplies. Furthermore, even if the Staff will no longer concur in the exclusion of proposals that provide a target, the Proposal does not afford discretion to the Board or management as to how to achieve the goal of "ensur[ing] that its underwriting practices do not support new fossil fuel supplies." Rather, the Proposal requires that in order to reach this goal, the Company must do so in alignment with the IEA's Net Zero Emissions by 2050 Scenario, despite the fact that the supporting statement references several different groups and publications. Additionally, there are many other publications or scenarios that also provide roadmaps to achieve net zero emissions. The IEA's Net Zero Emissions by 2050 Scenario is not a well-established framework that a reasonable investor would be well-equipped to evaluate.

Management has already determined its path to address the transition away from carbon-intensive energy sources, which is fully laid out in the Company's TCFD Report and in Sections I and II above. The Company's fossil fuel goals, policies and practices appreciate and understand the complexities of an orderly transition and takes into account real-world facts, scenarios and circumstances, including that there are currently insufficient alternative energy sources to completely replace fossil fuels at this time but that action can be taken to promote the growth and development of such sources. The Proponent is substituting its judgment for the judgment of the Company's Board and management, which has a robust governance structure of active Board and executive oversight, dedicated climate and risk committees and other experts analyzing the issues closely and providing strategies, goals and commitments aligned with reducing the threat of global warming in a manner that it believes is appropriate for the Company, the industry and the global economic and social order.

While the Company is committed to an orderly transition to a net zero economy, with government involvement, the Proposal advocates a singular method of implementing this complex objective – namely, having shareholders decide that the Company cannot provide its core services to customers, which the Proponent believes will reduce the new fossil fuel supply. Implementing a sweeping policy such as the one proposed is an overly simplistic approach to address the critical and complicated objective of reducing global fossil fuel dependence, an objective that the Company has already publicly addressed in its TCFD Report. The Proposal fails to address any of the dynamics that would be important to consider as part of a complex strategy to assist in the transition to a low carbon economy. Cutting off access to the Company's underwriting coverage could have significant and uncertain consequences for the Company and its customers, all while neither the Company nor its shareholders know whether this policy will achieve any objective related to responsible climate policy. The Proposal is not supported by any facts or data that suggest that by terminating or avoiding relationships with particular companies, the Company will, on its own, have any significant impact to promote a realistic, orderly and effective transition to a carbon-free economy.

The Proposal here is similar to the proposal in *Marriott International, Inc.* (Mar. 17, 2010), where the proposal required that in order to achieve the goal of saving energy, the company install showerheads in test properties that "deliver no more than 1.6 gallons per minute (gpm) of flow" as well as a "mechanical switch that will allow for full water flow to almost no flow." The Staff concurred in the exclusion of the proposal under Rule 14a-8(i)(7), explaining that:

> …although the proposal raises concerns with global warming, the proposal seeks to micromanage the company to such a degree that exclusion of the proposal is appropriate. We note, in particular, that the proposal would require the company to test specific technologies that may be used to reduce energy consumption.

Here, too, although the Proposal raises concerns with global warming, it seeks to micromanage the company by requiring compliance with a very specific report when there may be multiple ways to achieve the goal of the Proposal, including those already being implemented by the Company after careful thought and analysis of both micro and macro factors. The Proposal states that it has to be implemented "in alignment with the IEA's Net Zero Emissions by 2050 Scenario," explicitly imposing a specific method for implementation. In addition, the Proposal specifies that the direction of the policy should be to "ensure that its underwriting practices do not support new fossil fuel supplies."

In SLB 14L, the Staff noted that as part of evaluating companies' micromanagement arguments, a proposal would need to "afford discretion to management as to how to achieve such goals." The Proposal calls for the Board of Directors of the Company to adopt policies that would impose inflexible and far-reaching restrictions on the Company's day-to-day business without any understanding or study as to whether the policy would achieve the underlying objective. The Proposal seeks to impose a specific method for implementation without regard to circumstance and without any reasonable exceptions, improperly constraining the decision-making function of the Company's management.

The Proposal, although directed at important objectives, would, at its core, provide shareholders with the authority to determine which clients the Company can provide its insurance underwriting products, potentially impacting any company that is directly or indirectly engaged in fossil fuel development. It does not afford discretion to the Board and management to consider and execute the appropriate response to fossil fuel use and remain flexible in introducing new strategies as more information and technologies become available. The implementation of the policy underlying the Proposal would result in the shareholders on their own directing the Company to cease to provide its insurance coverage to whole range of its existing clients, without consideration of strategic interests of the Company. For a global insurance company, the development, generation and selection of clients is a core function of management that involves a range of considerations that shareholders are not in a position to address.

The Proposal would not provide management with any discretion to assess the risks and opportunities associated with the implementation of the underlying policy objectives, to leverage the extensive work it has done to establish its own existing climate-related business policies and to develop strategies in conjunction with its clients that could support a clean-energy transition and improved climate sustainability. Rather, shareholders are being asked to assume this managerial responsibility and dictate, by institutional policy, which companies are suitable to be the Company's clients. Without providing any analysis of the impact of the Proposal on the Company, the Proponent prescribes the specific method of implementing the Proposal in its supporting statement, specifying that the policy should include defining new fossil fuel supplies to "include exploration for and / or development of oil, gas, and coal resources or reserves beyond those fields or mines already in production."

Because the Proposal deals with the Company's ordinary business and seeks to micromanage the Company, the Company believes that the Proposal may be omitted from its Proxy Materials pursuant to Rule 14a-8(i)(7).

IV. Conclusion

For the foregoing reasons, I request your confirmation that the Staff will not recommend enforcement action to the Commission if Chubb omits the Proposal from its 2022 Proxy Materials.

If the Staff has any questions, please contact Laura Richman of Mayer Brown LLP at (312) 701-7304 or lrichman@mayerbrown.com or the undersigned at (312) 701-7199 or ebest@mayerbrown.com. We would appreciate it if you would send your response by email.

Very truly yours,

Edward S. Best

cc: Gina Rebollar, Chief Corporate Lawyer and Deputy General Counsel, Global Corporate Affairs, of Chubb
Andrea Ranger, of Green Century Capital Management, Inc.

<u>EXHIBIT A</u>
Proposal

GREEN CENTURY FUNDS

December 3, 2021

Via Federal Express

Corporate Secretary
Chubb Limited
Bärengasse 32
CH-8001 Zurich
Switzerland

Re: Shareholder proposal for 2022 Annual Shareholder Meeting

Dear Madam or Sirs,

Green Century Capital Management, Inc. is the investment advisor, agent, manager and representative of the Green Century Funds. Green Century Capital Management Inc. is filing the enclosed shareholder proposal on behalf of the Green Century Equity Fund (the "Proposal") to be included in the proxy statement of Chubb Limited ("Chubb" and the "Company") for its 2022 annual meeting of shareholders, in accordance with Rule 14a-8 of the General Rules and Regulations of the Securities and Exchange Act of 1934 (17 C.F.R. § 240.14a-8).

Per Rule 14a-8, the Green Century Equity Fund is the beneficial owner of at least $25,000 worth of Chubb's stock. We have held the requisite number of shares for over one year, and we will continue to hold sufficient shares in the Company through the date of the Company's 2022 annual shareholders' meeting. Verification of ownership from a DTC participating bank is enclosed.

We are available to meet with the Company via teleconference on December 14 & 15 from 2 p.m. to 5 p.m. or on December 16 p.m. from 2 p.m. to 5 p.m., Central European Standard Time. Other times may be available upon request.

Due to the importance of the issue and our need to protect our rights as shareholders, we are filing the enclosed proposal for inclusion in the proxy statement for a vote at the next shareholders' meeting.

We welcome the opportunity to discuss the subject of the enclosed proposal with company representatives. Please direct all correspondence to Andrea Ranger, Shareholder Advocate, at Green Century Capital Management, Inc. She may be reached at [redacted] and [redacted]

We would appreciate confirmation of receipt of this letter via email.

Thank you for your attention to this matter.

Sincerely,

[redacted]

Leslie Samuelrich
President
The Green Century Funds
Green Century Capital Management, Inc.

Whereas:
The Intergovernmental Panel on Climate Change (IPCC) reported that global greenhouse gas emissions must reach net zero by 2050 in order to limit a global temperature increase to 1.5 degrees Celsius by 2100, thereby averting the worst impacts of climate change. Building on the IPCC's findings, the International Energy Agency (IEA) issued a report, *Net Zero by 2050*, which provides a comprehensive pathway for the energy sector to transition to net zero emissions by 2050. The report is unequivocal about the expansion of fossil fuel supplies, saying "Beyond projects already committed as of 2021, there are no new oil and gas fields approved for development in our pathway, and no new coal mines or mine extensions are required" to ensure stable and affordable energy supplies.

As a property and casualty insurer, Chubb Limited (Chubb) is uniquely exposed to climate risks because it underwrites policies meant to protect its customers' homes and businesses from the impacts of climate-driven catastrophes such as storms, wildfires, and heat waves. It simultaneously underwrites policies for the fossil fuel industry, whose emissions are widely believed to amplify devastating storms, wildfires, and heat waves. These practices are fundamentally incompatible.

While Chubb restricts underwriting new coal fired power plants and underwriting and investing in companies that primarily operate in coal mining and coal power, investors are concerned that Chubb's efforts are not sufficiently aligned with global efforts to reduce emissions through, for example, the Paris Agreement. Further, the Company lags behind European peers, including AXA, Allianz, Aviva, Generali, Munich Re, SCOR, Swiss Re, and Zurich, that have committed to transitioning their underwriting portfolios to net zero emissions by 2050.

To develop a credible net zero commitment, the United Nations Environmental Program Finance Initiative suggests that financial institutions including insurers engaged in underwriting "begin aligning with the required assumptions and implications of Intergovernmental Panel on Climate Change's 1.5 degrees Celsius no / low overshoot pathways as soon as possible." Further, "All no / low overshoot scenarios indicate an immediate reduction in fossil fuels, signaling that investment in new fossil fuel development is not aligned with 1.5 degrees Celsius."

RESOLVED: Shareholders request that Chubb's Board of Directors adopt and disclose new policies to help ensure that its underwriting practices do not support new fossil fuel supplies, in alignment with the IEA's Net Zero Emissions by 2050 Scenario.

Supporting Statement
The board and management, in its discretion, should define the scope, time frames and parameters of the policy, including defining "new fossil fuel supplies," with an eye toward the well-accepted definition that new fossil fuel supplies include exploration for and / or development of oil, gas, and coal resources or reserves beyond those fields or mines already in production.

SANFORD J. LEWIS, ATTORNEY

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413 549-7333
sanfordlewis@strategiccounsel.net

February 10, 2022
Via electronic mail

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

Re: Shareholder Proposal to Chubb Limited Regarding Fossil Fuel Financing on Behalf of Green Century Equity Fund

Ladies and Gentlemen:

Green Century Equity Fund (the "Proponent") is the beneficial owner of common stock of Chubb Limited (the "Company" or "Chubb") and has submitted a shareholder proposal (the "Proposal") to the Company. I have been asked by the Proponent to respond to the letter dated January 14, 2022 ("Company Letter") sent to the Securities and Exchange Commission by Edward S. Best of the law firm of Mayer Brown LLP. In that Letter, the Company contends that the Proposal may be excluded from the Company's 2022 proxy statement. The response follows. A copy of this letter is being emailed concurrently to Mr. Best.

The materials attached demonstrate that the Company has no basis under Rule 14a-8 for exclusion of the Proposal. As such, we respectfully request that the Staff inform the Company that it is denying the no action Letter request.

Sincerely,

Sanford Lewis

Response to No Action Request of January 14, 2022
Chubb Limited Proposal on Fossil Fuel Underwriting

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SUMMARY

The Proposal asks the Board of Directors to adopt and disclose new policies to help ensure that its underwriting practices do not support new fossil fuel supplies, in alignment with the International Energy Agency's (IEA) Net Zero Emissions by 2050 scenario ("IEA scenario"). The Proposal provides significant discretion to the board and management to define the scope, time frames and parameters of the policy, including defining "new fossil fuel supplies," and suggests that the board and management do so with an eye toward the well-accepted definition that new fossil fuel supplies include exploration for and/or development of oil, gas, and coal resources or reserves beyond those fields or mines already in production.

The Company first asserts that it has substantially implemented the Proposal through its existing coal policy and Task Force on Climate-Related Financial Disclosures (TCFD) report. Neither such action is responsive to the specific request of the Proposal to ensure that its underwriting practices do not support new fossil fuel supplies, in alignment with the IEA scenario. As referenced in the Proposal itself, the IEA has stated that, under the scenario, no new fossil fuel development is necessary or appropriate.

The Company cannot reasonably claim that its existing policies and practices help ensure that its underwriting practices are consistent with the IEA scenario. The Company is one of the major underwriters of significant new fossil fuel development. It has only partially limited underwriting of a portion of coal projects, and has yet to establish underwriting constraints on oil and gas development projects. It is clear from the background section of the Proposal that the essential purpose of the Proposal is a request for a responsive policy including alignment on those projects. Therefore, the Proposal is not substantially implemented for purposes of Rule 14a-8(i)(10).

The Company subsequently asserts that the Proposal is either too vague or too prescriptive. Examination of the Company's arguments demonstrates that they are self-contradictory. The Company Letter argues at the same time that the Proposal is too flexible, leaving discretion for board and management, and too prescriptive, constraining the discretion of board and management. In straddling both of these ideas, the Company Letter effectively cancels out its own arguments.

The Company Letter also claims that the reference to the IEA scenario is vague since the full scenario report is two hundred pages. It is clear from the language provided in the Proposal that the salient benchmark of the IEA scenario relevant to shareholder deliberation is included in the Proposal - which is the clarity regarding the lack of need for new fossil fuel supplies to meet the scenario. Because the relevant language from the IEA is included in the Proposal itself, it is not necessary for investors to read the two hundred page IEA report to understand this fundamental message from the IEA. The Company's arguments about the nuances of how to apply the IEA scenario to its underwriting are appropriate to an opposition statement, but not a basis for preventing shareholders from deliberating on this question.

Moreover, the Proposal appropriately threads the needle between vagueness and ordinary business by providing necessary details - highlighting the IEA scenario and United Nations Environment Programme Finance Initiative (UNEP FI) "credible net zero guidance" as key benchmarks for the issue of globally aligned fossil fuel underwriting — but also providing ample flexibility for board and management discretion as to how to implement policies in better alignment with that benchmark.

In asking the Company to adopt a policy to help ensure that its underwriting practices do not support new fossil fuel supplies in alignment with the global benchmarks, the Proposal addresses an issue that does not probe too deeply for investors, but rather provides an appropriate opportunity for investors to weigh in on key risks and strategy, and to encourage the Company to establish an internal strategy that is more in alignment with its public statements on climate.

In the absence of such alignment, investors have reason to be concerned about related risks, including stranded assets connected to underwriting, reputational risk, systemic and portfolio-wide risk, and special risks related to due diligence and enforcement exposure for environmental, social, governance (ESG) investors and fiduciaries.

Therefore, because the Proposal does not micromanage the board, but in fact raises appropriate issues for shareholder deliberation, it is not excludable under Rule 14a-8(i)(7). The flexibility provided by the Proposal is proof of leaving the board and management with appropriate discretion. It is not a vagueness defect. As such, the Proposal is neither too prescriptive, nor too vague, and therefore is not excludable under Rule 14a-8(i)(7) or Rule 14a-8(i)(3).

THE PROPOSAL

Whereas:

The IPCC reported that global greenhouse gas emissions must reach net zero by 2050 in order to limit a global temperature increase to 1.5 degrees Celsius by 2100, thereby averting the worst impacts of climate change. Building on the IPCC's findings, the International Energy Agency (IEA) issued a report, Net Zero by 2050, which provides a comprehensive pathway for the energy sector to transition to net zero emissions by 2050. The report is unequivocal about the expansion of fossil fuel supplies, saying "Beyond projects already committed as of 2021, there are no new oil and gas fields approved for development in our pathway, and no new coal mines or mine extensions are required" to ensure stable and affordable energy supplies.

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While Chubb restricts underwriting new coal fired power plants and underwriting and investing in companies that primarily operate in coal mining and coal power, investors are concerned that Chubb's efforts are not sufficiently aligned with global efforts to reduce emissions through, for example, the Paris Agreement. Further, the Company lags behind European peers, including AXA, Allianz, Aviva, Generali, Munich Re, SCOR, Swiss Re, and Zurich, that have committed to transitioning their underwriting portfolios to net zero emissions by 2050.

To develop a credible net zero commitment, the United Nations Environmental Program Finance Initiative suggests that financial institutions including insurers engaged in underwriting "begin aligning with the required assumptions and implications of Intergovernmental Panel on Climate Change's 1.5 degrees Celsius no / low overshoot pathways as soon as possible." Further, "All no / low overshoot scenarios indicate an immediate reduction in fossil fuels, signaling that investment in new fossil fuel development is not aligned with 1.5 degrees Celsius."

RESOLVED: Shareholders request that Chubb's Board of Directors adopt and disclose new policies to help ensure that its underwriting practices do not support new fossil fuel supplies, in alignment with the IEA's Net Zero Emissions by 2050 Scenario.

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The board and management, in its discretion, should define the scope, time frames and parameters of the policy, including defining "new fossil fuel supplies," with an eye toward the well-accepted definition that new fossil fuel supplies include exploration for and / or development of oil, gas, and coal resources or reserves beyond those fields or mines already in production.

BACKGROUND

In the global effort to mitigate climate change, many countries and corporations have committed to achieving net-zero emissions by 2050 and to align with the Paris Agreement's climate goals of constraining global temperature increase. As noted on page 2 of the Company Letter, Chubb Limited declared, in 2021, to "formally support a global transition to a net-zero economy by 2050."

Despite such pledges by many corporations, in most instances current corporate activities do not align with their pledges or with a 1.5° C scenario. Greenhouse gas (GHG) emissions continue to rise, and the current amount of planned fossil fuel development worldwide would exceed the projected "carbon budget" to constrain global temperature increases. This leads to a substantial global concern – the threat of development of "unburnable" or unextractable fossil fuels interfering with momentum toward the 1.5° C goal.

In 2021, a prominent peer-reviewed research report, Unextractable fossil fuels in a 1.5 °C World, published in the peer-reviewed, scientific journal, *Nature,* indicated that, for a 50% chance of global temperature increase to remain below 1.5 °C — the aspirational goal of the 2015 Paris Agreement — the world cannot emit more than 580 gigatons of carbon dioxide before 2100. The researchers concluded that 89% of coal reserves, 58% of oil reserves and 59% of gas reserves **must remain unextracted** to ensure that not more than 580 gigatons of carbon dioxide are emitted before 2100. According to the authors, "This means that very high shares of reserves considered economic today would not be extracted under a global 1.5 °C target".[1]

Currently, corporate and national commitments significantly overshoot the amount of fossil fuel production implied by this projection, and are said to exceed the global carbon budget.

The IEA's Net Zero by 2050 scenario report concluded that current national and corporate climate pledges are consistent with a temperature rise of 2.1°C by 2100,[2] much higher than the 1.5° C goal. Therefore, to reach the collective 1.5° C goal, more rigorous policies would need to be implemented — and new fossil fuel development would be unnecessary and inconsistent with achieving the 1.5° C goal.

In light of these developments, the financial sector, including Chubb Limited as one of the leading underwriters of fossil fuel development, faces a significant challenge to redirect financial flows and to align with the net-zero by 2050 scenario.

The insurance sector is among the financial sectors within the scope of the UNEP FI, which, along with the IEA, has identified the containment of supply growth above the world's carbon budget as a critical

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[1] Welsby, D., Price, J., Pye, S. *et al.* Unextractable fossil fuels in a 1.5 °C world. *Nature* **597,** 230–234 (2021). https://doi.org/10.1038/s41586-021-03821-8 *Unextractable reserves* notes that their estimate of the carbon budget may be too optimistic. We probably present an underestimate of the production changes required, because a greater than 50 per cent probability of limiting warming to 1.5 °C requires more carbon to stay in the ground and because of uncertainties around the timely deployment of negative emission technologies at scale.

[2] *See* Net Zero by 2050—A Roadmap for the Global Energy Sector*, found at*. https://iea.blob.core.windows.net/assets/deebef5d-0c34-4539-9d0c-10b13d840027/NetZeroby2050-ARoadmapfortheGlobalEnergySector_CORR.pdf

factor in corporate and government policies to achieve the global goals. UNEP FI issued recommendations for credible net-zero commitments from financial institutions, including insurers, which included a benchmark of credibility for financial institutions that have made net-zero commitments to "align as soon as possible":

> A financial institution establishing a net-zero commitment should begin aligning with the required assumptions and implications of IPCC 1.5°C no/low overshoot pathways as soon as possible. This is because the pathways require immediate actions to have a realistic chance of limiting warming to 1.5°C. ***This would include, for example, the immediate cessation of any new fossil fuel investments, and rapid decommissioning of remaining fossil fuel production as indicated by the scenarios*.** [Emphasis added]

The UNEP FI also notes in its recommendations that "All no/low overshoot scenarios indicate an immediate reduction in fossil fuels, ***signaling that investment in new fossil fuel development is not aligned with 1.5°C.***" [Emphasis added]

Role of the Company in Fossil Fuel Underwriting

As the global coalition of NGOs, called Insure Our Future, has written:

> Insurance companies are in a unique position to accelerate the transition to a 100% renewable energy future. As risk managers they play a silent but essential role in deciding which types of projects can be built and operated in a modern society. Without their insurance, almost no new coal mines, oil pipelines and power plants can be built, and most existing projects will have to be phased out.
>
> With assets of approximately $30 trillion, insurers are also the second largest group of institutional investors after pension funds. Reports commissioned by Ceres and the Unfriend Coal campaign have found that the largest U.S. and European insurers have invested close to 600 billion dollars in fossil fuels.

Despite its commitment to a net-zero economy, Chubb Limited remains one of the major underwriters of the fossil fuel sector, including new fossil fuel development. In this instance, the Company is one of the leading underwriters of new offshore oil development on the Brazilian coast, led by Brazil's national oil company, Petrobras. Petrobras is responsible for extracting nearly 93% of Brazil's oil and gas and, according to the IEA, is on track to contribute 12 to 24% of the total rise in global oil production by 2026 compared to its 2020 activity. Further, Brazil has the fifth largest oil and gas expansion plans in the world. This information surfaced as a result of freedom of information requests submitted to the Brazilian government by the Insure Our Future coalition. It found that Chubb underwrites 60% of Petrobras' general civil liability and 50% of its transport-related risks.[3]

Additionally, Chubb is a named underwriter of numerous insurance certificates for North American oil and gas pipelines, and while it has announced it does not currently provide insurance coverage for tar

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[3] https://static1.squarespace.com/static/5b7c9307f79392b49031d551/t/61e85901f451f044371b1f54/1642617094379/IOF+Brazil+report_FINAL_.pdf

sands projects, it has not ruled out underwriting future projects, nor has Chubb committed to cease underwriting in other new oil and gas development projects, including Arctic drilling.[4]

For competitive reasons, insurance companies do not disclose the names of their clients nor specifics on the policies they underwrite. The authors of Insure Our Future's report, *Fueling Climate Change - The Insurers Behind Brazil's Offshore Oil Expansion,* note that the underwriting coverage shared in their study is "rarely available" for major fossil fuel projects. Further, in April 2021, the Canada Energy Regulator determined that Trans Mountain Pipeline LP could file a confidential list of insurers, an about-face from its previous practice of making names of insurers public.[5] Chubb was known to be an insurer of the pipeline until 2020, and may have been through 2021 when Canada's new restrictions took force.

Investors lack visibility into the transitional and climate risks that insurance companies are exposed to. Chief among these is the risk posed to customers, across virtually all lines of insurance, by increasingly frequent and costly climate events aided by insurers' collective failure to mitigate greenhouse gas emissions. The lack of visibility makes it necessary for investors to propose broad-based fossil fuels policies that will encourage insurance companies like Chubb to manage its risks. Additionally, such a policy maintains the client confidentiality that insurers require.

The Company's opposition to this Proposal suggests that it is not actually planning to take the actions necessary to meet the UN and IEA credibility benchmarks.

In 2019, Chubb was an early leader in setting policies to limit some underwriting mining, coal plant construction and coal-powered utilities. However, a mere three years later, Chubb is no longer a leader and is not even keeping up with peers.

In contrast, Chubb's peer, AXA Insurance, has established oil and gas underwriting policies that reflect a more transparent and robust approach to corporate accountability and net zero goals. Its underwriting transition plans revolve around the Paris Agreement goal to contain global warming below 1.5°C by 2100. It has also committed to cease the underwriting of:

1) New upstream greenfield exploration projects (areas with little to no previous exploration);
2) Property and construction insurance coverage for oil sands production and pipelines;
3) Arctic drilling by companies deriving more than 10% of their production from the Arctic region or producing more than 5% of worldwide volume of Arctic oil and gas; and
4) Fracking and shale activities by companies deriving more than 30% of production from the practice.

AXA's underwriting restrictions apply to nearly all lines of business, and its timeline is concrete. It has committed to the cessation of underwriting new business within 12 months and of existing business within 24 months for companies that participate in oil sands exploration or hydraulic fracturing of shale oil and gas. AXA's policies have detailed nuances and contingencies, but they cover the range of underwriting activities of concern under the current Proposal. In contrast, Chubb's limited constraints on underwriting do not.

The Proposal offers investors a key opportunity to voice their opinion on the issue and in doing so, advise the Company as to whether investors believe it should meet the IEA and UNEP FI benchmarks for alignment with a 1.5°C scenario.

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[4] https://ourarcticrefuge.org/corporate-commitment-to-protect-the-arctic-refuge/
[5] https://www.nationalobserver.com/2021/04/29/news/trans-mountain-approval-keep-insurers-secret

ANALYSIS

Rule 14a-8(i)(10)

The Company Letter asserts that the Proposal may be excluded from the 2022 proxy materials as substantially implemented pursuant to Rule 14a-8(i)(10). In order for the Company to meet its burden of proving substantial implementation pursuant to Rule 14a-8(i)(10), it must show that its activities meet the guidelines and essential purpose of the Proposal. The Staff has noted that a determination that a company has substantially implemented a Proposal depends upon whether a company's particular policies, practices, and procedures compare favorably with the guidelines of the Proposal. *Texaco, Inc.* (Mar. 28, 1991). Substantial implementation under Rule 14a-8(i)(10) requires a company's actions to have satisfactorily addressed *both* the Proposal 's guidelines and its essential objective. See, e.g., *Exelon Corp.* (Feb. 26, 2010).

Thus, when a company can demonstrate that it has already taken action that meets most of the guidelines of a Proposal and the Proposal's essential purpose, the Staff has concurred that the Proposal has been "substantially implemented." In the current instance, the Company has substantially fulfilled *neither* the guidelines nor the essential purpose of the Proposal.

Guidelines and essential purpose of the Proposal

The guidelines of the Proposal request that the Company's board of directors adopt and disclose new policies to help ensure that its underwriting practices do not support new fossil fuel supplies, in alignment with the IEA's Net Zero Emissions by 2050 scenario. The supporting statement of the Proposal provides clear parameters for board and management discretion in identifying those policies**,** noting that the board and management, in its discretion, should define the scope, time frames and parameters of the policy, including defining "new fossil fuel supplies," with an eye toward the well-accepted definition that new fossil fuel supplies include exploration for and/or development of oil, gas, and coal resources or reserves beyond those fields or mines already in production.

The essential purpose of the Proposal, reading the language of the resolved and supporting statement as well as the background section of the Proposal, is to move beyond the limited restrictions that the Company currently places on fossil fuel development, to develop new policies that are better aligned with the global scenario. For instance, the background section of the Proposal notes that, as an insurer, the Company is liable for increasing risks associated with climate change and yet:

> It simultaneously underwrites policies for the fossil fuel industry, whose emissions are widely believed to amplify devastating storms, wildfires, and heat waves. These practices are fundamentally incompatible.
>
> While Chubb restricts underwriting new coal fired power plants and underwriting and investing in companies that primarily operate in coal mining and coal power, investors are concerned that Chubb's efforts are not sufficiently aligned with global efforts to reduce emissions through, for example, the Paris Agreement. Further, the Company lags behind European peers, including

> AXA, Allianz, Aviva, Generali, Munich Re, SCOR, Swiss Re, and Zurich, that have committed to transitioning their underwriting portfolios to net-zero emissions by 2050.

Thus, the essential purpose of the Proposal is to challenge the Company to come into better alignment with the global guidelines on fossil fuel supply than its current practices.

The Proposal is not substantially implemented by Chubb's coal policies or its TCFD Report

Coal Policies

The Company's existing policies on underwriting coal projects are relevant to the Proposal, but it does not substantially implement it. They represent a very partial move in the direction of the Proposal, without addressing the major outstanding concern, oil and gas development.

At present the Company has only limited restrictions on underwriting new fossil fuel supplies for the most carbon-intensive fossil fuels - coal. Even its coal mining-related restrictions demonstrate how far the Company has to go to halt the underwriting of new fossil fuel supplies. The Company's current policies are to avoid underwriting for resource extraction companies that generate more than 30% of revenues from thermal coal mining, or for utilities which generate more than 30% of their energy production from coal. These policies appear to allow a substantial amount of expanded fossil fuel development to be underwritten, even in operations producing or utilizing coal. For example, according to NGO experts, Chubb's policy thresholds may allow underwriting:

- Approximately 51 companies that generate 30% or less of their energy production from coal; and
- Approximately 54 diversified companies that generate 30% or less of their revenues from thermal coal

Furthermore, the coal mining restraint is effective in 2022, but the utility constraint may not be fully implemented should Chubb determine the "viability of alternative energy sources in the impacted region" make it necessary to underwrite more coal projects.

Even for these coal mining and coal burning operations, the Company Letter has nowhere asserted that it believes this actually accomplishes *alignment* with the IEA net-zero scenario which implies no new fossil fuel development. Instead, it represents a modest gesture in the direction of the IEA scenario, without coming anywhere near being able to claim policy alignment. And certainly, neither constraint addresses the larger issue of new oil and gas development which are also inconsistent with the IEA net-zero scenario.

The Company Letter's assertion that addressing <u>one fossil fuel source (coal)</u> is sufficient to substantially implement the Proposal is stated plainly in the Company Letter:

> The Proposal's statements mention other fossil fuels in addition to coal, such as oil and gas, but as the Staff has repeatedly stated, a Proposal may be excluded even if the Company did not take the exact action requested or did not implement every detail of the Proposal (although Chubb does address other fossil fuels as described below in Section I.B)

Yet the Proposal plainly references IEA and UNEP which have both made it clear that under the referenced net-zero scenario, no new fossil fuel development is appropriate. This includes the full range of fossil fuel sources. Moreover, as noted above, the Proposal lays out the areas where the Company's current policies lead to underwriting fossil fuel supply expansion inconsistent with alignment.

TCFD Report

The Company's outlook in its TCFD report regarding those other fossil fuel sources is the following:

> Chubb will continue to assess its coverage of carbon-intensive industries and their related strategies and plans for transitioning to a lower-carbon economy. This approach will ensure the company's underwriting and investment positions evolve as practical alternatives become available.

In opposing the current Proposal and implying that current underwriting and investment policies may perpetuate the underwriting of new fossil fuel sources, there is a distinct possibility that the Company will continue to underwrite new sources that are inconsistent with the IEA scenario throughout this critically important decade. Furthermore, the Company's TCFD report actually espouses the opposite position of that recommended by the Proposal:

> Declining to underwrite or invest in all fossil fuel-related activity on a categorical basis does not represent a reasonable path to a net-zero economy.

Instead, the Company's approach appears to be to stay the course – to limit its underwriting constraints to a small fraction of fossil fuel development, only certain coal projects, and to reduce the greenhouse gas footprint of its own operations which represents an insignificant GHG impact compared with the major climate impacts posed by underwriting of fossil fuel development. Nor does the Company elaborate on how it evaluates carbon-intensive industries to determine whether they have a credible path to a lower-carbon economy.

Thus, the Proposal represents a reasonable and appropriate opportunity for shareholders to deliberate regarding the Company's continued commitment to apparently supporting even new fossil fuel development.

Potentially Misleading Statements

One of the passages in the Company Letter jumped out at the proponent as a potentially misleading communication to investors. On page 5 of the Company Letter, it states:

> Additionally, as an underwriter of environmental liabilities and pollution risks, Chubb already restricts underwriting in certain industries, including mining and reclamation operations, oil refining, pipeline and related distribution operations, and chemical manufacturing and distribution.

Chubb further elaborates in its TCFD report under the heading, Environmental Liability Insurance, that it underwrites liabilities related to premises pollution, contractors' pollution, and underground storage tank policies. It further notes that it provides consulting on wastewater management, waste management, air quality management, hazardous materials etc. A reasonable person would conclude that when Chubb states that it restricts underwriting of certain industries, it's describing the pollution caused by mining, oil refining, pipeline operations, and chemical manufacturing and distribution rather than liabilities related to the greenhouse gas emissions created by such clients.

Again, a reasonable person would interpret the Company's contention that it "restricts" underwriting in certain industries, might read this as imposing or prohibiting underwriting to those sectors. However, the record shows that the Company clearly *does* underwrite for those sectors, though it undoubtedly imposes some contractual conditions that "restrict" such underwriting. The statement that it "restricts" underwriting is not the equivalent of saying that the underwriting is restricted to prevent underwriting of new fossil fuel supplies, though in the current context it might be misunderstood as making such an assertion.

It should be noted as well that the Company's underwriting of renewables does not mitigate, cancel out or obviate the need to curtail underwriting of new fossil fuel development. The IEA Net Zero by 2050 scenario included in the Proposal already models the growth of renewables, but still concluded that no new fossil fuel supply development must happen concurrently. These issues do not cancel out an insurer's responsibilities to avoid underwriting new fossil fuel supplies.

Indeed, as a number of other leading insurance companies align with global policy and curtail aspects of fossil fuel underwriting, the request of the Proposal for the Company to do likewise becomes more important than ever to counter competitive risks. In addition to AXA, four Chubb peers have adopted stronger policies than Chubb:

- Generali - In June 2021, Generali announced that it would no longer underwrite upstream oil and gas activities.
- Suncorp - Suncorp has committed not to directly invest in, finance or underwrite new oil and gas exploration or production by 2025.
- Swiss Re - In early 2021, Swiss Re began to withdraw insurance support from the most carbon-intensive oil and gas production.
- Zurich - Zurich has ruled out underwriting upstream oil greenfield exploration projects from companies without transition plans.

Company actions do not implement the essential purpose of the Proposal

The essential purpose of the Proposal is reflected in the critique of current company practices contained in the background section of the Proposal:

> While Chubb restricts underwriting new coal fired power plants and underwriting and investing in companies that primarily operate in coal mining and coal power, investors are concerned that Chubb's efforts are not sufficiently aligned with global efforts to reduce emissions through, for example, the Paris Agreement. Further, the Company lags behind European peers, including

> AXA, Allianz, Aviva, Generali, Munich Re, SCOR, Swiss Re, and Zurich, that have committed to transitioning their underwriting portfolios to net zero emissions by 2050.
> To develop a credible net zero commitment, the United Nations Environmental Program Finance Initiative suggests that financial institutions including insurers engaged in underwriting "begin aligning with the required assumptions and implications of Intergovernmental Panel on Climate Change's 1.5 degrees Celsius no / low overshoot pathways as soon as possible." Further, "All no / low overshoot scenarios indicate an immediate reduction in fossil fuels, signaling that investment in new fossil fuel development is not aligned with 1.5 degrees Celsius."

The Company cannot claim its very partial constraints on fossil fuel underwriting address this critique. Instead, the Proposal stands as a valid request for the Company to bring its policies into line with leading peers, and with the IEA and UNEP FI benchmarks.

Staff precedents do not support a finding substantial implementation

Staff decisions confirm that when it comes to climate change proposals which contain guidelines requesting reporting geared to a specific set of concerns such as the development of targets aligned with external benchmarks, a failure to address the guidelines of the Proposal are a basis for rejecting a substantial implementation claim.

The Company's attempt to treat the Proposal as substantially implemented is similar to *Dominion Resources*, (February 11, 2014) where the Staff held that the proposal was not excludable under Rule 14a-8(i)(10). The proposal requested the Board of Directors to "adopt quantifiable goals, taking into account Intergovernmental Panel on Climate Change guidance, for reducing total greenhouse-gas emissions" and to issue a report. Dominion argued that it had substantially implemented the proposal because it had adopted an "integrated strategy" regarding greenhouse gas (GHG) emissions and had goals set for renewable energy targets across its energy portfolio. Further, it had adopted a range of measures that would have the effect of decreasing its emissions, including converting coal plants to biomass, retiring others, and installing solar energy and fuel cell facilities. Dominion argued that it had substantially implemented the proposal based on their existing reporting and plans, and efforts to reduce carbon intensity. It was noted by the proponent that the renewable power standards the company planned to meet could allow total GHG emission to rise. As in the present case, the net effect was not alignment with the international guidance or the guidelines and purpose of the proposal. The SEC held that the proposal had not been substantially implemented, noting that the proposal requested "that the board adopt quantitative goals, taking into account Intergovernmental Panel on Climate Change guidance, for reducing total greenhouse-gas emissions from the company's products and operations and report on its plans to achieve these goals."

Similarly, in *Alpha Natural Resources, Inc.* (March 19, 2013) the proposal requested that the company prepare a report on the company's goals and plans to address global concerns regarding fossil fuels and their contribution to climate change, including analysis of long- and short-term financial and operational risks to the company and society. The Staff did not find substantial implementation where the company had failed to disclose any analysis of long- and short-term financial and operational risks to the company and society. See also, *Dominion Resources, Inc.* (February 17, 2017 - two decisions), *The Middleby Corporation* (February 07, 2017), *The AES Corporation* (January 11, 2017), *Exxon Mobil Corporation*

(March 22, 2016 - two decisions), *Chevron Corporation* (March 11, 2016), *Hess Corporation* (February 29, 2016), *Lowe's Companies, Inc.* (March 10, 2017).

A company can do extensive reporting on an issue and still not be considered to have substantially implemented a proposal seeking a report within the same issue area. For instance, in *Chesapeake Company* (April 13, 2010) the company asserted that its extensive web publications constituted substantial implementation of the proposal on natural gas extraction. The Staff concluded that despite a volume of writing by the company on hydraulic fracturing, the matter was not substantially implemented given the guidelines of the proposal. Numerous other company attempts to exclude proposals under Rule 14a-8(i)(10) have failed where the company has provided public disclosure of some, but not all, of the elements of reporting requested. See for instance *Marathon Oil Corporation* (January 22, 2013); *Nike, Inc.* (July 5, 2012) (requesting reports on lobbying or political contributions and expenditures); *Southern Company* (March 16, 2011) (proposal requesting a report on the company's efforts, above and beyond current compliance, to reduce environmental and health hazards associated with coal combustion waste was not substantially implemented by existing report on coal combustion byproducts or other disclosures associated with the impacts of coal where reports did not provide the specific information requested in the proposal); *3M Company (March 2, 2005)* (proposal seeking actions relating to eleven principles on human and labor rights in China was not substantially implemented despite the fact that the company had its own set of comprehensive policies and guidelines on these issues); *ConocoPhillips* (January 31, 2011) (the proposal's objective that the company prepare a report on public safety, including "the Board's oversight of" a variety of related issues, was not substantially implemented where company had taken a significant number of steps to reduce the risk of accidents and reported to stockholders and the public, but only made passing reference to the Board's role).

Misleading communications do not substantially implement a proposal

The Company's efforts to assert substantial implementation, in this instance, fail for an additional reason. To the extent that the Company would assert to investors that its existing disclosures fulfill the Proposal, they would be significantly misleading. In order for a proposal to be substantially implemented by a company's actions, there is an underlying assumption that the information provided to investors should be materially complete and non-misleading.[6] In this instance, any assertion that the company's actions are in fulfillment of the Proposal and in alignment with the external benchmarks would be misleading, given the clear statements from both IEA and UNEP FI that alignment and credibility necessitate no new fossil fuel development.

In summary, the Company Letter's overall approach is to suggest that what the board is already doing is exercising its judgment as to what it believes appropriate and responsible, regardless of whether it is in

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[6] See *The Coca-Cola Co.* (Feb. 21, 2019). In particular, it should not raise significant issues under Rule 14a-9, the prohibition against false or misleading statements and omissions in conjunction with the publication of the proxy statement. § 240.14a-9 False or misleading statements. No solicitation subject to this regulation shall be made by means of any proxy statement, form of proxy, notice of meeting or other communication, written or oral, 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.

alignment with the global climate goals. Investors can reasonably disagree and as such, the Proposal offers an appropriate opportunity for investors to assert that the Company's strategy poses significant material risks, inclusive of financial, transitional, and reputational risks, and could be significantly revised to step up to the global demands and benchmarks that are aligned with a 1.5° C scenario. This is exactly the purpose of the shareholder proposal process, to hear from investors on whether company strategy is failing to account for material risks to the Company, investors, and stakeholders as a result of climate change. The Company cannot reasonably claim it has done so, and therefore the Proposal is not substantially implemented for purposes of Rule 14a-8(i)(10).

Rule 14a-8(i)(7)

The Company Letter asserts that the Proposal addresses the ordinary business of the Company. However, when examining the Proposal against the Commission and Staff's guidance on shareholder proposals, including ordinary business and micromanagement, it is evident that the Proposal addresses a transcendent policy issue and does not micromanage or otherwise inappropriately address the Company's ordinary business.

Ordinary Business According to the Commission

In 1998, the Commission issued a rulemaking release ("1998 Release") updating and interpreting the ordinary business rule, by both reiterating and clarifying past precedents. That release was the last time that the Commission discussed and explained at length the meaning of the ordinary business exclusion. The Commission summarized *two central considerations* in making ordinary business determinations – whether the Proposal addresses a significant social policy issue, and whether it micromanages.

First, the Commission noted that certain tasks were generally considered so fundamental to management's ability to run a company on a day-to-day basis that they could not be subject to direct shareholder oversight (e.g., the hiring, promotion, and termination of employees, as well as decisions on retention of suppliers, and production quality and quantity). However, proposals related to such matters but *focused on sufficiently significant social policy issues* (i.e. significant discrimination matters) generally would <u>not</u> be excludable.

Second, proposals could be excluded to the extent they seek to "micromanage" a company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would be unable to make an informed judgment. This concern did not, however, result in the exclusion of all proposals seeking detailed timeframes or methods. As the 1998 Release indicated:

> Timing questions, for instance, could involve significant policy where large differences are at stake, and proposals may seek a reasonable level of detail without running afoul of these considerations.

Proposals that passed the first prong but for which the wording involved some degree of micromanagement could be subject to a case-by-case analysis of *whether the proposal probes too deeply* for shareholder deliberation. The Staff's interpretation of micromanagement has evolved over the years, most recently articulated in the November 3, 2021 Staff Legal Bulletin 14L.[7] To assess micromanagement going forward, the bulletin notes that the Staff:

> …will focus on the level of granularity sought in the proposal and whether and to what extent it inappropriately limits discretion of the board or management. **We would expect the level of detail included in a shareholder proposal to be consistent with that needed to enable investors to assess an issuer's impacts, progress towards goals, risks or other strategic matters appropriate for shareholder input.**
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> ***
>
> Additionally, in order to assess whether a proposal probes matters "too complex" for shareholders, as a group, to make an informed judgment, we may consider the sophistication of investors generally on the matter, the availability of data, and the robustness of public discussion and analysis on the topic. The staff may also consider references to well-established national or international frameworks when assessing proposals related to disclosure, target setting, and timeframes as indicative of topics that shareholders are well-equipped to evaluate.
>
> This approach is consistent with the Commission's views on the ordinary business exclusion, which is designed to preserve management's discretion on ordinary business matters but not prevent shareholders from providing high-level direction on large strategic corporate matters.
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> ***
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> While the analysis in this bulletin may apply to any subject matter, many of the proposals addressed in the rescinded SLBs requested companies adopt timeframes or targets to address climate change that the staff concurred were excludable on micromanagement grounds. Going forward we would not concur in the exclusion of similar proposals that suggest targets or timelines so long as the proposals afford discretion to management as to how to achieve such goals.

Micromanagement Analysis Under Staff Legal Bulletin 14L

Thus, the Staff Legal Bulletin's analysis of issues of micromanagement comes down to two basic tests to determine whether a proposal "probes to deeply" for shareholders' consideration:

> First, does the proposal frame the investor deliberation in a manner consistent with market discussions, available guidelines and the state of familiarity/expertise on the issues in the investing marketplace?
>
> Second, does it leave sufficient flexibility for board and management discretion?

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[7] The Staff Bulletin notes an evolution in the staff's thinking. In rescinding prior staff legal bulletins, the bulletin notes that: we believe that the rescinded guidance may have been taken to mean that any limit on company or board discretion constitutes micromanagement.

We will take each of these questions in turn. The second question also overlaps with the Company's exclusion argument regarding vagueness, so we will respond there to the Company's argument regarding Rule 14a-8(i)(3) as well.

A Deliberation Appropriate to Shareholders

It is appropriate for shareholders to deliberate on whether the Company should live up to credible global fossil fuel supply development requirements.

Staff Legal Bulletin (SLB) 14L notes that in considering ordinary business challenges and micromanagement, the Staff will consider whether the deliberation posed by the proposal in question is consistent with current investor discourse and credible national or international guidelines:

> **We would expect the level of detail included in a shareholder proposal to be consistent with that needed to enable investors to assess an issuer's impacts, progress towards goals, risks or other strategic matters appropriate for shareholder input.** [Emphasis added]
>
> …in order to assess whether a proposal probes matters "too complex" for shareholders, as a group, to make an informed judgment, we may consider the sophistication of investors generally on the matter, the availability of data, and the robustness of public discussion and analysis on the topic. **The staff may also consider references to well-established national or international frameworks when assessing proposals related to disclosure, target setting, and timeframes as indicative of topics that shareholders are well-equipped to evaluate.** [Emphasis added]

Global Guidelines

The following provides a brief summary of the IPCC, IEA, and UNEP FI and their respective guidelines upon which the Proposal is based.
In 1988, the United Nations convened the Intergovernmental Panel on Climate Change which was created to provide regular scientific assessments on climate change, its implications and potential future risks, as well as to put forward adaptation and mitigation options. Building upon 30 years of increasing scientific accuracy, the IPCC published its *Special Report on Global Warming of 1.5°C* which concluded that limiting global warming to 1.5°C over pre-industrial temperatures could stave off the worst effects of climate change. The report details the scientific bases for its findings and calculates that greenhouse gas emissions must be reduced by 45% from 2010 levels by 2030 and net-zero near 2050 to prevent warming beyond the 1.5°C ceiling.

Forged to address another crisis, the IEA was created in 1974 to prevent a repeat of the 1973 oil crisis caused by constrained supply. In the decades since, the IEA's role has expanded, and it's now regarded as the premier body for energy analysis and market predictions covering the entire global energy system, including traditional energy sources such as oil, gas, and coal as well as cleaner sources such as solar PV, wind power and biofuels.[8]

Various media have described the IEA as a "fairly conservative agency that has been accused of being friendly towards oil and gas interests". It was remarkable, therefore, that the IEA released its Net Zero by 2050 Roadmap, drawing the unambiguous conclusion that fossil fuel supplies must rapidly decline within a thirty-year window.

Over the years, the IEA has established various scenarios for global climate change responses, with its latest Net Zero by 2050 Roadmap providing a detailed description of an ambitious global project to alter the world's energy infrastructure and align with net-zero and 1.5° C goals. That roadmap includes the statement that **"that no fossil fuel exploration is required and no new oil and natural gas fields are required beyond those that have already been approved for development."**[9]

UNEP FI is a partnership between the UNEP and the global financial sector to unlock private sector finance for sustainable development. UNEP FI works with more than 450 banks, insurers, and investors and more than 100 supporting institutions to accelerate sustainable finance.[10] The UNEP FI 2021 report entitled*, Recommendations for Credible Net-Zero Commitments from Financial Institutions,* provides clear guidance and benchmarks for financial institutions, including insurers engaged in underwriting, and their investors in assessing whether current company pledges are matched by credible commitments considering the global agreements and goals. The UNEP FI report is geared toward a clear benchmark of financial institution credibility on their net-zero commitments, making it clear that one of the most important benchmarks of credibility is to "align as soon as possible":

> A financial institution establishing a net-zero commitment should begin aligning with the required assumptions and implications of IPCC 1.5°C no/low overshoot pathways as soon as possible. This is because the pathways require immediate actions to have a realistic chance of limiting warming to 1.5°C. **This would include, for example, the immediate cessation of any new fossil fuel investments, and rapid decommissioning of remaining fossil fuel production as indicated by the scenarios**. [Emphasis added]

Thus, the Proposal is grounded in and benchmarked against key international programs and guidelines. As SLB 14L notes, "The staff may also consider references to well-established national or international frameworks when assessing proposals related to disclosure, target setting, and timeframes as indicative of topics that shareholders are well-equipped to evaluate." This is not a question of "investors probing too deeply" into Company management, but rather asking the Company to come into line with the most prominent global benchmarks of the most proactive response scenario on climate change.

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8 https://en.wikipedia.org/wiki/International_Energy_Agency#:~:text=The%20International%20Energy%20Agency%20acts,times%20of%20oil%20supply%20emergencies.

9 *See* World Energy Outlook 2021, *found at* https://iea.blob.core.windows.net/assets/88dec0c7-3a11-4d3b-99dc-8323ebfb388b/WorldEnergyOutlook2021.pdf

10 https://www.unepfi.org/about/

Prominence of discussion

These issues have also been addressed in media coverage, investor publications, and in international guidance. Therefore, the introduction of this issue as a topic for the Company's shareholder meeting is appropriate and pitched consistent with shareholder understanding and deliberation. Public debate and analysis regarding the proper path towards a net-zero future are robust and ongoing.

For example, on May 18, 2021, *The New York Times* covered the IEA's World Energy Outlook report with a headline "***Nations Must Drop Fossil Fuels, Fast, World Energy Body Warns***: A landmark report from the International Energy Agency, perhaps the world's most influential energy forecaster, says countries need to move faster and more aggressively to cut planet-warming pollution."[11]

> Nations around the world would need to immediately stop approving new coal-fired power plants and new **oil and gas** fields and quickly phase out gasoline-powered vehicles if they want to avert the most catastrophic effects of **climate change**, the world's leading energy agency said Tuesday.

The article also notes the importance for investors:

> That's significant, given the fact that the influential agency is not an environmental group but an international organization that advises world capitals on energy policy. **Formed after the oil crises of the 1970s, the agency's reports and forecasts are frequently cited by energy companies and investors as a basis for long-term planning**. [Emphasis added]

To put it bluntly, the IEA has traditionally been a fairly conservative agency that has been accused of being friendly towards oil and gas interests as recently as last year.

The New York Times also covered the UN-sponsored Production Gap report and its link to the IEA Net Zero Scenario in October 2021 "*Fossil Fuel Drilling Plans Undermine Climate Pledges, U.N. Report Warns: Countries are planning to produce more than twice as much oil, gas and coal through 2030 as would be needed if governments want to limit global warming to Paris Agreement goals."*

> The International Energy Agency recently looked at what would be needed to hold global warming to 1.5 degrees Celsius. All of the world's nations would have to drastically cut their fossil-fuel use over the next three decades until they are no longer adding any greenhouse gases to the atmosphere by 2050, essentially achieving "net zero" emissions.
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> Under that scenario, the agency said, the world's nations would not approve the development

[11] See https://www.nytimes.com/2021/05/18/climate/climate-change-emissions-IEA.html

of any new coal mines or new oil and gas fields beyond what has already been committed today.

The Company has difficulty rationalizing the current effort to exclude investors from deliberating on these key risks and strategy given its declarations of alignment with climate concerns as stated in this excerpt from its 2021 TCFD report: “Chubb recognizes the existential threat of global warming. We further recognize the necessity to move away from a reliance on the fossil fuel carbon emissions that contribute to it. This understanding led Chubb in 2021 to formally support a global transition to a net zero economy by 2050.”

As such, the litmus test of Company policies posed by the Proposal is comprehensible by Chubb Limited investors, appropriate for discussion in the debate and not outside of the grasp of investor deliberation and engagement.

Investor interests in the subject matter of the Proposal

The financing of continued fossil fuel development by the Company poses important questions for its shareholders: stranded assets and reputational risk to the Company, systemic and portfolio wide risk for diversified investors, and due diligence concerns for ESG investors. It is salient for investors to ask the Company, as the largest property and casualty insurance firm in the world, to come into alignment with the leading global benchmarks for a robust climate change mitigation response.

Company Specific Risks

Financial dissonance

Insurance companies are in the business of predicting and estimating the costs of damages caused by natural catastrophes, and they earn profits by balancing their premiums with the probability of losses, by retaining existing customers, and by securing new ones. However, by underwriting customers in carbon-intensive industries, insurers like Chubb are enabling climate change while at the same time undercutting the rest of their customer base which faces increased losses from natural disasters.

The trends in natural catastrophe-related losses are troubling. Even before the close of 2021, the Swiss Re Institute estimated global insured natural disaster losses at $105 billion for 2021. The losses exceed the previous ten-year average, continuing the trend of an annual 5–6% rise over recent decades.[12] Further, secondary perils, such as severe winter storms, a significant flood, a wind event, or a wildfire, which are more difficult to model, are leading to larger insured losses, which may challenge current enterprise risk management capabilities.

The changing size, intensity, frequency, and geography scope of natural catastrophes means that Chubb will have to attenuate its risk by increasing premiums and canceling policies for existing customers. Climate change is inherently unpredictable which is why reducing greenhouse gas emissions as rapidly as possible makes business sense for insurers.

Reputational risk

Chubb Limited engages in many communications on climate change, most notably its declared commitment to support a global net-zero economy. As we discussed above, UNEP FI has defined a *credible financial institution's net-zero commitment, including that of insurers,* as necessitating alignment with global goals including the need to halt financing of new fossil fuel supplies.

As the NGO coalition, Insure Our Future, has written:[13]

TIME FOR CHUBB TO WALK THE TALK

> Chubb, the largest publicly-traded property and casualty insurance company in the world, was an early climate leader among U.S.-based insurers. In 2019, it was the first U.S. insurance company to adopt a policy to limit insurance for coal, and CEO Evan Greenberg is one of few U.S. insurance executives who has been outspoken on the need for the industry to

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[12] https://www.swissre.com/media/news-releases/nr-20211214-sigma-full-year-2021-preliminary-natcat-loss-estimates.html#:~:text=Man%2Dmade%20disasters%20triggered%20another,losses%20seen%20in%20recent%20decades

[13] https://www.insureourfuture.us/chubb

do its part on climate change. Greenberg said that Chubb's coal policy reflected "Chubb's commitment to do our part as a steward of the Earth."

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The Principles for Responsible Investment[14] endorsed by investors with $110 trillion of assets under management articulate six key points of "commitment" for endorsers,[15] some of which directly bear on and would cause investors to be supportive of the current Proposal.

For instance, Principle two states: "We will be active owners and incorporate ESG issues into our ownership policies and practices." The principle describes possible actions including filing "shareholder resolutions consistent with long-term ESG considerations."

Principle three states that: "We will seek appropriate disclosure on ESG issues by the entities in which we invest." Among the possible implementing actions are to **"ask for information from companies regarding adoption of/adherence to relevant norms, standards, codes of conduct or international initiatives** (such as the UN Global Compact)," and "Support shareholder initiatives and resolutions promoting ESG disclosure." [Emphasis added]

The Proposal provides a key opportunity for the Company's investors, including mainstream, ESG and responsible investors, to inquire more deeply and encourage the Company to sustain the credibility of its net-zero commitments, by aligning its policies and moving beyond its current equivocal approach to oil and gas sector supply development.

SYSTEMIC AND PORTFOLIO-WIDE RISKS
The Company's fossil fuel underwriting may be inconsistent with its investors' commitments to alignment with global climate goals

Insurance firms like Chubb Limited face a quandary today. They recognize the important threat posed by climate change, but they have significant investments in and underwriting commitments to the oil and gas sector that make it more difficult to halt underwriting even though they may recognize the long-term systemic impacts associated with continuing to develop fossil fuels. In a sense, this is a long versus short-term value issue, and it is also an issue of whether an individual issuer in a portfolio, like Chubb, may be undercutting global climate goals in a manner that is inconsistent with its investors' commitments.

Many investors and fiduciaries have undertaken policies and commitments to align their portfolios and individual holdings with global climate goals. Thus, shareholders and investment fiduciaries monitoring the global impacts of climate change, in voting on the current Proposal, can provide important input to the board and management as to how to balance these short and long-term interests, and to encourage

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14 The principles note they "were developed by investors, for investors."
15 https://www.unpri.org/pri/what-are-the-principles-for-responsible-investment

companies as well as countries to exercise leadership in the urgent need for a phase down of new fossil fuel development.

To the growing portion of institutional and diversified investors who take seriously their fiduciary obligations to consider and engage on the systemic, economy and portfolio-wide implications of their holdings, the Proposal provides a key opportunity to engage with a major fossil fuel underwriter.

In addition, failure to address these broad concerns poses systemic economic risks. A recent report, *Wall Street's carbon bubble: the global omissions of the US financial sector,* has noted that fossil fuel assets reflect a new market bubble, analogous to subprime mortgages prior to the housing market crash of 2008:

> In order to keep global warming under 1.5 degrees Celsius, there is a finite limit to total emissions, known as the "carbon budget." To remain within that budget, global net anthropogenic CO_2 emissions must decline by 45 percent from 2010 levels by 2030. This will require a rapid phase-out of the largest sources of emissions, including emissions from fossil fuel production.
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> Unfortunately, the potential emissions from currently operating oil, gas, and coal fields and mines alone would send the world past 2°C of warming. Instead of heeding warnings, the fossil fuel industry plans to increase production through 2030, producing twice as much emissions as the carbon budget allows. This means that, if the world is to achieve the 1.5°C warming limit, a portion of existing fossil fuel projects will turn into "stranded assets," defined by the International Energy Agency as "those investments which have already been made but which, at some time prior to the end of their economic life… are no longer able to earn an economic return." Companies are therefore raising and spending capital for projects that will not provide the returns investors expect.
>
> The market is now carrying a significant amount of "unburnable carbon." This means, according to Ben Caldecott, there is a "disconnect between the current value of the listed equity of global fossil fuel producers and their potential commercialisation under a strict carbon budget constraint." This disconnect is termed the "carbon bubble."

As described in a paper by David Comerford and Alessandro Spignati:

> [A]nalogously to the subprime mortgage problem that precipitated the 2008-09 Financial Crisis, the global economy is once again mis-pricing assets as markets overlook this 'unburnable carbon' problem. This issue is termed the 'Carbon Bubble' because the imposition of climate policy consistent with the Potsdam Climate Institute's calculations would mean the fundamental value of many fossil fuel assets must be zero as they cannot be used. Their current market value must therefore be made up of a zero fundamental value, and a 'bubble' component: the Carbon Bubble.[16]

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16 https://www.bankofengland.co.uk/-/media/boe/files/events/2016/november/the-carbon-bubble-climate-policy-in-a-fire-sale-model-of-deleveraging-speaker-paper.pdf?la=en&hash=F6FC6E38ED1334A006F9658A605E77946C8BDE83

> **The scale of this mispricing problem is significant. According to Carbon Tracker Initiative, "governments and global markets are currently treating as assets reserves equivalent to nearly 5 times the carbon budget for the next 40 years." Based on some estimates, the impact of losses from stranded fossil fuel assets may "amount to a discounted global wealth loss of $1-4 trillion**." [Emphasis added]

Thus, the continued refusal by insurance companies as well as other financial institutions to adapt their lending and underwriting to align with a carbon-constrained future in a timely manner may lead to large losses in value throughout the global financial system. If asset repricing occurs abruptly, this inaction will lead to sudden, painful financial and economic shocks that could precipitate a global financial crisis.

This appropriate systemic and portfolio wide concern is connected with fiduciary duties of investors, specifically the fiduciary duty of impartiality which necessitates a balancing of interests of beneficiaries who may draw on the assets in the near term and those for whom retirement or other need for the assets are longer-term and may be undercut by a carbon bubble and related market shocks.[17]

ESG DUE DILIGENCE
Ensuring that investment firms, asset managers and other fiduciaries have information necessary for due diligence on any ESG related claims.

On March 4, 2021, the SEC initiated a new Task Force focused on climate and ESG issues looking primarily at the "veracity of issuers' ESG disclosures as well as those of investment fiduciaries."[18] In the present instance, the current Proposal speaks directly to the credibility of Chubb Limited's climate change pledges and claims, and therefore advances the objectives of the Task Force in ensuring that the credibility of issuer claims on climate change are defensible.

Based on the United Nations' "credible action" document, the credibility of Chubb's climate commitment is on the line in any claims to be aligned with global climate goals without a concurrent commitment to eliminating the funding of new fossil fuel development.

The shareholder Proposal provides an opportunity for the Company's investors to guide Company policy in a manner that would address what appears to be a fundamental flaw in current Company plans. In addition, the shareholder right to file and vote on this Proposal offers the best available opportunity for ESG investment fiduciaries to act on their due diligence responsibilities, to ensure that their ESG commitments are backed with the data and verification necessary to make any ESG claims. To the extent

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[17] A law review article reviewing this duty of impartiality noted in particular that with regard to the potential conflict between long or short term bias: "As a practical matter, such communication is done through stockholders' resolutions, allowing stockholders to express their preferences for certain corporate actions…the fiduciary duty of impartiality provides an analytic framework for the consistent resolution of stockholders' conflicts of interest. It is a balancing test that provides a corporation's board of directors a flexible tool with which to weigh various, and often conflicting, interests of stockholders to reach a resolution that maximizes the value of the enterprise as a whole. Shachar Nir, One Duty to All: The Fiduciary Duty of Impartiality and Stockholders' Conflict of Interest, 16 Hastings Bus. L.J. 1 (2020).
Available at: https://repository.uchastings.edu/hastings_business_law_journal/vol16/iss1/2
[18] *See* SEC Announces Enforcement Task Force Focused on Climate and ESG Issues, *found at* https://www.sec.gov/news/press-release/2021-42

that investment fiduciaries claim that stock holdings in Chubb are ESG or net-zero assets, the request of the Proposal provides a central opportunity to back that claim with due diligence in engagement and stewardship.

This investor due diligence that is enabled by the Proposal is responsive to the demands and scrutiny placed on ESG investors according to the report of the SEC "Division of Examinations' Review of ESG Investing, April 9, 2021. That review noted that numerous investment products and financial services have incorporated ESG to meet demand. The division noted that it will be monitoring the accuracy of disclosures on ESG investing, and that examinations of firms claiming to engage in ESG investing will focus on, among other matters, a review of a firm's policies, procedures, and practices related to ESG and its use of ESG-related terminology; due diligence and other processes for selecting, investing in, and monitoring investments in view of the firm's disclosed ESG investing approaches; and whether proxy voting decision-making processes are consistent with ESG disclosures and marketing materials. The division also noted that 5 Advisers Act Section 206 imposes a fiduciary duty on investment advisers to provide full and fair disclosure of all material facts relating to the advisory relationship and to provide advice that is in the best interest of the client. Investment advisers also have antifraud liability with respect to communications to clients and prospective clients under Advisers Act Section 206. See Commission Interpretation Regarding Standard of Conduct for Investment.[19]

Issues comprehensible to investors

The Proposal and the underlying debate raised by the Company in its no action request are comprehensible to shareholders. Indeed, many of the Company's arguments in the no action request actually demonstrate the propriety of shareholder deliberation on these issues, by demonstrating how a company opposition statement could read. Much of the Company Letter reads as if it is the Company's future opposition to the Proposal in the proxy statement:

> The Company agrees with the Proponent's concerns, but disagrees about how Chubb can address those concerns in the most practical and responsible way. Chubb has made a careful, analytical and thoughtful determination of the role it is best suited to play to support the transition, and its views and strategies are evolving. The Company is prudently evaluating its underwriting of fossil fuels, including through the established and robust governance mechanisms noted above. Chubb assesses each risk presented to it on an individual basis, including risks associated with climate change, and makes underwriting decisions accordingly. In looking at individual energy

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19 The Review also noted, despite claims to have formal processes in place for ESG investing, a lack of policies and procedures related to ESG investing; policies and procedures that did not appear to be reasonably designed to prevent violations of law, or that were not implemented; documentation of ESG-related investment decisions that was weak or unclear; and compliance programs that did not appear to be reasonably designed to guard against inaccurate ESG-related disclosures and marketing materials. They noted further:

• Portfolio management practices were inconsistent with disclosures about ESG approaches.

• Controls were inadequate to maintain, monitor, and update clients' ESG-related investing guidelines, mandates, and restrictions.

• Inadequate controls to ensure that ESG-related disclosures and marketing are consistent with the firm's practices.

• Policies and procedures that addressed ESG investing and covered key aspects of the firms' relevant practices. Controls were inadequate to maintain, monitor, and update clients' ESG-related investing guidelines, mandates, and restrictions.

risks, for example, Chubb may consider the environmental consequences of a particular project, and whether there are alternative methods of producing the energy that pose less risk.
While Chubb continues to monitor and assess its underwriting of fossil fuels, it is continuing to develop and offer new insurance solutions for low- and zero-emission technologies, such as renewables, solar, wind, and clean technology. For example, Chubb's Offshore Wind Farm Policy has been developed to support green energy providers through the entire offshore wind farm process – from project inception through to energy production, storage, and distribution. The Company believes and has expressed that, with supporting actions by governments, this is the path to reduce dependence on fossil fuels. Conversely, blanket underwriting exclusions on energy sources that at this time do not have suitable broadly available energy replacements would neither benefit society or the economy, nor efficiently address the Proponent's objectives.

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While it seems, based on the language in the Proposal and supporting statement, the Proponent seeks for Chubb to adopt blanket restrictions for all fossil fuels now, the Company is instead taking a more nuanced, thoughtful and pragmatic approach to move away from fossil fuels that is still consistent with the Proponent's intent.

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Page 9 of the TCFD Report plainly discloses Chubb's policy on fossil fuel underwriting – that it does not believe that blanket exclusions for all fossil fuels represent a reasonable path to a transition to net zero at this time. Use of fossil fuels still permeates day-to-day life to a very high degree, such as automobile and other travel and home and commercial heating, and alternative energy sources are in many cases not realistic to adopt in some areas of society, particularly impoverished areas. It would be unreasonable and not in line with Chubb's underwriting philosophy to adopt a blanket exclusion where there are no suitable energy replacements on the scale of fossil fuels at this time.

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The Proponent deems these arguments as appropriate for an *opposition statement* — sides of the debate regarding this major issue of company strategy that shareholders can readily consider and deliberate on. These are not arguments that justify exclusion of the Proposal.

The Proposal addresses issues that are of great interest to investors, and within investors' expertise to deliberate, particularly based on reference to benchmarking Company activities against the referenced global benchmarks.

Flexibility, Discretion, Vagueness

The Proposal is neither too vague for purposes of Rule 14a-8(i)(3) nor too directive for purposes of Rule 14a-8(i)(7). It represents an appropriately framed proposal for shareholder deliberation.

After attempting to argue that the Proposal is substantially implemented, the Company Letter goes on to assert simultaneously that the Proposal **is vague, or that it is too prescriptive**, relating to ordinary business and micromanages the Company by constraining the discretion of the board and management.

How flexible or specific should a shareholder Proposal be?

To begin, the shareholder Proposal rule in Rule 14a-8(a) states that a Proposal should "state as clearly as possible the course of action" that the proponent believes "the company should follow"[20] as an advisory "request" for company action. Thus, any claim that the Proposal is overly inflexible must be evaluated against this fundamental guidance in the rule itself. Moreover, as the Company Letter itself demonstrates, failure to be specific invites a company challenge based on vagueness, that either the company or its shareholders will not understand the scope of the Proposal or how it will be implemented.

At the other pole is the potential for the Proposal to encroach too far onto the board and management discretion. But as an advisory proposal, the board and management's discretion is seldom encroached by a proposal. Even after a majority of support on an advisory proposal, the board and management are *expected* to exercise discretion to act as fiduciaries in the interests of the corporation. The request of the current Proposal is advisory, it is not directive.

The Company Letter asserts that the Proposal would provide management with no discretion to assess the risks and opportunities associated with underwriting. However, there is actually substantial flexibility within the guidance of the Proposal for the board and management to define the scope, time frames and parameters of the policy, including defining "new fossil fuel supplies," with an eye toward the well-accepted definition that new fossil fuel supplies include exploration for and/or development of oil, gas, and coal resources or reserves beyond those fields or mines already in production.

In this instance, the Proposal addresses the critical strategic benchmark against which its underwriting activities are being criticized by civil society and global climate experts – the Company's continued underwriting of new fossil fuel supplies in conflict with global climate and temperature goals. Yet, at the same time it provides the board and management with appropriate discretion to define the scope, time frames and parameters of the policy, including defining "new fossil fuel supplies," with an eye toward the well-accepted definition that new fossil fuel supplies include exploration for and/or development of oil, gas, and coal resources or reserves beyond those fields or mines already in production. The Proposal asks a critical question, provides sufficient background information on the question, and offers the board and management appropriate discretion to fill in the details of an aligned company policy.

Significant policy issue analysis and "products and services"

The Company Letter inaccurately asserts that "the Staff has consistently acknowledged that shareholder proposals that could undermine a company's core business model and/or relate to the products and services offered by the company are appropriately excludable under Rule 14a-8(i)(7)."

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[20] *See* Rule 14a-8(a).

Contrary to the Company's assertion, the Staff has made it clear in legal bulletins and in precedents that proposals directed to "nitty-gritty" aspects of the Company's business, including products or services offered, are not excludable to the extent they are focused on significant policy issues and do not attempt to micromanage business relationships. Thus, the current Proposal, which does not instruct the Company as to which clients it should serve but only seeks a policy for underwriting that is consistent with global benchmarks, does not impinge on the ordinary business of the Company in a manner that renders it excludable.

The Proposal does not attempt to dictate lending services or customers. Although such decisions are "nitty-gritty" for the company, where the focus of the proposal is entirely on a significant policy issue, the fact that it may touch on issues related to products and services offered does not cause it to be excludable. Staff Legal Bulletin 14H, October 22, 2015, made this clear:

> [T]he Commission has stated that proposals focusing on a significant policy issue are not excludable under the ordinary business exception "because the proposals would transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote." [Release No. 34-40018] Thus**, a proposal may transcend a company's ordinary business operations even if the significant policy issue relates to the "nitty-gritty of its core business**." [Emphasis added].

The potential for the proposal to touch on a company's products or services is one such "nitty-gritty" issue that does not lead to exclusion when the proposal clearly focuses on a significant policy issue facing the company. So, for example the company made the same type of objection in *J.P. Morgan Chase (February* 28, 2020) where the proposal requested that the company issue a report outlining if and how it intends to reduce the GHG emissions associated with its lending activities in alignment with the Paris Agreement's goal of maintaining global temperature rise below 1.5 degrees Celsius. The company had argued that the proposal impermissibly addressed the offering of products and services, an ordinary business matter. As in the present case, the Company's argument cited the same cases in which the proposal touched on products and services but lacked an overriding significant policy issue,[21] or where the proposal sought to dictate outcomes at the company in offering of particular products or services.[22]

Since the current Proposal raises the significant policy issue of climate and does not dictate outcomes, the Proposal is distinguishable from the cases raised by the Company and is not excludable on this basis. The Staff has long determined that proposals addressing climate risk are appropriate for financial services companies so long as such proposals do not delve into the individual application of such policies to customers. For instance, in *PNC Financial Services Group, Inc.* (February 13, 2013) the proposal requested that the board report to shareholders PNC's assessment of the greenhouse gas emissions resulting from its lending portfolio and its exposure to climate change risk in lending, investing, and

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21 *Hewlett-Packard Co.* (Jan. 23, 2015), in which the Staff concurred with the exclusion of a proposal requesting that the board provide a report on the company's sales of products and services to certain foreign entities, with the Staff noting that the proposal related to ordinary business and "does *not focus* on a significant policy issue" (emphasis added).

22 S*ee also Bank of America Corp. (Trillium)* (Feb. 24, 2010), the Staff concurred in the exclusion under Rule 14a-8(i)(7) of a proposal seeking analysis of the company's implementation of its mountain top removal policy "beyond environmental issues", i.e., whether to extend credit to particular customers.

financing activities. The Staff determined that the proposal was not excludable because it addressed the significant policy issue of climate change. PNC had argued, as the Company does here, that the proposal micromanaged the business or related to products and services. The Staff rejected the claim.

Significantly, the focus of a proposal on a policy level rather than directing the Company's relations with particular suppliers or customers is sufficient to avoid the products and services exclusion. For example, in *TJX Companies (*April 9, 2020) in the proposal requested that the board commission an independent analysis of any material risks of continuing operations without a company-wide animal welfare policy or restrictions on animal-sourced products associated with animal cruelty. The company objected that the proposal was excludable as relating to sales of particular products, but the proponent effectively argued that the policy focus of the proposal on a clear, significant policy issue for the company caused the proposal to transcend ordinary business.

This followed a long line of prior staff decisions. It is well-established that a proposal is not excludable merely because it deals with the sale of a company's products or services where significant social policy issues are implicated--as they are here.

The current Proposal is in some ways similar to the proposal in *J.P. Morgan Chase (*March 13, 2020) where the proposal asked JPMorgan Chase to describe how it plans to respond to rising reputational risks for the company and questions about its role in society related to involvement in Canadian oil sands production, oil sands pipeline companies, and Arctic oil and gas exploration and production. This was not excludable as focused on ordinary business despite a similar relationship to products and services as in the current proposal - inevitably a focus on particular products and services offered in the context of activities that undercut the climate and indigenous rights. One might ask whether the current Proposal's more directive request to adopt a policy alters this relationship. It is clear that it does not — regardless of whether a proposal is cast as a request for a report, or a request for policies, a proposal should abide by the requirements of the rule to state the request in an advisory manner and state as clearly as possible what investors are requesting.

In fact, we see the same logic applied in *Bank of America Corporation* (February 23, 2006) where the proposal requested that the board develop higher standards for the securitization of subprime loans to preclude the securitization of loans involving predatory practices. Despite the focus on establishment of a *particular policy*, the staff nevertheless rejected the ordinary business/products and services connection. If a proposal addresses a transcendent social policy issue, and even if it addresses products and services, shareholders are expected to describe it as clearly as possible what they would like the company to do, both in that precedent and as is done in the current proposal.

Even a proposal that expressly seeks to ban a particular product or service of a company, a more restrictive approach than the current proposal, may transcend ordinary business if it clearly focuses on a significant policy issue relevant to the company. For example, in *Amazon.com Inc*. (March 28, 2019) a proposal that was clearly directed toward a company product was found non-excludable. The proposal requested that the board prohibit sales of facial recognition technology to government agencies unless the board concludes, after an evaluation using independent evidence, that the technology does not cause or contribute to actual or potential violations of civil and human rights, and an ordinary business exclusion similar to the Company Letter on the current proposal was rejected. It wasrejected again on request for reconsideration. The proponent noted: "The Company's Amazon Web Services (AWS) segment is the leading cloud computing company, and is integrating facial recognition software to its services, which the Proposals assert is being done at risk to civil liberties, privacy and public trust in the Company's products and services."

Similarly, proposals seeking to halt the sale of food containing GMO's have been found not to be excludable as addressing ordinary business because of the transcendent policy issue - public concern about the use of and safety of GMO's. Relevant to the present matter is *Quaker Oats Company* (March 28, 2000), in which the proposal requested that the board (1) adopt a policy of removing genetically engineered crops, organisms, or products thereof from all products sold or manufactured by Quaker, where feasible, until long-term testing has shown that they are not harmful to humans, animals, and the environment, with the interim step of labeling and identifying these products, and (2) report to shareholders by August 2000. The Staff was unable to concur that the company was entitled to exclude the proposal in reliance on Rule 14a-8(i)(7), due to the presence of significant policy issues.

Another example was the request of *Yahoo! Inc.* (April 5, 2011) Yahoo! Inc. requested permission to omit a shareholder proposal from its 2011 proxy materials, which directed the company to formally adopt human rights principles to guide its business in China and other repressive countries. Despite the potential impact on products and services offered in China and elsewhere, the Staff concluded that the proposal focused on the significant policy issue of human rights and was not excludable under Rule 14a-8(i)(7).

Analogous to the current proposal was the proposal in *Bank of America Corporation* (February 22, 2008) on implementation of the equator principles. The proposal requested a report to "describe and discuss how Bank of America's implementation of the Equator Principles has led to improved environmental and social outcomes in its project finance transactions. " Bank of America Corporation argued among other things that the proposal related to the company's ordinary business operations, namely the extension of credit and credit decisions. The Staff was unable to accept these views and concluded that exclusion of the proposal from proxy materials was not appropriate under any of the Exchange Act Rules offered by Bank of America Corporation.
Similarly, in *Bank of America* (February 26, 2009) the proposal directly focused on requesting a report to shareholders evaluating with respect to practices commonly deemed to be predatory, the company's credit card marketing, lending and collection practices and the impact these practices have on borrowers. Despite the focus on products and services, the prominence of predatory and subprime lending as an issue of concern transcended the ordinary business concern.

The Staff has long recognized that shareholder proposals may properly address business decisions regarding the sale of products where significant policy issues are at issue. See e.g., *Kimberly-Clark Corp.* (Jan. 12, 1988); *Texaco, Inc.* (February 28, 1984); *American Telephone and Telegraph Company* (December 12, 1985); *Harsco Corporation* (January 4, 1993); *Firstar Corporation* (February 25, 1993). In Staff Legal Bulletin No. 14C, the Division considered proposals related to the environment and public health, which it had previously found to be significant policy considerations, and advised that "[t]o the extent that a proposal and supporting statement focus on the company minimizing or eliminating operations that may adversely affect the environment or the public's health, we do not concur with the company's view that there is a basis for it to exclude the proposal under rule 14a-8(i)(7)." SEC, Division of Corporation Finance, Staff Legal Bulletin No. 14C.

Proposal does not unduly confine board and management discretion

Contrary to the Company's assertions of micromanagement, this advisory proposal asks the Company only to adopt a policy consistent with global climate constraints already articulated by IEA indicating that new fossil fuel development is not compatible with the 1.5°C scenario. The Proposal does not delineate acceptable clients for the Company, but rather seeks for the Company to adopt policies that it can rationalize as aligned with key global climate benchmarks which are considered by many investors and experts to be a litmus test for the credibility of global insurers who are charged with protecting their clients from climate-driven natural disasters. To the extent that the Company's underwriting is aligned with or in conflict with the need to keep undeveloped fossil fuels in the ground, and without a coherent rationale in relation to those global benchmarks, it poses a problem for many investors who are committed to ESG and climate alignment.

Nothing in the Proposal contemplates or demands ceasing underwriting current oil and gas companies; it only asks the Company to establish new policies to help ensure that its underwriting practices do not support new fossil fuel development. The Proposal is agnostic as to which clients the Company provides underwriting to. For instance, to the extent that oil and gas companies are developing renewable or clean energy segments, there is no requirement in the Proposal that would necessitate ending the financing of those initiatives. Indeed, as the IEA has itself pointed out:

> The expertise of the oil and natural gas industry fits well with technologies such as hydrogen, CCUS and offshore wind that are needed to tackle emissions in sectors where reductions are likely to be most challenging.[23]

A compelling demonstration of the flexibility and discretion afforded by the Proposal is contained in the UNEP FI "credible commitments" document. UNEP FI in its credible zero commitments guidance notes that there are multiple possible pathways to credible alignment by companies including an absolute contraction approach, an economic intensity-based approach, a capacity or technology-based approach, a portfolio coverage approach and sectoral alignment. *Whichever of these pathways the board and management should choose, new fossil fuel development is excluded – it is not consistent with 1.5° C alignment.*[24]

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[23] https://www.iea.org/reports/net-zero-by-2050

[24] The UNEP FI notes that there is no universal pathway to 1.5 degrees and that each company must tailor its pathway to its own circumstances. UNEP FI discusses five approaches that a financial institution may take to achieve a 1.5 degree no/low overshoot alignment: 1. 'Absolute contraction' approach a. Reducing the absolute amount of carbon in the portfolio. This can involve early divestment from major sources of carbon.
2. 'Economic intensity-based' approach c. Achieving a greater carbon efficiency per dollar invested. This can involve investing new funds in more carbon efficient companies and/or ceasing to finance major sources of carbon.
3. A 'capacity- or technology-based' approach. This involves identifying fossil fuel sources (or technologies) in the port- folio or loan book and working towards the cessation or replacement of those capacities/technologies.
4. 'Portfolio coverage' approach - providing increasing amounts of capital to companies with transition plans and their own net-zero commitments, either through analyzing asset level data and/or engaging with companies to

To the extent that an oil and gas major is developing a substantial renewable energy project, or developing resources other than fossil fuels, the Proposal is agnostic as to the continuation of or initiation of underwriting activities for particular types of companies.

Rather than seeing this as an unacceptably vague element of the Proposal, as we noted above, the Proponent believes that it clearly demonstrates that the board and management has adequate discretion to ascertain how to implement the Proposal appropriately, including, for instance, providing conditions on underwriting to any of those entities, or integrating nuanced policies as the Company has demonstrated it is well capable of developing on its thermal coal-related policies.

The Proposal merely places a stake in the ground on new fossil fuel development calling for shareholder deliberation on whether the Company, beyond its current proclamations, still needs to make credible commitments aligned with the global 1.5° C temperature goal, as articulated by IEA. The Proposal is clear, unambiguous, and shareholders would have no difficulty determining how to vote on the Proposal, nor would the board or management have difficulty implementing the policy within their discretion.

The Proposal is squarely on target for a shareholder assessment of this key vulnerability in the Company's strategy to date. As Staff Legal Bulletin 14L puts it: "This approach is consistent with the Commission's views on the ordinary business exclusion, which is designed to preserve management's discretion on ordinary business matters but not prevent shareholders from providing high-level direction on large strategic corporate matters."

Rule 14a-8(i)(3) The Proposal is neither vague nor misleading

The Company Letter asserts that the Proposal is vague in that it does not dictate precisely what types of underwriting should be restricted by the Company, but rather leaves it to board and management discretion to assess. This is, as noted above, inconsistent with the argument that the Company makes in its first assertion that the Proposal micromanages.

The Proposal provides sufficient information on IEA, regarding the pivotal segment of that report, which relates to the role of fossil fuels in the scenario. This is the element of the scenario on which investors are

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encourage, track and accelerate company-level net-zero commitments, or taking a bottom-up approach to increase the number of companies which are credibly net-zero aligned as a percentage of the portfolio or loan book
5. 'Sectoral alignment' e.g. 'sector decarbonization approach' in which, over time, all companies in the portfolio or loan book for that sector would be expected to achieve the benchmark carbon/GHG efficiency (as a result this transitions to a portfolio coverage approach over time but has the added benefit of supplying capital to the more efficient companies in the near-term) This can involve overweighting (providing greater amounts of financing to) companies which have a lower energy demand or carbon/GHG emissions per unit of product/output, and underweighting (providing lesser amounts of financing to) those which are less energy or carbon/GHG efficient." Credible commitments guidance at 11-12.

Nevertheless, no matter which method a financial institution utilizes, new fossil fuel development is excluded from any 1.5 degree C pathway. Proponents do not specify a pathway, either. They merely request that the Board craft a credible pathway.

being asked to deliberate – whether or not the Company will avoid supporting an overshoot in supply that would undermine the net zero scenario. The passage that the Company quoted from the Proposal is ample explanation of the relevant strategic question in that external source:

> …the International Energy Agency (IEA) issued a report, *Net Zero by 2050,* which provides a comprehensive pathway for the energy sector to transition to net zero emissions by 2050. The report is unequivocal about the expansion of fossil fuel supplies, saying "Beyond projects already committed as of 2021, there are no new oil and gas fields approved for development in our pathway, and no new coal mines or mine extensions are required" to ensure stable and affordable energy supplies.

The quotation itself demonstrates this is not at all a vague reference to an external source. Numerous Staff determinations have clarified that a reference to an external source is not considered vague where there is ample information in the proposal describing the most relevant aspect of the external source, as well as evidence that general public and investor awareness of the issue enables effective investor consideration.[25]

So, for example in *Bank of America Corporation* (February 12, 2020) a brief discussion in the proposal of the Business Roundtable "Statement of Purpose of a Corporation" combined with the context of visible media coverage of the statement and issue helped to support the Staff's conclusion that the reference to the *Statement* was not vague. The same considerations are relevant here, where the Proposal contains ample description of the relevant aspect of the IEA report, namely the conclusion that no new fossil fuel development is appropriate in the 1.5° C scenario.

Similarly, in *Host Hotels & Resorts, Inc.* (February 28, 2018) the company argued that the reference to Global Reporting Initiative in the proposal was vague as an external standard. The company wrote: "Here, the Proposal is impermissibly vague and indefinite so as to be inherently misleading because, among other things, the Proposal relies on, but fails to describe, the reporting requirements contained in the GRI Standards. Thus, stockholders are being asked to vote to require the Company to prepare a report, but those stockholders are given no background information as to what the report would actually require or contain. As in the current Company Letter, the *Host Hotels & Resorts, Inc*. argued "The GRI Standards are more than 400 pages long, and include over 36 individual reporting standards addressing a range of economic, environmental and social impacts.[2] As such, stockholders would not understand exactly what the GRI Standards require from reading the Proposal or the accompanying supporting statement, which merely provide a cursory description of the more than 400-page document that comprises the GRI Standards." However, the proponent successfully asserted that sufficient information was contained in the proposal and that it was not vague.

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[25] One weak point of this argument is that the Intergovernmental Panel on Climate Change's (IPCC) Special Report on Global Warming of 1.5°C is often cited in shareholder proposals that address climate change. Despite the fact that the report is 630 pages long, shareholders have long been able to grasp its conclusion - that greenhouse gas (GHG) emissions must reach 45% from 2010 levels by 2030 and net zero near 2050 to prevent warming beyond 1.5°C by 2100 - without reading the report.

Range of operations covered by an implementing policy: appropriate discretion to board and management

In an argument that stretches credulity, the Company's Rule 14a-8(i)(3) vagueness argument also asserts that the range of potential contributors to new fossil fuel supplies that could be covered by the policy is too open-ended. The Company Letter notes various scenarios and energy-consuming and -producing sectors that may be encompassed in a policy fulfilling the Proposal. This flexibility demonstrates that the Proposal is leaving appropriate flexibility to board and management to identify and disclose policies to help ensure that its underwriting practices do not support new fossil fuel supplies, in alignment with the IEA scenario. It makes the Proposal not overly prescriptive, and therefore not micromanaging. It does not make the proposal excludable under Rule 14a-8(i)(3).

CONCLUSION

Ultimately, the ability of a shareholder proposal to produce beneficial change at a corporation is grounded in a fundamental test – whether shareholders vote in favor of the proposal. This inevitably turns on shareholders' assessment of whether the proposal will advance value on a short- or long-term basis, whether at the individual company or across the economy.

The current Proposal is consistent with the rights and responsibilities of investors to assess the congruence of portfolio companies' alignment with climate pledges. The Proposal is not substantially implemented, is neither too prescriptive nor too vague, and therefore is not excludable under Rule 14a-8(i)(10), Rule 14a-8(i)(7) or Rule 14a-8(i)(3). Based on the foregoing, we believe the Company has provided no basis for the conclusion that the Proposal is excludable from the 2022 proxy statement pursuant to Rule 14a-8.

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February 18, 2022

Via Email

Shareholderproposals@sec.gov
Securities and Exchange Commission
Division of Corporation Finance
Office of Chief Counsel
100 F Street, N.E.
Washington, D.C. 20549

Re: Chubb Limited – Shareholder Proposal Submitted by
Green Century Equity Fund – Rule 14a-8

Ladies and Gentlemen:

On behalf of Chubb Limited ("Chubb" or the "Company"), I write to provide a brief response to the reply letter dated February 10, 2022, sent by Sanford Lewis (the "Reply Letter") regarding the proposal (the "Proposal") submitted by Green Century Capital Management, Inc., on behalf of a shareholder, Green Century Equity Fund (collectively, the "Proponent"), requesting that "Chubb's Board of Directors adopt and disclose new policies to help ensure that its underwriting practices do not support new fossil fuel supplies, in alignment with the IEA's Net Zero Emissions by 2050 Scenario." As more fully explained in my letter to the Staff dated January 14, 2022 (the "Chubb No-Action Request") and therefore not repeated herein, Chubb believes that the Proposal may and should be excluded from the proxy materials for Chubb's 2022 annual general meeting of shareholders (the "Proxy Materials") in accordance with Rule 14a-8. This letter addresses several of the points made by the Proponent in the Reply Letter.

Chubb Has Substantially Implemented the Proposal

Chubb has substantially implemented the Proposal. The Proposal requests that Chubb adopt and disclose new policies to help ensure that its underwriting practices do not support new fossil fuel supplies. As detailed in the Chubb No-Action Request, the Company has adopted and disclosed a policy restricting coal underwriting of both new and existing coal-related risks, and prominently provides public disclosure of additional goals, efforts and achievements in reducing its greenhouse gas emissions and using its underwriting activities to support an orderly transition away from fossil fuels, not just new fossil fuel supplies. The Reply Letter attempts to sidestep Chubb's substantial implementation of the Proposal by claiming that the purpose of the Proposal is to challenge the Company's current practices with respect to fossil fuel supplies and by characterizing Chubb's coal policy as a "modest gesture." However, the Company's actions compare favorably to the Proposal and satisfactorily address the Proposal's essential objectives and underlying concerns: global warming and Chubb's underwriting practices relating to new fossil fuel supplies.

Reply Letter Amplifies the Micromanagement Intent of the Proposal

The Reply Letter provides further evidence that the Proposal seeks to micromanage the Company by requiring a ban on the Company's underwriting of new fossil fuel supplies in order to fulfill the Proposal. The Reply Letter, echoing a comparable statement that was included in the Proposal, claims that the Company's underwriting of insurance for customers in carbon-intensive industries is fundamentally incompatible with the Company's property and casualty insurance business. The Reply Letter points to specific insurance companies that have adopted policies to cease fossil fuels underwriting and states that it is "the request of the Proposal for the Company to do likewise." The Reply Letter also refers to "the litmus test of Company policies posed by the Proposal." The Reply Letter's choice of the phrase "litmus test" strongly suggests there is only a single way to implement the Proposal's intent, which is for the Company to adopt a prohibition on underwriting of fossil fuels. All of this serves to demonstrate that it is the intent of the Proposal to micromanage the Company.

The Reply Letter seeks to limit the implication of micromanagement by noting the Proposal's request is for a "policy" in alignment with the IEA's Net Zero by 2050 Scenario, and that the Company would have the ability to define scope, timeframe and parameters of the policy. Yet, the Reply Letter also quotes the IAE Net Zero by 2050 Roadmap in bold text that, in order to adhere to the policy requested, "no fossil fuel exploration is required and no new oil and natural gas fields are required beyond those that have already been approved for development." Similarly, when quoting from the United Nations Environment Programme Finance Initiative ("UNEP FI") to support the Proposal, the Reply Letter uses bold text to emphasize the UNEP FI position that commitments from financial institutions should include "the immediate cessation of any new fossil fuel investments, and rapid decommissioning of remaining fossil fuel production." Through statements such as these, the Reply Letter concedes that in order to adopt the policy requested by the Proposal, the Company must prohibit fossil fuels underwriting. Contrary to the Reply Letter's attempts to argue that the Proposal does not confine board and management discretion, the Reply letter itself reveals that the Proponent understands, and in fact intends for, the Proposal not to afford the Company discretion in implementation.

The Proposal is directed to a very specialized issue: insurance underwriting of companies involved in the fossil fuel industry. The Reply Letter asserts that IEA's Net Zero Emissions by 2050 Scenario is a well-established framework to be considered in the context of a micromanagement analysis. However, that report is not a well-established framework with respect to insurance underwriting of fossil fuels, and as noted in the Chubb No-Action Request makes no mention in its over 200 pages of insurance underwriting, let alone underwriting fossil fuels. Investor general familiarity with climate change as an issue does not equate to sophistication in complex insurance underwriting decisions.

Reply Letter Raises Points Not Relevant under Rule 14a-8

Rule 14a-8 provides specific grounds for exclusion of shareholder proposals, which are separate and distinct. Instead of limiting its discussion to points relevant to Rule 14a-8, a significant portion of the Reply Letter is devoted to advocating the Proponent's position that the Proposal is beneficial, which has no bearing on the Rule 14a-8 exclusion analysis. The relevant issue is whether the Proposal, in its submitted form, may be excluded from the Proxy Materials on any of the grounds set forth in Rule 14a-8(i) that are detailed in the Chubb No-Action Request. For example, the Reply Letter includes a section on ESG due diligence, but such due diligence is not determinative of whether Rule 14a-8(i) permits Chubb to omit the Proposal from its Proxy Materials. The Reply Letter also uses speculative and biased statements as advocacy for the Proposal, such as its claim that insurers' actions that fail to align with the underwriting constraints envisioned by the Proposal will "lead to sudden, painful financial and economic shocks that could precipitate a global financial crisis," which assertion has no impact on the Rule 14a-8 analysis required by the Chubb No-Action Request.

Additionally, the Reply Letter asserts that there is a "fiduciary duty of impartiality" relevant to the Chubb No-Action Request. In attempting to support this claim, the Reply Letter cites a law review article (the "Article") which *proposes* applying a trust law concept as a new fiduciary concept in the specific corporate law circumstance involving a conflict of interest between and among holders of common stock and multiples classes of preferred shares. However, the Article does *not* stand for the proposition that a "fiduciary duty of impartiality" exists in the corporate law context. Rather, the Article positions its analysis as a disagreement with the current Delaware law position as applied by Delaware courts, expressly stating that the "Article argues that the current approach the Delaware Chancery Court takes lacks a solution with respect to interclass preference conflicts both for privately held and publicly traded corporations." The context in which the Article proposes a duty of impartiality as an alternative framework is not applicable to Chubb, a company with only one class of shares outstanding. Furthermore, the proposed concept of a fiduciary duty of impartiality raised by the Reply Letter is not at all relevant to the exclusion of the Proposal from Chubb's Proxy Materials in accordance with Rule 14a-8.

Reply Letter Mischaracterizes Chubb's Position

The Reply Letter mischaracterizes Chubb's statements and positions with which the Proponent disagrees. For example, the Reply Letter wrongly and inappropriately labels a Chubb statement regarding being an underwriter of environmental liabilities and pollution risks as potentially misleading, and then attempts to use that disparaging remark to argue that Chubb has not substantially implemented the Proposal. Chubb disagrees with the suggestion that any statement made in the Chubb No-Action Request or in Chubb's TCFD report is potentially misleading. The Reply Letter equates disagreeing with its inflexible approach of blanket underwriting exclusions, in favor of a more nuanced, measured approach, as a "fundamental flaw." In addition to being incorrect, these inflammatory remarks contained in the Reply Letter have no relevance to the analysis as to whether the Proposal is excludable pursuant to Rule 14a-8.

In a similar vein, the Reply Letter makes disingenuous, unsubstantiated assertions which it attempts to extrapolate from the fact that the Company submitted the Chubb No-Action Request in accordance with Rule 14a-8. For example, the Reply Letter claims that the Company "has difficulty rationalizing" its opposition to the Proposal. Yet the Reply Letter cites lengthy excerpts from the Chubb Letter which it identifies as appropriate arguments for opposition. The Reply Letter argues, without a basis, that Chubb's opposition to the very restrictive approach of the Proposal suggests that Chubb is not actually planning to take actions in the fossil fuels area. However, as explained in the Chubb No-Action Request, Chubb believes that a more nuanced, thoughtful and pragmatic approach to move away from fossil fuels is more suitable than the Proposal as a way for the Company to progress with its plans and initiatives with respect to combating global warming and supporting the global transition to net zero.

For the foregoing reasons, I request your confirmation that the Staff will not recommend enforcement action to the Commission if Chubb omits the Proposal from its Proxy Materials.

If the Staff has any questions, please contact Laura Richman of Mayer Brown LLP at (312) 701-7304 or lrichman@mayerbrown.com or the undersigned at (312) 701-7199 or ebest@mayerbrown.com. We would appreciate it if you would send your response by email.

Very truly yours,

Edward S. Best

cc: Gina Rebollar, Chief Corporate Lawyer and Deputy General Counsel, Global Corporate Affairs, of Chubb
Andrea Ranger, of Green Century Capital Management, Inc.
Sanford J. Lewis

SANFORD J. LEWIS, ATTORNEY

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February 22, 2022
Via electronic mail

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

Re: Shareholder Proposal to Chubb Limited Regarding fossil fuels underwriting on behalf of Green Century Equity Fund – Supplemental Response

Ladies and Gentlemen:

Green Century Equity Fund (the "Proponent") is beneficial owner of common stock of Chubb Limited (the "Company") and has submitted a shareholder proposal (the "Proposal") to the Company. I have been asked by the Proponent to respond to the supplemental letter dated February 18, 2022 ("Supplemental Letter") sent to the Securities and Exchange Commission by Edward S. Best of Mayer Brown. A copy of this response letter is being emailed concurrently to Mr. Best.

The Supplemental Letter repeats the Company's assertion in its no action request that the Proposal's request has been substantially implemented due to Chubb's plan to curtail coverage for certain coal-related risks. As noted in our response, the Company's phase out criteria include caveats and exceptions, and nowhere addresses phasing out coverage for new oil and natural gas supplies.

The Supplemental Letter also reiterates the Company's inaccurate interpretation of micromanagement and of the Proposal. We made clear throughout our prior letter that there is no "single way" to implement the Proposal. There are a wide array of approaches suggested in the "credible net-zero" guidance of UNEP FI, including as the Company has noted, deciding which sectors to focus on. Yet, the Company's current narrow focus, principally on coal, cannot reasonably be rationalized by the Company as being "aligned" with the global climate goals, without additional policies consistent with the international benchmarks.

The Proposal does not micromanage but rather asks the Company to take a broad and necessary strategic turn in alignment with global climate goals. Thus, it is appropriate for shareholders to deliberate on whether the Company should live up to credible global fossil fuel supply development requirements. Indeed, the central question of the current Proposal, whether the Company will continue to underwrite fossil fuel development inconsistent with global policy objectives on climate change, represents a fundamental test of the robustness and impact of insurers' strategy. As noted in a *Harvard Business Review* article of May 27, 2021, "How the Insurance Industry Could Bring Down Fossil Fuels":

> Late last year, Lloyd's of London announced plans to stop selling insurance for some types of fossil fuel companies by 2030. In the world of insurance, it was a huge move: the centuries-old institution not only took a clear stand in the industry's debate on climate change, it also cast doubt on the value of the business it intends to give up. And Lloyd's isn't the only one

> with concerns about the future of fossil fuel. Insurers and reinsurers around the world are grappling with issues related to both climate change and the impact of energy transition on their portfolios. Some have made the same commitment that Lloyd's did, and others are likely to follow.
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> The stakes couldn't be higher. The threat of climate change looms large, with implications for decades to come. If we wait for clearer proof than we have today, it may be too late to make a difference.

The Supplemental Letter also suggests that the Proposal addresses a very *specialized* analysis for the insurance sector, neglecting the reality that the Proposal addresses a broad strategic turn necessary to align insured and financed emissions reductions.

The request for a strategic reorientation toward behaviors that are aligned with global climate goals, and therefore less likely to pose systemic financial and physical risks, is a most appropriate topic for a shareholder proposal. As an example, it has never been seen as micromanagement or excludable ordinary business to ask a utility to end the use of nuclear power. Asking utilities to phase out nuclear power, or even particular plants, has long been understood as being directed toward fundamental strategy with major economic and safety concerns. For example, in *DTE Energy Company* (February 2, 2018) the proposal requested that the company commission an independent economic analysis of the potential cost avoidance and the potential financial benefit to shareholders and ratepayers of closing the Company's Fermi 2 nuclear power plant prior to the expiration of the Nuclear Regulatory Commission license. The Staff rejected exclusion under rule 14a-8(i)(7) noting economic and safety considerations attendant to nuclear power plants. This followed numerous similar proposals including *Union Electric Company* (February 28, 1984) requesting the company cancel construction of the company's Callaway Nuclear Power Plant project.

Further, the Supplemental Letter notes that the IEA net-zero framework is not specific to insurance underwriting. As a global energy scenario that affects all participants in the energy industry, the objection by the Company is off the mark. However, the other reference cited in the text of the Proposal itself, the credible net-zero commitments guidance from United Nations Environment Program Finance Initiative, does specifically name insurance companies as among the financial institutions covered by the guidance[1], and notes their roles as asset owners and managers . It further states that a "financial institution's portfolio [i.e., insured and financed emissions for insurance companies] or loan (sometimes called "Portfolio Emissions"), constitute about 97% of their total emissions. Therefore, addressing emissions associated with the financial institution's underlying portfolio exposures (companies, projects, etc.) is the top priority."

The Supplemental Letter goes on to challenge certain details in the Letter and the Proposal, treating as speculative the prospect of fossil fuels exceeding the carbon budget in precipitating severe global financial crises when the gravity of the situation is well understood by the SEC and other distinguished

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[1] High-Level Recommendations for Credible Net-Zero Commitments from Financial Institutions: Input paper to the G20 Sustainable Finance Working Group. https://g20sfwg.org/wp-content/uploads/2021/10/2021-UNEP-FI.-Recommendations-for-Credible-Net-Zero-Commitments.pdf. Pg 7.

bodies including the Treasury Departments' Federal Insurance Office[2] and Office of the Comptroller of the Currency[3], the Federal Reserve[4], and the Department of Defense.[5]

In addition, the discussion of the duty of impartiality is not nearly as speculative as the Supplemental Letter has suggested. The intent of those passages in our initial letter was to demonstrate why investment fiduciaries would want to vote in favor of the Proposal. It is fair to say that many investment fiduciaries currently understand and apply that duty of impartiality is between short-term and longer-term beneficiaries,[6] and connect it to their climate engagement and proxy voting strategies. The Company's opposition to the Proposal places the Company's management and slower climate responsiveness on a potential collision course with those long-term fiduciaries.

As we wrote in our initial response, we believe the Company's arguments are best reserved to an opposition statement and that the Company has given no basis whatsoever for a conclusion that this is an inappropriate topic for deliberation by investors under the shareholder proposal rule. Therefore, we urge the Staff to notify the Company that the Proposal must appear on the 2022 proxy statement.

Sincerely,

Sanford Lewis

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2 https://home.treasury.gov/news/press-releases/jy0337
3 https://www.occ.treas.gov/news-issuances/news-releases/2021/nr-occ-2021-138a.pdf
4 https://www.federalreserve.gov/newsevents/speech/brainard20211007a.htm
5 https://media.defense.gov/2021/Oct/21/2002877353/-1/-1/0/DOD-CLIMATE-RISK-ANALYSIS-FINAL.PDF. Pg 5
6 For instance, trustees have such a duty according to Section 232 of the Restatement of the Law of Trusts: 'If a trust is created for beneficiaries in succession, the trustee is under a duty to the successive beneficiaries to act with due regard to their respective interests.'