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

DIVISION OF
CORPORATION FINANCE

March 30, 2022

Yafit Cohn
The Travelers Companies, Inc.

Re: The Travelers Companies, Inc. (the "Company")
Incoming letter dated January 18, 2022

Dear Ms. Cohn:

This letter is in response to your correspondence concerning the shareholder proposal (the "Proposal") submitted to the Company by the Green Century Balanced 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 its 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.

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

The Travelers Companies, Inc.
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VIA E-MAIL

January 18, 2022

Re: The Travelers Companies, Inc. – Omission of Shareholder Proposal from Proxy Materials Pursuant to Rule 14a-8

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

Ladies and Gentlemen:

The Travelers Companies, Inc. ("Travelers" or the "Company") is filing this letter with respect to the shareholder proposal and supporting statement (collectively, the "Proposal") submitted by Green Century Capital Management, Inc. on behalf of the Green Century Balanced Fund (the "Proponent") for inclusion in the proxy statement and form of proxy to be distributed by the Company in connection with its 2022 Annual Meeting of Shareholders (collectively, the "Proxy Materials").

A copy of the Proposal and accompanying correspondence from the Proponent is attached as Exhibit A. For the reasons stated below, we respectfully request that the Staff (the "Staff") of the Division of Corporation Finance of the Securities and Exchange Commission (the "Commission") not recommend any enforcement action against the Company if it omits the Proposal in its entirety from the Proxy Materials.

Pursuant to Staff Legal Bulletin No. 14D (Nov. 7, 2008) ("SLB 14D"), we are submitting this request for no-action relief to the Staff via e-mail at shareholderproposals@sec.gov, and the undersigned has included her name and telephone number both in this letter and in the cover e-mail accompanying this letter. Pursuant to Rule 14a-8(j) under the Securities and Exchange Act of 1934, as amended (the "Exchange Act"), we are:

1. filing this letter with the Commission no later than 80 calendar days before the date on which the Company plans to file its definitive Proxy Materials with the Commission; and

2. simultaneously providing the Proponent with a copy of this submission.

Rule 14a-8(k) of the Exchange Act and SLB 14D provide that a shareholder proponent is required to send the company a copy of any correspondence that the proponent elects to submit to the Commission or the Staff. Accordingly, we hereby inform the Proponent that if it elects to submit additional correspondence to the Commission or the Staff relating to the Proposal, it must concurrently furnish a copy of that correspondence to the Company. Similarly, the Company will promptly forward to the Proponent any response received from the Staff to this request that the Staff transmits by e-mail or fax only to the Company.

I. The Proposal

The Proposal sets forth the following resolution for adoption by the Company's shareholders:

> Resolved: Shareholders request that the Travelers' 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.

II. Bases for Exclusion

The Company respectfully requests the Staff's concurrence that the Company may exclude the Proposal from its Proxy Materials in reliance on:

- Rule 14a-8(i)(3) and Rule 14a-9 because the Proposal is vague and indefinite, rendering the Proposal in violation of the proxy rules; and
- Rule 14a-8(i)(7) because the Proposal deals with a matter relating to the Company's ordinary business operations.

III. Analysis

A. The Proposal Is Excludable under Rule 14a-8(i)(3) 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 company'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." 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 company's exclusion of a proposal on vague and indefinite grounds where the company and its shareholders might interpret the proposed resolution differently, such that actions taken by the company could significantly differ from the action intended by the shareholders voting on the proposal. *See Puget 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."

The Staff has consistently concurred in the exclusion of proposals pursuant to Rule 14a-8(i)(3) to the extent that a central aspect of the proposal requires an understanding of a definition that is not included in the proposal or the supporting statement. *See, e.g., Boeing Co.* (Feb. 23, 2021) (concurring in the exclusion of a proposal that failed to define key terms related to a requirement that the company's directors have an "aerospace/aviation/engineering executive background" and set 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 permitted the exclusion of proposals pursuant to Rule 14a-8(i)(3) where the proposal references external documents or standards that are central to the

proposal without adequately describing them. 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 Corp. (Apr. 17, 2013, *recon. denied* May 31, 2013). *See also Ashford Hospitality Trust, Inc.* (Mar. 15, 2013); *KeyCorp* (Mar. 15, 2013); *Chevron Corp.* (Mar. 15, 2013) (all permitting exclusion of proposals that referred to the New York Stock Exchange listing standards for the definition of an "independent" director but did not provide the definition).

As further examples, the Staff has concurred in the exclusion of proposals pursuant to Rule 14a-8(i)(3) when the proposals referenced an SEC Staff Legal Bulletin (*General Electric Co.* (Jan. 15, 2015)) or an SEC rule (*Dell Inc.* (Mar. 30, 2012)) without providing an explanation as to what those references required. In its no-action letter in *Dell Inc.*, the Staff 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 in 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 in 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 Corp.* (Mar. 7, 2008); and *Schering-Plough Corp.* (Mar. 7, 2008) (all concurring in 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 the 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 of the Proposal requires knowledge of the content of the IEA Report. The Proposal's inclusion of the phrase "in alignment with the IEA's Net Zero Emissions by 2050 Scenario" injects significant complexity into the Proposal's request and renders it impossible for shareholders to understand what they are being asked to vote upon.

The 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 reports and conclusions of several *different* organizations and publications focused on climate change, such as the Intergovernmental Panel on Climate Change, the UN Environment Programme, the Net Zero Insurance Alliance, and the United Nations Environment Programme Finance Initiative, it only makes one reference to the contents of the IEA Report. That reference provides no insight into what the IEA Report entails. Instead, it states:

> Recently, the IEA issued a report detailing a pathway by which the energy sector can transition to net zero emissions by 2050. Regarding expansion of fossil fuel operations, it states that, "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, a property casualty insurer, and does not provide adequate information about what "alignment with" the report means. In fact, this mention refers only to the IEA Report's application to the energy sector, not the insurance sector. It provides no guidance to shareholders voting on the Proposal as to what they are being asked to vote upon.

The IEA Report is more than 200 pages long, contains a vast amount of detail and is not necessarily digestible by those without an energy background. For instance, it provides more than 400 milestones "spanning all sectors and technologies – 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 the report does not address insurance company underwriting policies related to fossil fuels. It would be impossible for anyone who has read the report to understand how an insurance company can implement a policy in accordance with it; it follows, then, that shareholders voting on the Proposal, which provides no explanation of the contents of the IEA Report, would not understand with any reasonable certainty what actions or measures the Proposal requires.

The Proposal is similar to the proposal in *Exxon Mobil Corp. (Naylor)* (Mar. 21, 2011). In *Exxon Mobil Corp.*, 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 in 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 proposals that the Staff did not find excludable 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 SEC staff disagreed with the company's position, seemingly in light of the fact that the specific terms used in the proposal have become better understood by the general public in recent years, the undefined term at issue in the Proposal is a several hundred-page report; not only would it be

unreasonable to expect shareholders to have read the report, but given the highly technical nature of the report, one would need expertise to be able to appreciate its recommendations or conclusions. Moreover, the Proposal does not even explain how the IEA Report would be applied in the context of the Proposal. 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, the Proposal is excludable pursuant to Rule 14a-8(i)(3) for failing to define or adequately describe the IEA Report, particularly in light of the fact that the IEA Report does not discuss or address underwriting policies related to fossil fuels. Similarly, although the NYSE independence standards may have become more commonly understood over time, such that the Staff no longer permitted the exclusion of proposals similar to the one received by McKesson Corporation cited above, the principles described by the Staff in *McKesson Corp.* are directly applicable to the Proposal. The resolution contained in the Proposal specifies alignment with IEA's Net Zero Emissions by 2050 Scenario. This is a central aspect of the Proposal. And, as discussed above, the IEA's Net Zero Emissions by 2050 Scenario is a lengthy, technical and complex report.

The Proposal's request also results in multiple possible interpretations of how the Proposal could be implemented. For example, there is no guidance or limitation on the scope of customers that the Proposal would have the Company decline insurance coverage to. Among other uncertainties, would the Proposal permit the Company to underwrite customers that have *any* involvement with fossil fuels (*e.g.*, energy generation companies that purchase fossil fuels, contractors that provide equipment or services to exploration and extraction companies, businesses or individuals that consume fossil fuels)? Would the Proposal permit the Company to underwrite other insurance risks of customers *unrelated* to fossil fuels, if the customer engages in fossil fuels, even as a component of its business?

Because of the utter lack of clarity with respect to a term central to the Proposal and the fact that the Proposal is subject to multiple interpretations, neither the shareholders voting for the Proposal, nor the Company in implementing the Proposal (if adopted), would be able to ascertain with any reasonable certainty what actions the Proposal requires. Accordingly, the Proposal is excludable pursuant to Rule 14a-8(i)(3).

B. 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 company may omit from its proxy materials a shareholder proposal that relates to the company'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. 34-40018 (May 21, 1998). In that 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.*

1. *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 the Company's Underwriting Practices and Product Offerings, Which Are at the 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 company's policies in addressing the social and financial impacts of the company's direct deposit advance lending service, noting in particular that "the proposal relates to the products and services offered for sale by the [company]" 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, while the company acknowledged that the proposal addressed an issue that the Staff itself recognized as a "significant policy issue," the company noted that its "decisions as to whether to offer a particular product to its clients and the manner in which the [c]ompany offers 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 that the company'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 TJX Companies, Inc.* (Apr. 16, 2018) (concurring in the exclusion of a proposal requesting that the company's board develop and disclose a new

universal and comprehensive animal welfare policy applying to the company's sale of products, with the supporting statement focusing on the company's sale of products containing fur).

The Proposal implicates the Company's underwriting strategy, which is at the core of the Company's day-to-day business operations as a property casualty insurer. The business of insurance involves a contractual arrangement in which the insurer agrees to bear a policyholder's expected financial risk of future loss, subject to agreed limits, terms and conditions, in exchange for a premium. Underwriting is the process by which the Company evaluates the expected financial risk of future loss and, based on that evaluation, determines whether, at what cost and under what terms and conditions to offer insurance coverage to particular customers. By specifically requesting that Travelers "adopt and disclose new policies" that would outline insurable risks that the Company should not underwrite, the Proposal directly relates to the company's products – i.e., the insurance policies that it sells, through its subsidiaries, to new and existing customers – and prescribes its underwriting strategy. Indeed, both the resolved clause and supporting statement specifically target the Company's insurance offerings as the focus of the Proposal. Yet, underwriting decisions fall squarely within the ambit of management's core business operations and are at the heart of an insurer's business model. For these reasons, the Proposal is excludable as relating to the Company's ordinary business operations under Rule 14a-8(i)(7).

2. *The Proposal Does Not Focus on a Significant Policy Issue for Purposes of Rule 14a-8*

The Company acknowledges the Staff's recent guidance in Staff Legal Bulletin No. 14L (Nov. 3, 2021) ("SLB 14L"), in which it announced that it is rescinding several recent staff legal bulletins and "no longer taking a company-specific approach to evaluating the significance of a policy issue under Rule 14a-8(i)(7)." The Staff explained that "[b]ased on a review of the rescinded SLBs and staff experience applying the guidance in them," in the Staff's view, "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 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 (i)(7) that a proposal 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).

Consistent with new SLB 14L, the Staff has historically 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 in 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 in 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"); *General Electric Co.* (Dec. 7, 2007) (concurring in 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 company'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)); *PPG Industries, Inc.* (Feb. 26, 2015) (concurring, under Rule 14a-8(i)(7), in the exclusion of a proposal requesting a report on options regarding policies and practices the company could adopt to reduce health hazards by eliminating the use of lead in paint and coatings, because the proposal related to the company's product development).

More specifically, the Staff has permitted the exclusion of proposals submitted to financial institutions requesting the adoption of policies regarding lending and credit decisions that arguably involved a social issue. For example, the proposal in *Bank of America Corp. (Trillium Asset Management Corp.)* (Feb. 24, 2010) requested a report describing, among other things, the company's policy regarding the funding of companies engaged predominantly in mountain top removal coal mining. The Staff concurred in the exclusion of the proposal under Rule 14a-8(i)(7), stating that "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 believes that the Proposal is directly comparable to the proposal found to be excludable in *Bank of America Corp.* Although the Proposal mentions "fossil fuel supplies," which may be viewed as related to the significant social policy issue of climate change, the specific action requested is for the Company to "adopt . . . new policies" for "its underwriting practices" – i.e., an action that directly relates to the products that the Company offers to its customers, and, therefore, goes to the core of the Company's ordinary business. Though seemingly couched as a proposal relating to a significant social policy issue, the underlying thrust of the Proposal is to request that the Company cease or limit certain of its product offerings, i.e., insurance policies involving new fossil fuel supplies.

3. 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 within the meaning of Rule 14a-8(i)(7), 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 Corp. (Adam Seitchik)* (Mar. 6, 2020) (concurring in the exclusion of a proposal requesting that the company's board charter a new board committee on climate risk because the proposal sought to micromanage the company); *JPMorgan Chase & Co. (Harrington Investments, Inc.)* (Mar. 30, 2018) (concurring in the exclusion of a proposal requesting the company establish a "Human and Indigenous Peoples' Rights Committee" because the proposal micromanaged the company); *Amazon.com, Inc.* (Jan. 18, 2018, *recon. denied* Apr. 5, 2018) (concurring, on micromanagement grounds under Rule 14a-8(i)(7), in 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, with respect to proposals that request that companies adopt timeframes or targets to address climate change, the Staff stated: "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).

In this case, as discussed earlier, an informed vote on the Proposal requires an understanding of the IEA Report because the action requested by the Proposal must be "in alignment with the IEA's Net Zero Emissions by 2050 Scenario." The IEA's Net Zero Emissions by 2050 Scenario, however, is not a well-established framework that a reasonable investor would be well-equipped to evaluate. Moreover, a reasonable investor would not be sophisticated on the IEA's scenario as it relates to insurance underwriting decisions, because it is an emissions reduction scenario applicable to the global energy sector, not insurance companies.

In addition, the Proponent has not provided 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, in alignment with the IEA Report. Furthermore, even if the Staff will no longer concur in the exclusion of proposals that request the company set environmentally-oriented targets, the Proposal does not afford discretion to management as to how to achieve the Proposal's target of net zero emissions by 2050. Rather, unlike the proposals referenced in SLB 14L, the Proposal dictates the Company's underwriting strategy and prescribes that the Company must align its underwriting policies with the IEA's Net Zero Emissions by 2050 Scenario. This is

despite the fact that many other publications or scenarios also provide roadmaps to achieve net zero emissions and that the supporting statement itself references several different groups and publications that do so.

The Proposal here is similar to the proposal in *Marriott International, Inc.* (Mar. 17, 2010), in which the proposal specified that in order to achieve the goal of saving energy, the company must 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 dictating the company's specific underwriting strategy and requiring compliance with a very specific report when there may be multiple ways to address the Proposal's environmental concerns.

SLB 14L provides an example of the Staff's current approach to micromanagement, citing its recent decision in *ConocoPhillips Co.* (Mar. 19, 2021). The proposal at issue stated:

> RESOLVED: Shareholders request the company to address the risks and opportunities presented by the global transition towards a lower emissions energy system by setting emission reduction targets covering the greenhouse gas (GHG) emissions of the company's operations as well as their energy products (Scope 1, 2, and 3).

The Staff rejected the company's argument that the proposal sought to micromanage the company, stating:

> In our view, the Proposal does not seek to micromanage the Company to such a degree that exclusion of the Proposal would be appropriate. Although the Commission has stated that a proposal seeking to impose specific time-frames or specific methods for implementing complex policies may be excludable because it seeks to micromanage a company (Exchange Act Release No. 34-40018 (May 21, 1998)), *the Proposal only asks the Company to set emission reduction targets; it does not impose a specific method for doing so*. (emphasis added).

The Proposal is distinguishable from the proposal in *ConocoPhillips Co.* The Proposal states that it must be implemented "in alignment with the IEA's Net Zero Emissions by 2050

Scenario." Unlike the proposal in *ConocoPhillips Co.*, the Proposal explicitly *does* impose a specific method for implementation.

Because the Proposal deals with the Company's ordinary business operations, does not focus on a significant policy issue as contemplated by Rule 14a-8, and seeks to micromanage the Company, the Proposal is excludable pursuant to Rule 14a-8(i)(7).

IV. Conclusion

We hereby respectfully request that the Staff express its intention not to recommend enforcement action if the Proposal is excluded from the Company's Proxy Materials in reliance on Rules 14a-8(i)(3) and (7).

If the Staff disagrees with the Company's conclusions regarding omission of the Proposal, or if any additional submissions are desired in support of the Company's position, we would appreciate an opportunity to speak with you by telephone prior to the issuance of the Staff's Rule 14a-8(j) response. If you have any questions regarding this request, or need any additional information, please do not hesitate to contact the undersigned at 917-778-6764 or ycohn@travelers.com.

Sincerely,

Yafit Cohn

Enclosures

cc: Andrea Ranger, Green Century Capital Management, Inc.
A.J. Kess, The Travelers Companies, Inc.

<u>Exhibit A</u>

Copy of the Proposal and Accompanying Correspondence

November 30, 2021

Via Federal Express

Wendy C. Skjerven
Corporate Secretary
The Travelers Companies, Inc.
485 Lexington Avenue
New York, New York 10017

Re: Shareholder Proposal for 2022 Annual Shareholder Meeting

Green Century Capital Management, Inc. ("Green Century") is the investment advisor, agent, manager and representative of the Green Century Funds. Green Century is filing the enclosed shareholder proposal on behalf of the Green Century Balanced Fund (the "Proposal") to be included in the proxy statement of the The Travelers Companies, Inc. (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 Balanced Fund is the beneficial owner of at least $25,000 worth of Travelers' 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 8th and 9th between 9 a.m. and 12 p.m. Eastern or on December 13th 3 p.m. to 5 p.m. Eastern. Green Century is open to additional meeting times 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.

Whereas:

The Intergovernmental Panel on Climate Change (IPCC) reports that global emissions must reach net zero by 2050 in order to limit global temperature increase to 1.5 degrees Celsius by 2100. Both the IPCC and the International Energy Agency (IEA) agree that emissions from burning fossil fuels are the primary driver of climate change. Yet, according to the UN Environment Programme, the world is on track to produce more than double the amount of coal, oil and gas by 2030 that would be allowed under a 1.5 degrees Celsius scenario.

Recently, the IEA issued a report detailing a pathway by which the energy sector can transition to net zero emissions by 2050. Regarding expansion of fossil fuel operations, it states that, "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.

Property and casualty insurers are uniquely exposed to climate risks because they underwrite policies for and invest in the fossil fuel industry, which is annually responsible for approximately 90% of global carbon dioxide emissions. At the same time, insurers, such as The Travelers Companies, Inc. (Travelers), are protecting their customers' homes and businesses from the impacts of climate-driven catastrophes.

Investors have limited insight into the cause of the strategic misalignment of Travelers' underwriting practices. The Company has made no public commitment to limit its underwriting - even for the highest-emitting fuel, coal, and lags behind European peers, such as AXA, Allianz, Aviva, Generali, Munich Re, SCOR, Swiss Re, and Zurich. These insurers founded the Net Zero Insurance Alliance and have committed to transitioning their underwriting portfolios to net zero greenhouse gas emissions by 2050.

To develop a credible net zero commitment, the United Nations Environment Programme 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 the Travelers' 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, at 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 supporting new fossil fuel supplies includes exploration for and / or development of oil, gas, and coal resources or reserves beyond those fields or mines already in production.

Thank you for your attention to this matter.

Sincerely,

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

SANFORD J. LEWIS, ATTORNEY

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

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

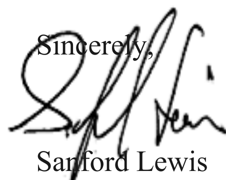
Re: Shareholder Proposal to The Travelers Companies Inc. Regarding Fossil Fuel Underwriting on Behalf of Green Century Balanced Fund

Ladies and Gentlemen:

Green Century Balanced Fund (the "Proponent") is the beneficial owner of common stock of The Travelers Companies Inc. (the "Company" or "Travelers") and has submitted a shareholder proposal (the "Proposal") to the Company. I have been asked by the Proponent to respond to the letter dated January 18, 2022 ("Company Letter") sent to the Securities and Exchange Commission by Yafit Cohn, Chief Sustainability Officer and Group General Counsel of The Travelers Companies, Inc. 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 Ms. Cohn.

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

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 Letter asserts that the Proposal is either too prescriptive (micromanaging under Rule 14a-8(i)(7)) or too vague (Rule 14a-8(i)(3)). 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 prescriptive, constraining the discretion of board and management and too vague – leaving too much discretion. In this instance, in straddling both of these ideas, the Company Letter effectively cancels out its own arguments.

The Letter further claims that the reference to the IEA scenario is vague since the full scenario report is several hundred pages long. 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 several 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 — which gives flexibility for board and management discretion as to how to implement policies in better alignment with that benchmark.

The issue of whether insurers should continue to underwrite new fossil fuel development represents a large strategic challenge for the sector and for the Company. In asking the Company to adopt policies 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 strategies, 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, 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 Intergovernmental Panel on Climate Change (IPCC) reports that global emissions must reach net zero by 2050 in order to limit global temperature increase to 1.5 degrees Celsius by 2100. Both the IPCC and the International Energy Agency (IEA) agree that emissions from burning fossil fuels are the primary driver of climate change. Yet, according to the UN Environment Programme, the world is on track to produce more than double the amount of coal, oil and gas by 2030 that would be allowed under a 1.5 degrees Celsius scenario.

Recently, the IEA issued a report detailing a pathway by which the energy sector can transition to net zero emissions by 2050. Regarding expansion of fossil fuel operations, it states that, "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.

Property and casualty insurers are uniquely exposed to climate risks because they underwrite policies for and invest in the fossil fuel industry, which is annually responsible for approximately 90% of global carbon dioxide emissions. At the same time, insurers, such as The Travelers Companies, Inc. (Travelers), are protecting their customers' homes and businesses from the impacts of climate-driven catastrophes.

Investors have limited insight into the cause of the strategic misalignment of Travelers' underwriting practices. The Company has made no public commitment to limit its underwriting - even for the highest-emitting fuel, coal, and lags behind European peers, such as AXA, Allianz, Aviva, Generali, Munich Re, SCOR, Swiss Re, and Zurich. These insurers founded the Net Zero Insurance Alliance and have committed to transitioning their underwriting portfolios to net zero greenhouse gas emissions by 2050.

To develop a credible net zero commitment, the United Nations Environment Programme 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 the Travelers' 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, at 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 supporting new fossil fuel supplies includes 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. And so has Travelers. In April 2021, the Company announced a goal to achieve carbon neutrality for its operational emissions by 2030. At that time, Travelers highlighted that it was "doing its part to align with the target set forth in the Paris Climate Agreement to limit the global temperature increase in the 21st century to 1.5 degrees Celsius" – a commitment that indicates Travelers' understanding of the need to align with global benchmarks in order to reduce emissions.

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 article, Unextractable Fossil Fuels in a 1.5 °C World*,* published in the 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.

The insurance sector is among the financial sectors within the scope of the United Nations Environment Programme Finance Initiative (UNEP FI), which, along with the IEA, has identified the containment of

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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

supply growth above the world's carbon budget as a critical 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 include 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.

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.

Despite setting a goal of carbon neutrality for its own operations, Travelers' underwriting practices do not mirror its own corporate ambitions. For example, the Company has been identified as one of the top underwriters of the oil and gas industries in the world and provides businesses operating in the oil and gas industry specialized property, inland marine and commercial general liability coverages.[3]

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[3] https://insureourfuture.co/wp-content/uploads/2020/09/InsureOurFuture-Oil-and-Gas-Insurance-Briefing-0620.pdf; From Travelers website: https://www.travelers.com/business-insurance/general-liability/oil-gas

Travelers only recently announced – in January 2022 - policies to curtail underwriting the construction and operation of coal-fired plants and new risks for companies that generate more than 30% of their energy production from coal, more than 30% of their revenues from thermal coal mining, or that hold more than 30% of their reserves in tar sands. However, the policies will not be fully implemented until 2030, suggesting that Travelers is not comprehensively addressing climate risks raised by shareholders.

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. Underscoring this point, 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.[4] Even data collected on insurers' investments in the fossil fuel industry is increasingly unavailable. For example, the California Department of Insurance abruptly stopped collecting data on insurers' investments in 2019 which had provided investors a modicum of insight into insurer's fossil fuel debt and equities. It follows that 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 fuel policies that will encourage insurance companies like Travelers to better manage its risks. Additionally, such a broad-based approach 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.

Despite its recent announcement, Travelers' restrictions on coal and tar sands underwriting do not keep up with peers'. For example, its peer, AXA has gone further than Travelers by establishing 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 underwriting:

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

[4] https://www.nationalobserver.com/2021/04/29/news/trans-mountain-approval-keep-insurers-secret

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, Travelers' limited constraints on underwriting do not.

The Company's limited restrictions on underwriting new fossil fuel supplies for the most carbon-intensive fossil fuels – coal and tar sands - demonstrate how far the Company has to go to halt the underwriting of new fossil fuel supplies. The Company's current policies, as delineated above, avoid underwriting for extraction companies that generate more than 30% of revenues from thermal coal mining and 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, Travelers' policy thresholds may allow underwriting:

- Approximately 51 companies that generate 30% or less of their energy production from coal and that are developing new coal infrastructure.
- Approximately 54 diversified companies that generate 30% or less of their revenues from thermal coal and that are developing new coal mines.

Even for these coal mining, tar sands, and coal burning operations restrictions, 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.

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.

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 of its peers have adopted stronger policies than Travelers:

- 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.

The failure of the Company to match peers, necessitating the Proposal, is reflected in the background section of the Proposal:

> Property and casualty insurers are uniquely exposed to climate risks because they underwrite policies for and invest in the fossil fuel industry, which is annually responsible for approximately 90% of global carbon dioxide emissions. At the same time, insurers, such as The Travelers Companies, Inc. (Travelers), are protecting their customers' homes and businesses from the impacts of climate-driven catastrophes.
>
> Investors have limited insight into the cause of the strategic misalignment of Travelers' underwriting practices. The Company has made no public commitment to limit its underwriting - even for the highest-emitting fuel, coal, and lags behind European peers, such as AXA, Allianz, Aviva, Generali, Munich Re, SCOR, Swiss Re, and Zurich. These insurers founded the Net Zero Insurance Alliance and have committed to transitioning their underwriting portfolios to net zero greenhouse gas emissions by 2050.

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.

ANALYSIS

It should be noted 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 concludes 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.

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 not 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.[5] 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.** [Emphasis added]
>
> ***
>
> 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

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[5] 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.

> 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.
>
> ***
>
> 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?

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. 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.

***

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.[6]

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

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6 https://hbr.org/2021/05/how-the-insurance-industry-could-bring-down-fossil-fuels

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.[7]

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."**[8] [Emphasis added]

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.[9] 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 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]

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

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

[9] https://www.unepfi.org/about/

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.

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.[10] [Emphasis added]
>
> 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. [Emphasis added]

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]

The New York Times also covered the UN-sponsored Production Gap report and its link to the IEA Net Zero Scenario in October 2021, saying:

> 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.

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

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.

Under that scenario, the agency said, the world's nations would not approve the development of any new coal mines or new oil and gas fields beyond what has already been committed today.

Underwriting practices and product offerings: SEC precedents do not lead to exclusion

The Company Letter inaccurately asserts that the Proposal undermines the company's core business model and/or relate to the products and services offered by the company and is therefore excludable under Rule 14a-8(i)(7). 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 strategic redirection -- policies for underwriting that are 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 underwriting 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,[11] or where the proposal sought to dictate outcomes at the company in offering of particular products or services.[12]

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 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 it 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

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[11] *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).

[12] 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.

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 was rejected 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.

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 second-largest property and casualty insurer in the U.S., 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 Travelers 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.[13] 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, and may challenge current enterprise risk management capabilities.

The changing size, intensity, frequency, and geography scope of natural catastrophes means that Travelers will have to attenuate its risk by increasing premiums or canceling policies for existing customers. As Travelers notes in its 2020 TCFD report, "Severe weather trends of the last two decades underscore the unpredictability of future climate trends, and changing climate conditions could add to the frequency and severity of natural disasters…" Therefore, reducing greenhouse gas emissions as rapidly as possible appears to make sound business sense for Travelers.

Reputational risk

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, Connecticut Citizen Action Group, published:[14]

> Why are Connecticut Climate Activists Rallying at a Golf Tournament? The Climate Crisis is Why.
>
> For over a year, the CT Insure Our Future coalition has called on Travelers insurance to adopt real policies that address their investments and underwriting of fossil fuel projects.
>
> ***
>
> In April 2021, Travelers, the second-largest property and casualty insurer in the US, announced plans to become carbon neutral across its owned operations by 2030. However, that commitment failed to address Travelers' massive contribution to climate change: its underwriting and investment portfolios.

The Principles for Responsible Investment[15] endorsed by investors with $110 trillion of assets under management articulate six key points of "commitment" for endorsers,[16] some of which directly bear on and would cause investors to be supportive of the current Proposal.

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[13] 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
[14] https://www.insureourfuture.us/updates/travelers-not-up-to-par-2021
[15] The principles note they "were developed by investors, for investors."
[16] https://www.unpri.org/pri/what-are-the-principles-for-responsible-investment

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 Travelers 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 Travelers, 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 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.

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.[17]

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."[18] [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

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[17] 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
[18]https://static1.squarespace.com/static/61ac8233d16d7417cc6589e3/t/61b84bc6383f9b0e20216046/1639467980190/us_financed_emissions_USL_FIN.pdf

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.[19]

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."[20] 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.

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

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[19] 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

[20] *See* SEC Announces Enforcement Task Force Focused on Climate and ESG Issues, *found at* https://www.sec.gov/news/press-release/2021-42

respect to communications to clients and prospective clients under Advisers Act Section 206. See Commission Interpretation Regarding Standard of Conduct for Investment.[21]

[21] 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.

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.

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.

The Company Letter asserts 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 with, 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"[22] 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.

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

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. 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.

Proposal does not unduly confine board and management discretion

Contrary to its 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 fossil fuel companies are developing renewable or clean energy segments, there is no requirement in the Proposal that would necessitate ending underwriting 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 net-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 because 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.

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 and tar sands 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 Company Letter also 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.

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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 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 <u>credible</u> pathway.

External standards adequately defined in Proposal

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 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

[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.

Standards." However, the proponent successfully asserted that sufficient information was contained in the proposal and that it was not vague.

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)(7) or Rule 14a-8(i)(3). Based on the foregoing, the Company has provided no basis for the conclusion that the Proposal is excludable from the 2022 proxy statement pursuant to Rule 14a-8. We urge the Staff to deny the no action request.

The Travelers Companies, Inc.
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VIA E-MAIL

March 9, 2022

Re: The Travelers Companies, Inc. – Omission of Shareholder Proposal from Proxy Materials Pursuant to Rule 14a-8

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

Ladies and Gentlemen:

The Travelers Companies, Inc. ("Travelers" or the "Company") is filing this letter to provide a brief reply to the letter dated February 22, 2022, sent by Sanford Lewis (the "Lewis Ltr.") regarding the shareholder proposal and supporting statement (collectively, the "Proposal") submitted by Green Century Capital Management, Inc. on behalf of Green Century Balanced Fund (the "Proponent"). The Proposal requests that Travelers "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 below and in the Company's letter to the staff of the Division of Corporation Finance (the "Staff") of the Securities and Exchange Commission (the "Commission") dated January 18, 2022 (the "Travelers Ltr."), Travelers believes that, pursuant to Rule 14a-8, the Proposal may be properly excluded from the proxy statement and form of proxy to be distributed by the Company in connection with its 2022 Annual Meeting of Shareholders (collectively, the "Proxy Materials").

Pursuant to Rule 14a-8(j), we are simultaneously providing the Proponents with a copy of this submission. The Company will promptly forward to the Proponents any response received from the Staff to this request that the Staff transmits by email or fax only to the Company.

Much of the Proponent's letter is irrelevant to an analysis regarding the appropriate application of Rule 14a-8. To preserve valuable Commission resources, Travelers is only responding to those statements that appear to relate to the legal arguments in the Company's no-action request.

As an initial matter, Travelers' position that the Proposal is excludable pursuant to both Rules 14a-8(i)(3) and (i)(7) is not "self-contradictory" as the Proponent claims. Lewis Ltr. 1. The

Company does not "argue[] at the same time that the Proposal is too prescriptive, constraining the discretion of board and management and too vague – leaving too much discretion." *Id.* This description grossly misconstrues the Company's argument. The Proposal is excludable under Rule 14a-8(i)(7) for being overly prescriptive because the Company would be required to align its policies with a 200+ page report. In addition, the Company's letter in no way asserted that the Proposal is excludable under Rule 14a-8(i)(3) because it leaves too much discretion; rather, it is vague primarily in light of the lack of clarity with respect to the contents and application of the 200+ page report that is central to the Proposal – *i.e.*, a term that shareholders would not be able to understand without conducting external research. The two arguments are distinct and complementary; they do not contradict each other.

I. <u>The Proposal Is Excludable Under Rule 14a-8(i)(7)</u>

The Proponent repeatedly mischaracterizes – and, in fact, rewrites – the Proposal, in an attempt to distract from its focus on the Company's ordinary business and downplay its prescriptive elements. Among many such examples, the Proponent alleges that "[t]he Proposal does not attempt to dictate underwriting services or customers" and that it "does not instruct the Company as to which clients it should serve but only seeks a strategic redirection – policies for underwriting that are consistent with global benchmarks." Lewis Ltr. 14. Yet, by requiring the Company not to underwrite "new fossil fuel supplies" and to align its underwriting policies with the IEA's Net Zero Emissions by 2050 Scenario (the "IEA Report"), the Proposal plainly instructs the Company as to which risks not to write. The term "strategic redirection" is an egregious misrepresentation of the Proposal's request and an apparent euphemism for directing the Company not to provide insurance coverage for certain risks. As the Company explained in its initial submission, the Proposal's request that Travelers "adopt and disclose new policies to help ensure that its underwriting practices do not support new fossil fuel supplies" directly relates to the Company's products and prescribes its underwriting strategy. *See* Travelers Ltr. 9. The Proponent's letter seeks to convince the reader that a completely different Proposal is at issue here. However, a plain reading of the text of the Proposal, as submitted, leads to the unambiguous conclusion that the Proposal focuses on the Company's products and services, and that its implementation would directly implicate the Company's ordinary business operations.

The Proponent's letter proceeds to imply that the Company did not provide a Rule 14a-8(i)(7) analysis regarding proposals that focus on a significant policy issue. *See* Lewis Ltr. 14. The Company, however, directly addressed this issue in its no-action request, discussing the Staff's guidance and relevant no-action letter precedent that confirms the Company's view that the Proposal is excludable pursuant to Rule 14a-8(i)(7), regardless of whether it implicates a significant policy issue. *See* Travelers Ltr. 9-10. The Proponent cites to a litany of no-action letters in which the Staff denied exclusion under Rule 14a-8(i)(7) because the proposal at issue focused on a significant policy issue. *See* Lewis Ltr. 14-17. All of those letters, however, involve materially different proposals and, on that basis, are wholly irrelevant to an analysis of the Proposal. *See* Lewis Ltr. 14-17. Most notably, unlike the Proposal, not one of the proposals in the letters cited by the Proponent would impose a specific method for implementing the

proposal. As the Company noted in its initial submission, the Commission has stated that a proposal seeking to impose specific timeframes or specific methods for implementing complex policies may be excludable because it seeks to micromanage a company. Exchange Act Release No. 34-40018 (May 21, 1998).

The Proponent, in all of its references to Staff Legal Bulletin No. 14L (Nov. 3, 2021) ("SLB 14L"), did not address the example the Staff provided therein regarding its current approach to Rule 14a-8(i)(7) micromanagement arguments, and did not attempt to compare the Proposal to this example. In SLB 14L, the Staff explained:

> Our recent letter to ConocoPhillips Company[] provides an example of our current approach to micromanagement. In that letter the staff denied no-action relief for a proposal requesting that the company set targets covering the greenhouse gas emissions of the company's operations and products. The proposal requested that the company set emission reduction targets and *it did not impose a specific method for doing so*. The staff concluded this proposal did not micromanage to such a degree to justify exclusion under Rule 14a-8(i)(7). SLB 14L (emphasis added).

In contrast to the *ConocoPhillips* example, the Proposal imposes a specific method of implementation by mandating alignment of the Company's underwriting policies with a specific 200+ page report, such that the Proposal does not "afford discretion to management as to how to achieve [its] goals." SLB 14L. In addition, unlike in *ConocoPhillips*, implementation of the Proposal would require the Company to take specific actions with respect to its product offerings – namely, to cease underwriting specific types of risk.

The Proponent claims that because the Proposal is advisory, it cannot micromanage the Company. *See* Lewis Ltr. 23. This statement has no foundation in Rule 14a-8 and is inconsistent with Staff precedent. In fact, in its no-action request, Travelers cited to examples of advisory proposals that the Staff found to be excludable pursuant to Rule 14a-8(i)(7) for seeking to micromanage the company at issue. *See* Travelers Ltr. 11 (citing *Exxon Mobil Corp. (Adam Seitchik)* (Mar. 6, 2020); *JPMorgan Chase & Co. (Harrington Investments, Inc.)* (Mar. 30, 2018)). *See also Apple Inc. (Christine Jantz)* (Dec. 21, 2017); *SeaWorld Entertainment, Inc.* (Mar. 30, 2017, *recon. denied* Apr. 17, 2017); *The Coca-Cola Company* (Feb. 16, 2022).

The Proponent also does not respond to the Company's statement in the micromanagement discussion of its initial letter that there is a conspicuous lack of 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, in alignment with the IEA Report. *See* Travelers Ltr. 11. Instead, the Proponent attempts to establish the purported existence of robust public discourse by citing to two newspaper articles that do not mention the insurance industry at all, but rather what countries should be doing to address changing climate conditions. *See* Lewis Ltr. 13.

Both the absence of relevant public discourse on the specific topic of the Proposal and the imposition of a detailed method of implementation render the Proposal excludable on micromanagement grounds pursuant to Rule 14a-8(i)(7).

II. The Proposal Is Excludable Under Rule 14a-8(i)(3)

As the Company detailed in its initial submission, the Proposal is fatally flawed in light of its utter lack of clarity with respect to a term central to the Proposal. Specifically, the Proposal's failure to explain what the IEA Report entails or the IEA Report's applicability to Travelers' insurance business renders the Proposal ambiguous. Specifically, this failure subjects the Proposal to multiple interpretations such that neither the shareholders voting for the Proposal, nor the Company in implementing the Proposal (if adopted), would be able to ascertain with any reasonable certainty what actions the Proposal requires. *See* Travelers Ltr. 2-7. Accordingly, the Proposal is excludable pursuant to Rule 14a-8(i)(3).

Additionally, putting aside the aforementioned confusion resulting from tying the Proposal's request to the undefined IEA Report, ambiguities abound with respect to how Travelers, a property casualty insurer, is expected to implement the Proposal. For example, the Proposal does not address the fact that a wide variety of industries support the energy industry and are intertwined with the exploration and drilling for new fossil fuel supplies; these industries range from manufacturing to construction to engineering to technology, and the list goes on. Without further clarification, the Company cannot comprehend what underwriting activity, exactly, the Proposal requests the Company to cease. Consider, for example, a food service company that provides food for workers on a drilling site. Should Travelers refuse insurance coverage to that food service company? What about the chef who prepares that food? Should the Company not provide that chef with workers compensation coverage? Consider, too, a company that supplies safety equipment and gear to various companies and operations, including an offshore rig. Should Travelers decline to provide that company with insurance? These are but a few examples of the long list of industries that could be implicated by the Proposal. The Proponent's suggestion that the Proposal can be easily understood and implemented fails to reflect the many possible interpretations of the Proposal or to acknowledge the wide-ranging real-world implications of the Proposal, depending on how it is read. For these reasons too, neither shareholders nor the Company can ascertain with any reasonable certainty what actions the Proposal requires, rendering the Proposal impermissibly vague and thus excludable under Rule 14a-8(i)(3).

Conclusion

Based on the foregoing, the Company respectfully reiterates its request that the Staff express its intention not to recommend enforcement action if the Proposal is excluded from the Company's Proxy Materials in reliance on Rules 14a-8(i)(3) and (i)(7).

U.S. Securities and Exchange Commission
Division of Corporation Finance
Office of Chief Counsel

If the Staff disagrees with the Company's conclusions regarding omission of the Proposal, or if any additional submissions are desired in support of the Company's position, we would appreciate an opportunity to speak with you by telephone prior to the issuance of the Staff's Rule 14a-8(j) response.

If you have any questions regarding this request, or need any additional information, please do not hesitate to contact the undersigned at 917-778-6764 or ycohn@travelers.com.

Sincerely,

Yafit Cohn

cc: Andrea Ranger, Green Century Capital Management, Inc.
A.J. Kess, The Travelers Companies, Inc.

SANFORD J. LEWIS, ATTORNEY

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March 16, 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 The Travelers Companies Inc. regarding policies on underwriting fossil fuel supplies on behalf of The Green Century Balanced Fund

Ladies and Gentlemen:

The Green Century Balanced Fund (the "Proponent") is beneficial owner of common stock of The Travelers Companies Inc. (the "Company") and has submitted a shareholder proposal (the "Proposal") to the Company. We previously responded to the Company's no action request of January 18, 2022 ("Initial Request") on February 22, 2022 ("Initial Response"). I have been asked by the Proponent to respond to the supplemental letter dated March 9, 2022 ("Supplemental Letter") sent to the Securities and Exchange Commission by Yafit Cohn. A copy of this supplemental response letter is being emailed concurrently to Ms. Cohn.

The Supplemental Letter doubles down on the Company's contentions regarding the excludability of the Proposal. Yet, the Company has failed to provide any basis for exclusion.

Self-contradictory Rule 14a-8(i)(7) and Rule 14a-8(i)(3) requests

The Supplemental Letter, pages 1 and 2, claims that the assertion in our Initial Response that the no action request is self-contradictory is misplaced. The Company's initial letter stated:

> The Proposal's request… results in multiple possible interpretations of how the Proposal could be implemented. For example, there is no guidance or limitation on the scope of customers that the Proposal would have the Company decline insurance coverage to. Among other uncertainties, would the Proposal permit the Company to underwrite customers that have any involvement with fossil fuels (e.g., energy generation companies that purchase fossil fuels, contractors that provide equipment or services to exploration and extraction companies, businesses or individuals that consume fossil fuels)? Would the Proposal permit the Company to underwrite other insurance risks of customers unrelated to fossil fuels, if the customer engages in fossil fuels, even as a component of its business?[1]

As we made clear in our prior response, these issues that the Company chooses to treat as

[1] The Supplemental Letter, page 4, repeated this line of argument.

vagueness or uncertainty are areas of flexibility provided to the board and management. The Company's contradictory stance is apparent. Moreover, we adequately rebutted the idea that the reference to the International Energy Agency's (IEA) Net Zero by 2050 Roadmap ("IEA Report") constitutes reference to a vague external standard in our Initial Response, page 26.

A proposal seeking strategic redirection does not micromanage

The Supplemental Letter next reiterates the Company's prior assertions that the Proposal micromanages by "seeking to impose specific time frames or specific methods for implementing complex policies." The Company again disputes our characterization of the Proposal as providing shareholders an opportunity to provide strategic redirection, and asserts, as a blanket matter, that our references to Staff precedents are materially different from the current Proposal.

Numerous examples cited in our prior correspondence showed that a significant policy issue can transcend ordinary business, even on proposals that address a company's products and services. However, in the more recent determination in *Citigroup Inc.* (March 7, 2022) the Staff rejected exclusion on ordinary business or micromanagement on a proposal virtually indistinguishable from the current Proposal. That proposal asks the board to adopt a policy by the end of 2022 committing to proactive measures to ensure that the company's lending and underwriting do not contribute to new fossil fuel supplies inconsistent with fulfilling the IEA's Net Zero Emissions by 2050 Roadmap and the United Nations Environmental Program Finance Initiative recommendations to the G20 Sustainable Finance Working Group for credible net zero commitments.[2]

The current Proposal is so similar that we believe the *Citigroup* determination provides the clearest guidance for the current matter. The Proponent requests that the Travelers' 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 Citigroup proposal requested "a policy to adopt proactive measures" to ensure that the company's lending and underwriting do not contribute to new fossil fuel supplies inconsistent with the IEA's net zero roadmap and the UNEP FI recommendations. The distinctions between these two proposals are minimal, and because insurers have a major role to play in supporting fossil fuels development, as described below, there is no doubt that the two companies stand in parallel positions and that the similar proposal that does not address ordinary business at Citigroup demonstrates that the current Proposal does not address ordinary business either.

The Supplemental Letter reiterates the argument that asking the Company to develop policies consistent with the global benchmark of IEA is inflexible and therefore

[2] We agree that the Citigroup proposal is a closer analog to the current proposal than the Conoco Phillips precedent mentioned in Staff Legal Bulletin 14 L.

micromanagement, because it may imply some changes to the Company's underwriting. The strength of a global benchmark is that it represents an agreed upon external global goal against which behavior of corporations is measured. A strategic reorientation imposed by an individual investor might constitute micromanagement, but when the United Nations has converged on the need for a strategic reorientation of both governments and corporations, investors echoing that external standard can no longer be said to be micromanaging the company.[3] The Proponent agrees that global benchmarks do have a quality of inflexibility about them – they represent authoritative interpretations of planetary boundaries. The 1.5°C global goal for temperature increase represents a scientific determination as to an important planetary boundary that is in danger of being breached by human activities, and the UNEP and IEA scenarios reflect those entities' interpretation of the changes in economic activity necessary for staying within that boundary. It is due to this approach planetary boundary – the limits of what our global atmosphere can handle – that we have indeed reached a time in which we are losing flexibility as to how a company like The Travelers Companies Inc. does business. The Proponent believes that a new strategy is appropriate.

Thus, when the Supplemental Letter asserts that such a benchmark is inflexible in that it necessitates significant alteration of its underwriting portfolio, the Proponent does not disagree that it *does require some changes* to the Company's underwriting activities. However, as we demonstrated and documented in our response, within that benchmark there is substantial flexibility for the Company to define pathways by which it will work within that limitation. As we noted in our Initial Response, page 24, footnote 24, there are numerous possible pathways for the Company to align its underwriting with the UNEP and IEA benchmarks. Thus, as in the *Citigroup* proposal, this is not an instance where the Proposal is prescribing complex methods for *implementing* the benchmark.[4]

<u>Ability of shareholders to deliberate on the Proposal</u>

[3] This does not mean that a proposal seeking a strategic reorientation in the absence of a global standard necessarily micromanages. Evaluation is still appropriate against the other related questions as to whether the strategic reorientation, as framed, represents a reasonable deliberation for investors. It doesn't require an external standard for the Staff to understand that a strategic reorientation towards safer behaviors in the face of societal needs is most appropriate 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.

[4] We disagree with the Company's interpretation of advisory proposals as micromanaging. In our experience, it is actually quite unusual for an *advisory proposal* to constrain the discretion of board or management. Nevertheless, it is not necessary for the Staff to conclude broadly that an advisory proposal does not micromanage in order to find that the current proposal does not micromanage given the substantial flexibility and discretion afforded by the Proposal as to how to align with the benchmark.

The Supplemental Letter also asserts that we provided insufficient demonstration in our Initial Response that the Proposal does not probe too deeply for investor consideration. In this instance, the foundation for investor deliberation is the reality that the insurance sector is known to be an essential ingredient in driving market determinations as to whether or not new fossil fuel supplies will be developed, inconsistent with the IEA net zero scenario. Very simply, this reality is something that the Company's investors can well consider and deliberate on, and advise the Company whether its strategy appears to be aligned.

Whether the Company and other insurers similarly situated choose to underwrite new fossil fuel development may well be determinative as to whether or not we, globally, achieve the IEA net zero scenario. The evidence from the market demonstrates that insurers, and their investors, are making a significant mark on the redirection of energy company investments in new fossil fuel development.

As insurers have begun to limit underwriting coal and tar sands operations, companies in those industries are experiencing financial constraints. For example, Peabody Energy Corp. noted in its 2018 annual report, "Our financial assurance obligations may increase or become more costly due to a number of factors, and surety bonds and letters of credit may not be available to us, particularly in light of some insurance companies' announced unwillingness to support fossil fuel companies."

Willis Towers Watson writes in its *Energy Market Review 2019* "With the ever increasing focus on environmental concerns, insurers are under pressure from investor activists to demonstrate their sustainability credentials. This will increasingly dictate their underwriting appetite; as an example, certain carriers no longer insure oil sands/fracking activities, while others are not permitted to insure energy clients that have over a certain percentage of their activities related to fossil fuels. While there is still sufficient capacity to cover the needs of most clients, we see this as an increasing trend which will put pressure on the availability of capacity for the less environmentally friendly natural resource sectors in the future."[5]

The insurance restrictions on coal have constrained options for utilities as well, including a number of U.S.-based utilities.

At the 2020 annual general meeting of the Basin Electric Co-op (a utility covering a five-state territory), the CFO stated that:

> Basin Electric is continuing to diversify its generation portfolio, this year adding solar to our already diverse mix of coal, natural gas, wind, and other sources. This is important from a financial perspective because the insurance companies, investors and banks we deal with, as well as the ratings agencies, are putting an increased focus on both the qualitative and quantitative aspects of the ESG, or Environmental, Social, and

[5] https://www.wtwco.com/en-US/Insights/2019/04/energy-market-review-2019-adjusting-to-change. P 73.

> Governmental factors that are becoming increasingly prevalent.

Similarly, Duke Energy Corporation states in its 2020 climate report that insurance poses an economic risk to the company:

> Property insurance companies have said publicly that they intend to stop providing insurance to companies that have above a certain amount of coal generation, or have said that they will only provide coverage if a company has a plan to decrease that over a reasonable period of time. As noted above, Duke Energy has retired significant amounts of coal capacity and has plans to retire more. The below discussion of our strategy to meet our net-zero CO2 emissions goal shows that coal will be phased out of our generation fleet.

Finally, Emera, a Canadian company that holds several U.S. utilities noted in 2020 that:

> Insurance companies have begun to limit their exposure to coal-fired electricity generation, and are evaluating the medium and long-term impacts of climate change which may result in fewer insurers, more restrictive coverage and increased premiums.

In terms of the growing list of global insurers excluding coal, oil and gas related-insurance, the number withdrawing fossil fuel cover stands at:

- 38 insurers have committed to end or restrict insurance services for coal.
- 17 insurers have committed to end or restrict underwriting for tar sands projects.
- 14 insurers have committed to end or restrict underwriting for Arctic fossil fuel development.
- 5 insurers have committed to end cover for all new oil and gas production.

These developments have not evaded media coverage. For instance, on October 26, 2021, the *Washington Post* published an article entitled "What could finally stop new coal plants? Pulling the plug on their insurance. *How insurance giants might accomplish what generations of climate activists have not."*[6] [Emphasis added] The article noted that, "The campaign to stop the proliferation of coal plants may come down to a bit of financial engineering: pulling the plug on insurance coverage." Further, the CEO of Axa, Thomas Buberl, was quoted as saying: "Without insurance there is no financing," and, "If you get the majority of the market together to align on principles of insuring in a climate-friendly way, it will have an even bigger effect on financing."

The Harvard Business Review article *"How the Insurance Industry Could Bring Down Fossil Fuels"* that we cited in our Initial Response, page 10, noted that this focus on fossil fuel underwriting is part of a larger trend in investor focus on ESG over the prior two years. "Specifically, we've noticed a distinct increase in client discussions — and pressure from investors — around ESG and the coverage insurers and reinsurers (who effectively provide

[6] https://www.washingtonpost.com/climate-environment/2021/10/26/climate-change-insurance-coal/

insurance to insurers) are willing to offer."

Investor advocates are also conducting webinars and other educational efforts to assist ESG investors in assessing whether insurers are measuring up to global expectations. The Company was notably considered a laggard among insurers in its coal underwriting policies in a recent investor presentation on insurance and climate change hosted by the Interfaith Center on Corporate Responsibility.

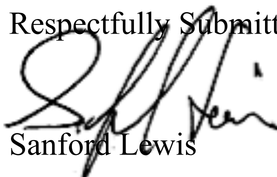
In short there is ample evidence that the Proposal is consistent with investor discourse on climate change, and does not "probe too deeply" for investor consideration.

Rule 14a-8(i)(3)

The Company once again attempts to argue that the Proposal is vague and excludable under Rule 14a-8(i)(3) as well as under Rule 14a-8(i)(7). We previously addressed these issues on page 24 of our Initial Response. We would add here that the recent Citigroup ruling also addressed claims of vagueness regarding the similar proposal regarding what constitutes "contributing" to new fossil fuel supplies. If anything, the current Proposal is more clear in its definitions and scoping, with a supporting statement that makes it clear that **"**The board and management, at 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 supporting new fossil fuel supplies includes exploration for and/or development of oil, gas, and coal resources or reserves beyond those fields or mines already in production." As such, the current Proposal is, if anything, less vague than the Citigroup proposal and is not excludable under Rule 14a-8(i)(3).

In these and all other aspects we stand by our Initial Response. The Company has not demonstrated that the Proposal is excludable under the shareholder proposal rule. We urge the Staff to notify the Company that the proposal must appear on the 2022 proxy statement.

Respectfully Submitted,



Sanford Lewis