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

DIVISION OF
CORPORATION FINANCE

January 19, 2022

Lillian Brown
Wilmer Cutler Pickering Hale & Dorr LLP

Re: The Walt Disney Company (the "Company")
Incoming letter dated October 26, 2021

Dear Ms. Brown:

This letter is in response to your correspondence concerning the shareholder proposal (the "Proposal") submitted to the Company by the National Legal and Policy Center (the "Proponent") for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders.

The Proposal requests that the Company report on the process of due diligence, if any, that the Company undertakes in evaluating the human rights impacts of its business and associations with foreign entities, including foreign governments, their agencies, and private sector intermediaries.

We are unable to concur in your view that the Company may exclude the Proposal under Rules 14a-8(b) and 14a-8(f). The proof of ownership letter that the Proponent provided is clear on its face and provides sufficient evidence that, at the time the Proponent submitted the Proposal, it met the requisite ownership requirements under Rule 14a-8(b)(1)(i). The staff takes a plain meaning approach to interpreting the text of proof of ownership letters, and expects companies to apply a similar approach. Companies should not seek to exclude a shareholder proposal based on drafting variances in the proof of ownership letter if the language used in such letter is clear and sufficiently evidences the requisite minimum ownership requirements. *See* Staff Legal Bulletin No. 14L (Nov. 3, 2021). In addition, we note that the proof of ownership statement was provided by a broker that provides proof of ownership statements on behalf of its affiliated DTC participant.

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: Peter Flaherty
National Legal and Policy Center

WILMERHALE

Lillian Brown

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lillian.brown@wilmerhale.com

October 26, 2021

Via E-mail to shareholderproposals@sec.gov

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

Re: The Walt Disney Company
Exclusion of Shareholder Proposal by National Legal and Policy Center

Ladies and Gentlemen:

We are writing on behalf of our client, The Walt Disney Company (the "Company"), to inform you of the Company's intention to exclude from its proxy statement and proxy to be filed and distributed in connection with its 2022 annual meeting of shareholders (the "Proxy Materials") the enclosed shareholder proposal and supporting statement (collectively, the "Proposal") submitted by the National Legal and Policy Center (the "Proponent") requesting that the Company "report on the process of due diligence, if any, that the Company undertakes in evaluating the human rights impacts of its business and associations with foreign entities, including foreign governments, their agencies, and private sector intermediaries."

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

Pursuant to Rule 14a-8(j) of the Securities Exchange Act of 1934, as amended (the "Exchange Act") and Staff Legal Bulletin No. 14D (November 7, 2008) ("SLB 14D"), the Company is submitting electronically to the Commission this letter, and the Proposal and related correspondence (attached as Exhibit A to this letter), and is concurrently sending a copy to the Proponent, no later than eighty calendar days before the Company intends to file its definitive Proxy Materials with the Commission.

Background

On September 21, 2021, the Company received the Proposal from the Proponent, which states in relevant part as follows:

Human Rights Due Diligence Report

Resolved: Shareholders request that, beginning in 2022, Disney report on the process of due diligence, if any, that the Company undertakes in evaluating the human rights impacts of its business and associations with foreign entities, including foreign governments, their agencies, and private sector intermediaries.

Supporting Statement:

Disney became the center of controversy in 2020 when it was reported that the film credits for *Mulan* offered "special thanks" to eight Chinese government entities in Xinjiang province. Both the Biden and Trump administrations have formally characterized the Chinese government's policy toward the Uyghur minority in Xinjiang as "genocide."

The credits also expressed thanks to the publicity department of CPC Xinjiang Uyghur Autonomy Region Committee, the Chinese Communist party's propaganda agency in Xinjiang.

According to the September 3, 2020 *Wall Street Journal*, "Disney shared the script with Chinese authorities," prior to receiving permission to release the film in China.

Mulan's titular character was played by Chinese-American actress Liu Yifei, who in 2019, expressed support for the police crackdown on pro-democracy protesters in Hong Kong.

In an October 7, 2020 letter to British legislators, Sean Bailey, President of Walt Disney Studios Motion Picture Production, stated:

"In any motion picture production, several factors are considered when making decisions about where to produce the film, including: economics, logistics, accessibility, availability of actors, to name just a few."

> Notably absent was how a production might impact human rights. If one were to "name just a few" factors, it would seem that human rights would be paramount, especially in parts of the world like Xinjiang Province, China.
>
> Information on Disney's due diligence on human rights, or lack thereof, would allow shareholders to better evaluate business and reputational risks inherent in cooperation with totalitarian and authoritarian regimes that violate human rights.

Bases for Exclusion

The Proposal may be excluded under Rule 14a-8(b) and Rule 14a-8(f) because the Proponent has failed to establish that he continuously held the requisite amount of the Company's securities entitled to be voted on the Proposal at the Company's 2022 annual meeting of shareholders.

Rule 14a-8(b)(1)(i) of the Exchange Act provides that, to be eligible to submit a proposal for a company's annual meeting that is scheduled to be held on or after January 1, 2022, a proponent must have continuously held:

- At least $2,000 in market value of the company's securities entitled to vote on the proposal for at least three years;
- At least $15,000 in market value of the company's securities entitled to vote on the proposal for at least two years; or
- At least $25,000 in market value of the company's securities entitled to vote on the proposal for at least one year.

Alternatively, under Rule 14a-8(b)(3), if a shareholder proponent held at least $2,000 of the company's securities entitled to vote on the proposal for at least one year as of January 4, 2021, and the shareholder proponent has continuously maintained a minimum investment of at least $2,000 of such securities from January 4, 2021, through the date the proposal is submitted to the company, the shareholder proponent may provide proof of meeting such ownership requirement.

Under Rule 14a-8(b)(2) (or 14a-8(b)(3), if applicable), if a proponent is not a registered shareholder of a company and has not made a filing with the SEC detailing the proponent's beneficial ownership of shares in the company (as described in Rule 14a-8(b)(2)(ii)(B)), such proponent has the burden to prove that he meets the beneficial ownership requirements of Rule 14a-8(b)(1) by submitting to the company a written statement from the "record" holder of the securities verifying that, at the time the proponent submitted the proposal, the proponent continuously held the requisite amount of such securities for the requisite time period. The

proponent must also provide the proponent's own written statement of intent to continue to hold such securities through the date of the meeting. If the proponent fails to provide such proof of ownership and intent with regard to continued ownership, the company may exclude the proposal, but only if the company notifies the proponent in writing of such deficiency within 14 calendar days of receiving the proposal and the proponent fails to adequately correct it. A proponent's response to such notice of deficiency must be postmarked or transmitted electronically to the company no later than 14 days from the date the proponent receives the notice of deficiency.

The Company received the Proposal on September 21, 2021. The Proponent did not include with the Proposal written proof of his holdings from the record holder, and the Proponent does not appear on the records of the Company as a shareholder. Accordingly, because the Company was unable to verify the Proponent's eligibility to submit the Proposal, and in compliance with the timing set forth in Rule 14a-8, the Company sent a notice of deficiency, which is attached as Exhibit A to this letter (the "Notice of Deficiency"), to the Proponent on October 4, 2021, requesting that the Proponent provide the necessary proof required by Rule 14a-8(b)(2) (or Rule 14a-8(b)(3), if applicable) within 14 calendar days of receiving the Company's request. The Notice of Deficiency clearly set out what documentation would be sufficient to prove the requisite ownership. The Notice of Deficiency was sent by e-mail on October 4, 2021 (and was followed by a courtesy hard copy). On October 7, 2021, the Proponent sent an e-mail attaching a statement letter from his broker (the "Fidelity Letter", a copy of which is attached as Exhibit A to this letter) which was issued "to verify shares currently held over one year of Disney (DIS) in your account ending XXXX" and included "a table contain[ing] information as of September 30, 2021". The table in the Fidelity Letter noted that the "[a]cquisition [d]ate" of the Proponent's shares was "06/24/1997". However, the letter does not include an explicit written statement verifying that, as of the date the Proposal was submitted to the Company, the Proponent *continuously* held the requisite number of Company shares for the relevant holding period. The Fidelity Letter appears to be a statement letter from the holder of record of the Proponent's shares as of September 30, 2021, and while it includes an "acquisition date", it requires the Company to assume that the ownership of the qualifying securities was continuous. Accordingly, it is more akin to a brokerage statement (which would not be sufficient) than the required statement verifying continuous ownership. In Staff Legal Bulletin No. 14 (July 13, 2001) ("SLB 14"), the Staff expressly stated that such materials are insufficient to establish eligibility under Rule 14a-8. In pertinent part, the Staff posed and answered the following question in Section C.1.c.(2) (emphasis added):

> **Q: Do a shareholder's monthly, quarterly or other periodic investment statements demonstrate sufficiently continuous ownership of the securities?**

A: No. A shareholder must submit *an affirmative written statement* from the record holder of his or her securities that *specifically* verifies that the shareholder owned the securities *continuously* for a period of one year *as of the time of submitting the proposal*.[1]

The Staff on numerous occasions has permitted exclusion of proposals on the basis that the brokerage statement or account statement or a letter showing holdings or transactions submitted in support of a proponent's ownership were insufficient to establish the requisite ownership of securities under Rule 14a-8(b). *See, e.g., General Motors Company* (March 27, 2020) (concurring in exclusion under Rule 14a-8(b) and Rule 14a-8(f) of a proposal for which the proponent submitted multiple broker letters, in which the company argued that the broker letter failed to include any statement regarding [proponent]'s continuous ownership, and that "reference to particular purchase and sale dates are irrelevant"); *General Electric Co.* (January 6, 2016) (concurring in exclusion under Rule 14a-8(b) and Rule 14a-8(f) of a proposal in which the company argued that a broker's letter stating that a proponent purchased shares on a specific date more than a year earlier, and that the proponent currently held company shares, did not establish that the proponent owned the requisite amount of company shares continuously for the one-year period as of the date the proposal was submitted); and *Yahoo! Inc.* (March 29, 2007) (concurring in exclusion under Rule 14a-8(b) and Rule 14a-8(f) of a proposal for which the proponent submitted account statements, trade confirmations, email correspondence, webpage printouts and other selected account information in which the company argued that the submissions were insufficient to verify continuous ownership).

Accordingly, the Proponent failed to establish that he held the requisite securities entitled to be voted on the Proposal at the 2022 annual meeting of shareholders, and in accordance with long-standing Staff precedent and pursuant to Rule 14a-8(b) and Rule 14a-8(f), the Proposal may be excluded in its entirety from the Company's Proxy Materials.

The Proposal may be excluded pursuant to Rule 14a-8(i)(7) because the subject matter of the Proposal directly concerns the Company's ordinary business operations.

Rule 14a-8(i)(7) permits a company to exclude a shareholder proposal if the proposal "deals with a matter relating to the company's ordinary business operations." The underlying policy of the ordinary business exclusion is "to confine the resolution of ordinary business problems to

[1] We note that the reference to "one year" in the answer set forth in Section C.1.c.(2) of SLB 14 does not reflect recent amendments to certain ownership requirements set forth Rule 14a-8(b), but we believe the guidance set forth in SLB 14 as it relates to the requirement for the Proponent to submit an affirmative written statement that specifically verifies continuous ownership remains consistent with such recent amendments.

management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting." SEC Release No. 34-40018 (May 21, 1998) (the "1998 Release"). An exception to this principle may be made where a proposal focuses on significant policy issues (e.g., significant discrimination matters) that transcend the day-to-day business matters of the company. *See* 1998 Release.

As set out in the 1998 Release, there are two "central considerations" underlying the ordinary business exclusion. One consideration is that "[c]ertain tasks are so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight." The other consideration is that a proposal should not "seek[] to 'micro-manage' the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment." The Proposal implicates both of these considerations and does not raise a significant policy issue that would transcend the ordinary business of the Company.

A. The Proposal may be excluded because it relates to ordinary business matters of how the Company manages its day-to-day operations, specifically with regard to the selection of filming and production locations for the Company's motion pictures.

The Proposal may be excluded in reliance on Rule 14a-8(i)(7) because the Proposal relates to how the Company manages its day-to-day operations, specifically with regard to the selection of filming and production locations for the Company's motion pictures. Notwithstanding the Proponent's efforts to dress up the Proposal as relating to the topics of human rights more broadly, at its core, the Proposal is focused on the indisputably ordinary business topic of film production and, in particular, the Proponent's objection to the Company's decision to produce the film *Mulan* in China. That focus is clear from the supporting statement's reference to the ordinary business topics of selecting a location, negotiations with regard to use of such location, selection of actors, and decisions with regard to film credits. The focus is further made clear by the argument the Proponent seeks to construct around a statement by Sean Bailey, President of Walt Disney Studios Motion Picture Production, in which Mr. Bailey provided a *non-exhaustive list* of "several factors [that] are considered when making decisions about where to produce the film, including: economics, logistics, accessibility, availability of actors, to name just a few." But what that statement in fact illuminates is the multitude of considerations that impact the Company's decisions regarding where to produce films, and how the evaluation of such considerations is fundamental to management's ability to run a company on a day-to-day basis that could not, as a practical matter, be subject to direct shareholder oversight. In addition, disclosures on the Company's website underscore the multitude of operational decision-making considerations around its day-to-day operations, including its film production business. Of

course, the Company's commitment to operating in an ethical manner and in a manner that respects human rights are included in its decision-making around its ordinary business operations.

The Staff has a long history of concurring in the view that decisions regarding the location of company facilities implicate a company's ordinary business operations. The Staff's response in *Int'l Business Machines Corp.* (January 9, 2008) is particularly instructive. There, the proponent requested that the company establish an independent committee to report on potential damage to the company's name and reputation as a result of its operations in the People's Republic of China and make the report available to shareholders. The company argued that the proponent's proposal was properly excludable under Rule 14a-8(i)(7) because, among other things, the proposal implicated business decisions the company makes in its day-to-day operations in the People's Republic of China (including decisions relating to the location of its facilities), which decisions were integral to management's ability to run the company in the ordinary course of business and excludable under Rule 14a-8(i)(7) as relating to the company's ordinary business operations. *See also Sempra Energy* (January 12, 2012, *recon. denied* January 23, 2012) (concurring in exclusion under Rule 14a-8(i)(7) of a proposal requesting a report on the company's management of certain "risks posed by [the company's] operations in any country that may pose an elevated risk of corrupt practices," noting that "although the proposal requests the board to conduct an independent oversight review of … management of particular risks, the underlying subject matter of these risks appears to involve ordinary business matters."); *Hershey Co.* (February 2, 2009) (concurring in exclusion under Rule 14a-8 of a proposal regarding the company's decision to locate manufacturing in Mexico instead of in the United States and Canada because it implicated the company's ordinary business decisions by addressing decisions relating to the location of the company's operations); and *Tim Hortons Inc.* (January 4, 2008) (concurring in exclusion under Rule 14a-8(i)(7) of a proposal involving decisions relating to the location of restaurants). Further, a stockholder proposal being framed in the form of a request for a report does not change the nature of the proposal. The Commission has stated that a proposal requesting the dissemination of a report may be excludable under Rule 14a-8(i)(7) if the subject matter of the report is within the ordinary business of the company. *See* Exchange Act Release No. 20091 (August 16, 1983). As in the above cited cases, the Proposal similarly seeks to improperly involve shareholders in the Company's ordinary business operations, including with respect to on-site film production.

Similarly, the Staff has consistently concurred in exclusion of shareholder proposals related to a company's adherence to ethical business practices and policies. For example, in *Mattel, Inc.* (February 10, 2012) a shareholder proposal identified several ethical concerns relating to suppliers' plants in China, including "underage workers during the summer, excessive overtime, concerns about chemicals and poor ventilation," and requested that the company require its

suppliers to publish a report detailing their compliance with the International Council of Toy Industries ("ICTI") Code of Business Practices. The Staff concurred in exclusion under Rule 14a-8(i)(7) of the *Mattel* proposal as relating to the company's ordinary business operations, noting that "[the company's] view that the ICTI Code 'has a broad scope that covers several topics that relate to the [c]ompany's ordinary business operations and are not significant policy issues.'" *See also Verizon Communications, Inc.* (January 10, 2011) (concurring in exclusion under Rule 14a-8(i)(7) of a proposal directing the board to form a Corporate Responsibility Committee charged with monitoring the company's commitment to integrity, trustworthiness and reliability–and the extent to which it lived up to its Code of Business Conduct, as "relating to [the company's] ordinary business operations" and concerning "general adherence to ethical business practices"); and *The Walt Disney Co.* (December 12, 2011) (concurring in exclusion under Rule 14a-8(i)(7) of a proposal requesting a report on board compliance with the Company's Code of Business Conduct and Ethics for Directors, stating that "[p]roposals that concern general adherence to ethical business practices and policies are generally excludable under [R]ule 14a-8(i)(7)").

As described above, decisions regarding the Company's film production and location selection business involve nuanced considerations that are intricately intertwined with the day-to-day conduct of the Company's operations. As such, and consistent with the above-referenced precedent, the Company may exclude the Proposal under Rule 14a-8(i)(7) as related to the ordinary business of the Company.

B. The Proposal does not raise a significant social policy issue that transcends the Company's ordinary business operations.

The Commission has distinguished proposals pertaining to ordinary business matters from those involving "significant social policy issues." *See* 1998 Release. When assessing proposals under Rule 14a-8(i)(7), the Staff considers the terms of the resolution and its supporting statement as a whole. *See* Staff Legal Bulletin No. 14C, part D.2 (June 28, 2005) ("In determining whether the focus of these proposals is a significant social policy issue, we consider both the proposal and the supporting statement as a whole."). While proposals focusing on sufficiently significant social policy issues (e.g., significant discrimination matters) that would transcend the day-to-day business matters generally would not be considered to be excludable under Rule 14a-8(i)(7), the extent to which a proposal has a nexus to the business of the company is relevant in assessing whether a proposal may be excluded on the basis that it relates to the ordinary business of the company notwithstanding a reference to a significant policy issue. The striking of this balance is reflected in numerous Staff decisions. The Staff indicated in Staff Legal Bulletin No. 14E (October 27, 2009) that a shareholder proposal focusing on a significant policy issue "generally will not be excludable under Rule 14a-8(i)(7) as long as a sufficient nexus exists between the

nature of the proposal and the company." In Staff Legal Bulletin No. 14H (October 22, 2015) the Staff further explained that "[w]hether the significant policy exception applies depends, in part, on the connection between the significant policy issue and the company's business operations." Finally, in Staff Legal Bulletin No. 14K (October 16, 2019) ("SLB 14K"), the Staff reiterated its view that the applicability of the significant policy exception "depends, in part, on the connection between the significant policy issue and the company's business operations." The Staff also clarified that the focus of this analysis is not on "the overall significance of the policy issue raised by the proposal," but rather on "whether the proposal raises a policy issue that transcends the particular company's ordinary business operations." Thus, "a policy issue that is significant to one company may not be significant to another."

Consistent with this position, when a proposal does not have a sufficient nexus to a company's business, the Staff has concurred that the proposal is excludable under Rule 14-8(i)(7) even if it touches upon a significant policy issue. For example, in *The Walt Disney Company* (January 8, 2021), the Staff concurred in exclusion of a proposal addressing the company's advertising policies on social media platforms that may include certain harmful content, in *PayPal Holdings Inc.* (March 6, 2018), the Staff concurred in exclusion of a proposal addressing climate change that was submitted to a technology and digital payment company and in *Viacom Inc.* (December 18, 2015), the Staff concurred in exclusion of a proposal requesting that the company issue a report assessing the company's policy responses to public concerns regarding linkages of food and beverage advertising to impacts on children's health, despite the proponent's assertion that the company, by virtue of licensing popular characters to manufacturers of certain food products, was in a position similar to the food manufacturers. *See also Amazon.com, Inc.* (March 23, 2018) (concurring in exclusion under Rule 14a-8(i)(7) of a proposal addressing placement of "promotional or other marketing material on online sites or platforms that produce and disseminate content that expresses hatred or intolerance for people on the basis of actual or perceived race, ethnicity, national origin, religious affiliation, sex, gender, gender identity, sexual orientation, age or disability" that was submitted to an online multiproduct retailer as relating to the company's ordinary business manner of advertising its products or services); *Wal-Mart Stores, Inc.* (March 20, 2014) (concurring in exclusion under Rule 14a-8(i)(7) of a proposal addressing gun violence that was submitted to a multiproduct retailer); *Rite Aid Corp.* (March 5, 1997) (concurring in exclusion under Rule 14a-8(i)(7) of a proposal regarding the health effects of cigarette smoking that was submitted to a multiproduct retailer); and *General Electric Co.* (January 10, 2005) (concurring in exclusion under Rule 14a-8(i)(7) of a proposal focused only on executive compensation, because the language of the introductory recitals and supporting statements made clear that "the thrust and focus of the proposal is on the ordinary business matter of … programming and film production"). In comparison, in *AmerisourceBergen Corp.* (January 11, 2018) the Staff declined to concur in exclusion of a proposal addressing the opioid

crisis that was submitted to a pharmaceutical products distributor engaged in the distribution of opioids.

Here, and as in the letters cited above, to the extent the Proposal references a significant policy issue generally, it does not raise a significant policy issue as to the Company because it does not have a sufficient nexus to the business of the Company. The business of the Company is entertainment, not policing, political propaganda or development of foreign policy toward minority groups, to name a few of the human rights-related concerns raised in the Proposal. The overall text of the Proposal makes clear that the focus of the Proposal is on the production of the film *Mulan* and film location selection generally, both of which constitute ordinary business matters. Accordingly, the Proposal is properly excludable under Rule 14a-8(i)(7).

C. The Proposal may be excluded because it seeks to micromanage how the Company conducts its day-to-day operations.

In addition to interfering with management's day-to-day operations, the Proposal also seeks to micro-manage the Company with regard to the details of how the Company conducts "due diligence" on its "business and associations with foreign entities, including foreign governments, their agencies and private sector intermediaries," particularly with respect to its selection of filming locations as detailed in the Proposal's supporting statement. As the Staff explained in SLB 14K, in considering arguments under the micromanagement exclusion, the Staff looks at "whether the proposal seeks intricate detail or imposes a specific strategy, method, action, outcome or timeline for addressing an issue, thereby supplanting the judgment of management and the board . . . When a proposal prescribes specific actions that the company's management or the board must undertake without affording them sufficient flexibility or discretion in addressing the complex matter presented by the proposal, the proposal may micromanage the company to such a degree that exclusion of the proposal would be warranted."

The Staff has consistently concurred in exclusion of proposals that seek to micromanage a company's activities, including in the context of location selection for a company's operations. In *Seagate Technology plc* (June 4, 2021), the Staff concurred in the exclusion under Rule 14a-8(i)(7) of a proposal requesting that company "terminate its operations in the People's Republic of China, removing those operations to some other country whose laws prohibit the repression of its citizens, theft of intellectual property and proprietary information, misuse of advanced technology for the repression of its own citizens and the endangerment of peoples of other countries by military force or the spread of toxic pollutants on the basis of micromanagement.

Here, the stated purpose of the Proposal is to disclose "the process of due diligence" the Company undertakes as part of its daily operations and interactions with third parties, including

decisions to enter into business relationships with third parties in connection with location selection for film productions. As in *Seagate Technology*, however, the Proposal clearly seeks to change the specific business decisions of the Company, including by prescribing how the Company selects locations for its films, how it negotiates with local authorities, what actors may be hired and who may be credited. In this way, the Proposal seeks to substitute the judgment of the Proponent for that of the Company's management with regard to how filming and production decisions are made. The Proposal therefore seeks to probe 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. Therefore, the Proposal is properly excludable under Rule 14a-8(i)(7) on the basis that it seeks to micromanage the Company.

Conclusion

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

If the Staff has any questions with respect to the foregoing, or if for any reason the Staff does not agree that the Company may exclude the Proposal from its Proxy Materials, please do not hesitate to contact me at lillian.brown@wilmerhale.com or (202) 663-6743. In addition, should the Proponent choose to submit any response or other correspondence to the Commission, we request that the Proponent concurrently submit that response or other correspondence to the Company, as required pursuant to Rule 14a-8(k) and SLB 14D, and copy the undersigned.

Best regards,

Lillian Brown

Enclosures

cc: Jolene Negre, Associate General Counsel and Assistant Secretary
The Walt Disney Company

Peter Flaherty
National Legal and Policy Center

EXHIBIT A

National Legal and Policy Center

"promoting ethics in public life"

Co-Founder
Ken Boehm 1949-2018

Board of Directors
Peter Flaherty, Chairman
Kurt Christensen, Vice-Chairman
Michael Falcone
Richard F. LaMountain
David Wilkinson

Since 1991

September 21, 2021

Secretary
The Walt Disney Company
500 South Buena Vista Street
Burbank, CA 91521-1030

VIA EMAIL LOWELL SINGER, INVESTOR RELATONS:
[redacted] AND FED EX

Dear Secretary:

I hereby submit the enclosed shareholder proposal ("Proposal") for inclusion in The Walt Disney Company ("Company") proxy statement to be circulated to Company shareholders in conjunction with the next annual meeting of shareholders. The Proposal is submitted under Rule 14(a)-8 (Proposals of Security Holders) of the U.S. Securities and Exchange Commission's proxy regulations.

National Legal and Policy Center (NLPC) is the beneficial owner of 44 shares of the Company's common stock, which shares have been held continuously for more than a year prior to this date of submission. NLPC intends to hold the shares through the date of the Company's next annual meeting of shareholders. A proof of ownership letter is forthcoming and will be delivered to the Company.

The Proposal is submitted in order to promote shareholder value by requesting a report on human rights due diligence. Either I or my representative will present the Proposal for consideration at the annual meeting of shareholders.

The Proponent is able to meet with the Company in person or via teleconference no less than 10 calendar days, nor more than 30 calendar days, after submission of the Proposal. I can be reached at the number below or at pflaherty@nlpc.org. I am available Monday through Friday from 9am to 5pm.

If you have any questions, please contact me at the number below. Copies of correspondence or a request for a "no-action" letter should be forwarded to me at the address below.

Sincerely,

Peter Flaherty
Chairman

Enclosure: Report on Human Rights Due Diligence

107 Park Washington Court • Falls Church, VA • 22046
703-237-1970 • fax 703-237-2090 • www.nlpc.org

Human Rights Due Diligence Report

Resolved: Shareholders request that, beginning in 2022, Disney report on the process of due diligence, if any, that the Company undertakes in evaluating the human rights impacts of its business and associations with foreign entities, including foreign governments, their agencies, and private sector intermediaries.

Supporting Statement:

Disney became the center of controversy in 2020 when it was reported that the film credits for *Mula*n offered "special thanks" to eight Chinese government entities in Xinjiang province. Both the Biden and Trump administrations have formally characterized the Chinese government's policy toward the Uyghur minority in Xinjiang as "genocide."

The credits also expressed thanks to the publicity department of CPC Xinjiang Uyghur Autonomy Region Committee, the Chinese Communist party's propaganda agency in Xinjiang.

According to the September 3, 2020 *Wall Street Journal*, "Disney shared the script with Chinese authorities," prior to receiving permission to release the film in China.

Mulan's titular character was played by Chinese-American actress Liu Yifei, who in 2019, expressed support for the police crackdown on pro-democracy protesters in Hong Kong.

In an October 7, 2020 letter to British legislators, Sean Bailey, President of Walt Disney Studios Motion Picture Production, stated:

"In any motion picture production, several factors are considered when making decisions about where to produce the film, including: economics, logistics, accessibility, availability of actors, to name just a few."

Notably absent was how a production might impact human rights. If one were to "name just a few" factors, it would seem that human rights would be paramount, especially in parts of the world like Xinjiang Province, China.

Information on Disney's due diligence on human rights, or lack thereof, would allow shareholders to better evaluate business and reputational risks inherent in cooperation with totalitarian and authoritarian regimes that violate human rights.

From:	Nauta, Rebecca
To:	Pflaherty@nlpc.org
Cc:	Brown, Lillian; [redacted]
Subject:	Notice of Deficiencies in Shareholder Proposal Submitted to The Walt Disney Company
Date:	Monday, October 4, 2021 3:38:48 PM
Attachments:	Notice of Deficiency (DIS) (National Legal and Policy Center) (Final - Executed and Compiled).pdf

Good afternoon, Mr. Flaherty –

Please find attached a notice of certain deficiencies in the shareholder proposal you submitted to The Walt Disney Company for inclusion in the Company's proxy materials for its 2022 annual meeting of shareholders. Included with the notice of deficiencies are copies of Rule 14a-8 and Staff Legal Bulletins 14F and 14G for your reference.

If you have any questions, please do not hesitate to contact my colleague, Lillian Brown, at lillian.brown@wilmerhale.com or (202) 663-6743.

Best regards,

Rebecca Nauta | WilmerHale
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WILMERHALE

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October 4, 2021

VIA EMAIL AND FEDERAL EXPRESS

National Legal and Policy Center
107 Park Washington Court
Falls Church, VA 22046
Attn: Peter Flaherty
pflaherty@nlpc.org

Re: Notice of Deficiency Relating to Shareholder Proposal

Dear Mr. Flaherty:

I am writing on behalf of The Walt Disney Company (the "Company"). On September 21, 2021, the Company received a submission from you (the "Proponent") containing a proposal for consideration at the Company's 2022 Annual Meeting (the "Submission"). Based on the date of electronic transmission of the Submission, the Company has determined that the date of submission was September 21, 2021 (the "Submission Date").

Rule 14a-8(b) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), provides that, as of the Submission Date, a shareholder proponent must have continuously held:

- At least $2,000 in market value of the Company's securities entitled to vote on the proposal for at least three years; or
- At least $15,000 in market value of the Company's securities entitled to vote on the proposal for at least two years; or
- At least $25,000 in market value of the Company's securities entitled to vote on the proposal for at least one year.

Alternatively, a shareholder proponent must have continuously held at least $2,000 of the Company's securities entitled to vote on the proposal for at least one year as of January 4, 2021, and the shareholder proponent must have continuously maintained a minimum investment of at least $2,000 of such securities from January 4, 2021 through the Submission Date.

The Company's stock records do not indicate that the Proponent is the record owner of sufficient shares to satisfy this requirement via any of these tests. Therefore, under Rule 14a-8(b), the Proponent must prove its eligibility by submitting either:

- A written statement from the "record" holder of the Proponent's shares (usually a broker or a bank) verifying that, as of the Submission Date, the Proponent (i) continuously held at least $2,000, $15,000, or $25,000 in market value of the Company's securities entitled to vote on the proposal for at least three years, two years, or one year, respectively or (ii) continuously held at least $2,000 of the Company's securities entitled to vote on the proposal for at least one year as of January 4, 2021, and the Proponent continuously maintained a minimum investment of at least $2,000 of such securities from January 4, 2021 through the Submission Date. As addressed by the SEC staff in Staff Legal Bulletin 14G, please note that if the Proponent's shares are held by a bank, broker or other securities intermediary that is a Depository Trust Company ("DTC") participant or an affiliate thereof, proof of ownership from either that DTC participant or its affiliate will satisfy this requirement. Alternatively, if the Proponent's shares are held by a bank, broker or other securities intermediary that is not a DTC participant or an affiliate of a DTC participant, proof of ownership must be provided by both (1) the bank, broker or other securities intermediary and (2) the DTC participant (or an affiliate thereof) that can verify the holdings of the bank, broker or other securities intermediary. You can confirm whether a particular bank, broker or other securities intermediary is a DTC participant by checking DTC's participant list, which is available on the Internet at http://www.dtcc.com/downloads/membership/directories/dtc/alpha.pdf. The Proponent should be able to determine who the DTC participant is by asking the Proponent's bank, broker or other securities intermediary; or

- If the Proponent has filed with the SEC a Schedule 13D, Schedule 13G, Form 3, Form 4 or Form 5, or amendments to those documents or updated forms, demonstrating that it (i) continuously held at least $2,000, $15,000, or $25,000 in market value of the Company's securities entitled to vote on the proposal for at least three years, two years, or one year, respectively, or (ii) continuously held at least $2,000 of the Company's securities entitled to vote on the proposal for at least one year as of January 4, 2021, and the Proponent continuously maintained a minimum investment of at least $2,000 of such securities from January 4, 2021 through the Submission Date, a copy of the schedule and/or form, and any subsequent amendments reporting a change in the ownership level and a written statement that the Proponent continuously held the requisite number of Company shares for the requisite period.

Your cover letter indicated that certification of the Proponent's ownership from the record owner would be forthcoming. To date, the Company has not received proof that the Proponent has

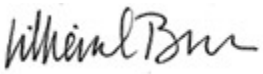
satisfied Rule 14a-8's ownership requirements as of the Submission Date. To remedy this defect, the Proponent must submit sufficient proof of its continuous ownership of the requisite number of Company shares during the applicable time period preceding and including the Submission Date. For example, if the Proponent owns at least $15,000 in market value of the Company's securities entitled to vote on the Proposal, the Proponent would need to submit sufficient proof of its continuous ownership of the requisite number of Company shares during the two years preceding and including the Submission Date. If, on the other hand, the Proponent continuously held at least $2,000 of the Company's securities entitled to vote on the proposal for at least one year as of January 4, 2021, and has continuously maintained a minimum investment of at least $2,000 of such securities from January 4, 2021 through the Submission Date, the Proponent would need to submit sufficient proof of its continuous ownership of the requisite number of Company shares for at least one year as of January 4, 2021, and from that date through and including the Submission Date.

In addition, Rule 14a-8(b) also provides that a shareholder proponent must submit a written statement that it intends to continue to hold the requisite securities, as determined in accordance with any one of the above tests, through the date of the meeting of shareholders. The Proponent's statements that it is "the beneficial owner of 44 shares of the Company's common stock, which shares have been held continuously for more than a year prior to this date of submission" and that it "intends to hold the shares through the date of the Company's next annual meeting of shareholders," do not satisfy this requirement. In this regard we note that the share ownership information you have provided does not appear to satisfy any of the current ownership requirements under Rule 14a-8, as detailed above; therefore the statement regarding intent to continue holding these 44 shares through the date of the meeting of shareholders also does not appear to satisfy the rule. To remedy this defect, the Proponent must submit a written statement that it intends to continue to hold the requisite securities, as determined in accordance with any one of the above tests, through the date of the Company's 2022 Annual Meeting.

The SEC's rules require that any response to this letter be postmarked or transmitted electronically no later than 14 calendar days from the date you receive this letter. Please address any response to me at lillian.brown@wilmerhale.com. The failure to correct the deficiencies within this timeframe will provide the Company with a basis to exclude the proposals contained in the Submission from the Company's proxy materials for its 2022 Annual Meeting.

If you have any questions with respect to the foregoing, please contact me at the above noted email address or at 202-663-6743. For your reference, I enclose a copy of Rule 14a-8 as well as Staff Legal Bulletins 14F and 14G.

Sincerely,



Lillian Brown

cc: Jolene Negre, Associate General Counsel and Assistant Secretary
The Walt Disney Company

Enclosures – Exchange Act Rule 14a-8
Staff Legal Bulletins 14F and 14G

Displaying title 17, up to date as of 9/30/2021. Title 17 was last amended 9/29/2021.

Table of Contents

ENHANCED CONTENT - TABLE OF CONTENTS

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Title 17

§ 240.14a-8 Shareholder proposals.

This section addresses when a company must include a shareholder's proposal in its proxy statement and identify the proposal in its form of proxy when the company holds an annual or special meeting of shareholders. In summary, in order to have your shareholder proposal included on a company's proxy card, and included along with any supporting statement in its proxy statement, you must be eligible and follow certain procedures. Under a few specific circumstances, the company is permitted to exclude your proposal, but only after submitting its reasons to the Commission. We structured this section in a question-and-answer format so that it is easier to understand. The references to “you” are to a shareholder seeking to submit the proposal.

(a) *Question 1:* What is a proposal? A shareholder proposal is your recommendation or requirement that the company and/or its board of directors take action, which you intend to present at a meeting of the company's shareholders. Your proposal should state as clearly as possible the course of action that you believe the company should follow. If your proposal is placed on the company's proxy card, the company must also provide in the form of proxy means for shareholders to specify by boxes a choice between approval or disapproval, or abstention. Unless otherwise indicated, the word “proposal” as used in this section refers both to your proposal, and to your corresponding statement in support of your proposal (if any).

(b) *Question 2:* Who is eligible to submit a proposal, and how do I demonstrate to the company that I am eligible?

(1) To be eligible to ubmit a propo al, you mu t ati fy the following requirement

(i) You must have continuously held:

(A) At least $2,000 in market value of the company's securities entitled to vote on the proposal for at least three years; or

(B) At lea t $15,000 in market value of the company' ecuritie entitled to vote on the propo al for at lea t two year ; or

(C) At least $25,000 in market value of the company's securities entitled to vote on the proposal for at least one year; or

(D) The amounts specified in paragraph (b)(3) of this section. This paragraph (b)(1)(i)(D) will expire on the same date that § 240.14a-8(b)(3) expires; and

(ii) You must provide the company with a written statement that you intend to continue to hold the requisite amount of ecuritie , determined in accordance with paragraph (b)(1)(i)(A) through (C) of thi ection, through the date of the hareholder ' meeting for which the propo al i ubmitted; and

(iii) You mu t provide the company with a written tatement that you are able to meet with the company in per on or via teleconference no less than 10 calendar days, nor more than 30 calendar days, after submission of the shareholder proposal. You must include your contact information as well as business days and specific times that you are available to discuss the proposal with the company. You must identify times that are within the regular business hours of the company's principal executive offices. If these hours are not disclosed in the company's proxy statement for the prior year's annual meeting, you must identify times that are between 9 a.m. and 5:30 p.m. in the time zone of the company's principal executive offices. If you elect to co-file a proposal, all co-filers must either:

(A) Agree to the same dates and times of availability, or

(B) Identify a single lead filer who will provide dates and times of the lead filer's availability to engage on behalf of all co-filers; and

(iv) If you use a representative to submit a shareholder proposal on your behalf, you must provide the company with written documentation that

(A) Identifie the company to which the propo al i directed;

(B) Identifies the annual or special meeting for which the proposal is submitted;

(C) Identifies you as the proponent and identifies the person acting on your behalf as your representative;

(D) Include your tatement authorizing the de ignated repre entative to ubmit the propo al and otherwi e act on your behalf;

(E) Identifies the specific topic of the proposal to be submitted;

(F) Includes your statement supporting the proposal; and

(G) I igned and dated by you

(v) The requirements of paragraph (b)(1)(iv) of this section shall not apply to shareholders that are entities so long as the representative's authority to act on the shareholder's behalf is apparent and self-evident such that a reasonable person would understand that the agent has authority to submit the proposal and otherwise act on the shareholder's behalf.

(vi) For purposes of paragraph (b)(1)(i) of this section, you may not aggregate your holdings with those of another shareholder or group of shareholders to meet the requisite amount of securities necessary to be eligible to submit a proposal.

(2) One of the following methods must be used to demonstrate your eligibility to submit a proposal:

(i) If you are the regi tered holder of your ecuritie , which mean that your name appear in the company' records as a shareholder, the company can verify your eligibility on its own, although you will still have to provide the company with a written statement that you intend to continue to hold the requisite amount of securities, determined in accordance with paragraph (b)(1)(i)(A) through (C) of this section, through the date of the meeting of shareholders.

(ii) If, like many shareholders, you are not a registered holder, the company likely does not know that you are a shareholder, or how many shares you own. In this case, at the time you submit your proposal, you must prove your eligibility to the company in one of two ways:

(A) The first way is to submit to the company a written statement from the “record” holder of your securities (usually a broker or bank) verifying that, at the time you submitted your proposal, you continuously held at least $2,000, $15,000, or $25,000 in market value of the company's securities entitled to vote on the proposal for at least three years, two years, or one year, respectively. You must also include your own written statement that you intend to continue to hold the requisite amount of securities, determined in accordance with paragraph (b)(1)(i)(A) through (C) of this section, through the date of the shareholders' meeting for which the proposal is submitted; or

(B) The econd way to prove owner hip applie only if you were required to file, and filed, a Schedule 13D (§ 240.13d-101), Schedule 13G (§ 240.13d-102), Form 3 (§ 249.103 of this chapter), Form 4 (§ 249.104 of this chapter), and/or Form 5 (§ 249.105 of this chapter), or amendments to those documents or updated forms, demonstrating that you meet at least one of the share ownership requirements under paragraph (b)(1)(i)(A) through (C) of this section. If you have filed one or more of these documents with the SEC, you may demonstrate your eligibility to submit a proposal by submitting to the company:

(*1*) A copy of the schedule(s) and/or form(s), and any subsequent amendments reporting a change in your ownership level;

(*2*) Your written statement that you continuously held at least $2,000, $15,000, or $25,000 in market value of the company's securities entitled to vote on the proposal for at least three years, two years, or one year, respectively; and

(*3*) Your written statement that you intend to continue to hold the requisite amount of securities, determined in accordance with paragraph (b)(1)(i)(A) through (C) of thi ection, through the date of the company' annual or pecial meeting

(3) If you continuously held at least $2,000 of a company's securities entitled to vote on the proposal for at least one year as of January 4, 2021, and you have continuously maintained a minimum investment of at least $2,000 of such securities from January 4, 2021 through the date the proposal is submitted to the company, you will be eligible to submit a proposal to such company for an annual or special meeting to be held prior to January 1, 2023. If you rely on this provision, you must provide the company with your written statement that you intend to continue to hold at least $2,000 of such securities through the date of the shareholders' meeting for which the proposal is submitted. You must also follow the procedures set forth in paragraph (b)(2) of this section to demonstrate that:

(i) You continuously held at least $2,000 of the company's securities entitled to vote on the proposal for at least one year a of January 4, 2021; and

(ii) You have continuou ly maintained a minimum inve tment of at lea t $2,000 of uch ecuritie from January 4, 2021 through the date the proposal is submitted to the company.

(iii) This paragraph (b)(3) will expire on January 1, 2023.

(c) *Question 3:* How many proposals may I submit? Each person may submit no more than one proposal, directly or indirectly, to a company for a particular shareholders' meeting. A person may not rely on the securities holdings of another person for the purpose of meeting the eligibility requirements and submitting multiple proposals for a particular shareholders' meeting.

(d) *Question 4* How long can my propo al be? The propo al, including any accompanying upporting tatement, may not exceed 500 words.

(e) *Question 5:* What is the deadline for submitting a proposal?

(1) If you are submitting your proposal for the company's annual meeting, you can in most cases find the deadline in last year's proxy statement. However, if the company did not hold an annual meeting last year, or has changed the date of its meeting for this year more than 30 days from last year's meeting, you can usually find the deadline in one of the company's quarterly reports on Form 10-Q (§ 249.308a of this chapter), or in shareholder reports of investment companies under § 270.30d-1 of this chapter of the Investment Company Act of 1940. In order to avoid controversy, shareholders should submit their proposals by means, including electronic means, that permit them to prove the date of delivery.

(2) The deadline i calculated in the following manner if the propo al i ubmitted for a regularly cheduled annual meeting The propo al mu t be received at the company' principal executive office not le than 120 calendar day before the date of the company' proxy tatement relea ed to hareholder in connection with the previou year' annual meeting However, if the company did not hold an annual meeting the previou year, or if the date of thi year' annual meeting ha been changed by more than 30 day from the date of the previou year' meeting, then the deadline i a rea onable time before the company begin to print and end it proxy material

(3) If you are submitting your proposal for a meeting of shareholders other than a regularly scheduled annual meeting, the deadline is a reasonable time before the company begins to print and send its proxy materials.

(f) *Question 6:* What if I fail to follow one of the eligibility or procedural requirements explained in answers to Questions 1 through 4 of this section?

(1) The company may exclude your proposal, but only after it has notified you of the problem, and you have failed adequately to correct it Within 14 calendar day of receiving your propo al, the company mu t notify you in writing of any procedural or eligibility deficiencie , a well a of the time frame for your re pon e Your re pon e mu t be po tmarked, or tran mitted electronically, no later than 14 day from the date you received the company' notification A company need not provide you uch notice of a deficiency if the deficiency cannot be remedied, uch a if you fail to ubmit a propo al by the company' properly determined deadline If the company intend to exclude the propo al, it will later have to make a ubmi ion under § 240 14a 8 and provide you with a copy under Que tion 10 below, § 240 14a 8(j)

(2) If you fail in your promi e to hold the required number of ecuritie through the date of the meeting of hareholder , then the company will be permitted to exclude all of your proposals from its proxy materials for any meeting held in the following two calendar years.

(g) *Question 7:* Who has the burden of persuading the Commission or its staff that my proposal can be excluded? Except as otherwise noted, the burden is on the company to demonstrate that it is entitled to exclude a proposal.

(h) *Question 8:* Must I appear personally at the shareholders' meeting to present the proposal?

(1) Either you, or your representative who is qualified under state law to present the proposal on your behalf, must attend the meeting to present the proposal. Whether you attend the meeting yourself or send a qualified representative to the meeting in your place, you should make sure that you, or your representative, follow the proper state law procedures for attending the meeting and/or presenting your proposal.

(2) If the company holds its shareholder meeting in whole or in part via electronic media, and the company permits you or your repre entative to pre ent your propo al via uch media, then you may appear through electronic media rather than traveling to the meeting to appear in per on

(3) If you or your qualified repre entative fail to appear and pre ent the propo al, without good cau e, the company will be permitted to exclude all of your proposals from its proxy materials for any meetings held in the following two calendar years.

(i) *Question 9:* If I have complied with the procedural requirements, on what other bases may a company rely to exclude my proposal?

(1) Improper under state law: If the proposal is not a proper subject for action by shareholders under the laws of the jurisdiction of the company's organization;

Note to paragraph (i)(1):
Depending on the ubject matter, ome propo al are not con idered proper under tate law if they would be binding on the company if approved by hareholder In our experience, mo t propo al that are ca t a recommendation or reque t that the board of director take pecified action are proper under tate law Accordingly, we will a ume that a propo al drafted a a recommendation or ugge tion i proper unle the company demon trate otherwi e

(2) *Violation of law:* If the proposal would, if implemented, cause the company to violate any state, federal, or foreign law to which it i ubject;

Note to paragraph (i)(2)
We will not apply this basis for exclusion to permit exclusion of a proposal on grounds that it would violate foreign law if compliance with the foreign law would result in a violation of any state or federal law.

(3) *Violation of proxy rules* If the propo al or upporting tatement i contrary to any of the Commi ion' proxy rule , including § 240.14a-9, which prohibits materially false or misleading statements in proxy soliciting materials;

(4) *Personal grievance; special interest:* If the proposal relates to the redress of a personal claim or grievance against the company or any other person, or if it is designed to result in a benefit to you, or to further a personal interest, which is not shared by the other shareholders at large;

(5) *Relevance:* If the proposal relates to operations which account for less than 5 percent of the company's total assets at the end of its most recent fiscal year, and for less than 5 percent of its net earnings and gross sales for its most recent fiscal year, and is not otherwise significantly related to the company's business;

(6) *Absence of power/authority* If the company would lack the power or authority to implement the propo al;

(7) *Management functions:* If the proposal deals with a matter relating to the company's ordinary business operations;

(8) *Director elections:* If the proposal:

(i) Would disqualify a nominee who is standing for election;

(ii) Would remove a director from office before hi or her term expired;

(iii) Questions the competence, business judgment, or character of one or more nominees or directors;

(iv) Seeks to include a specific individual in the company's proxy materials for election to the board of directors; or

(v) Otherwi e could affect the outcome of the upcoming election of director

(9) *Conflicts with company's proposal:* If the proposal directly conflicts with one of the company's own proposals to be submitted to shareholders at the same meeting;

Note to paragraph (i)(9):

A company's submission to the Commission under this section should specify the points of conflict with the company's proposal.

(10) *Substantially implemented:* If the company has already substantially implemented the proposal;

Note to paragraph (i)(10):
A company may exclude a shareholder proposal that would provide an advisory vote or seek future advisory votes to approve the compensation of executives as disclosed pursuant to Item 402 of Regulation S-K (§ 229.402 of this chapter) or any successor to Item 402 (a "say-on-pay vote") or that relates to the frequency of say-on-pay votes, provided that in the most recent shareholder vote required by § 240.14a-21(b) of this chapter a single year (*i.e.,* one, two, or three years) received approval of a majority of votes cast on the matter and the company has adopted a policy on the frequency of say-on-pay votes that is consistent with the choice of the majority of votes cast in the most recent shareholder vote required by § 240.14a-21(b) of this chapter.

(11) *Duplication:* If the proposal substantially duplicates another proposal previously submitted to the company by another proponent that will be included in the company's proxy materials for the same meeting;

(12) *Resubmissions.* If the proposal addresses substantially the same subject matter as a proposal, or proposals, previously included in the company's proxy materials within the preceding five calendar years if the most recent vote occurred within the preceding three calendar years and the most recent vote was:

(i) Less than 5 percent of the votes cast if previously voted on once;

(ii) Less than 15 percent of the votes cast if previously voted on twice; or

(iii) Less than 25 percent of the votes cast if previously voted on three or more times.

(13) *Specific amount of dividends:* If the proposal relates to specific amounts of cash or stock dividends.

(j) *Question 10:* What procedures must the company follow if it intends to exclude my proposal?

(1) If the company intends to exclude a proposal from its proxy materials, it must file its reasons with the Commission no later than 80 calendar days before it files its definitive proxy statement and form of proxy with the Commission. The company must simultaneously provide you with a copy of its submission. The Commission staff may permit the company to make its submission later than 80 days before the company files its definitive proxy statement and form of proxy, if the company demonstrates good cause for missing the deadline.

(2) The company must file six paper copies of the following:

(i) The proposal;

(ii) An explanation of why the company believes that it may exclude the proposal, which should, if possible, refer to the most recent applicable authority, such as prior Division letters issued under the rule; and

(iii) A supporting opinion of counsel when such reasons are based on matters of state or foreign law.

(k) *Question 11:* May I submit my own statement to the Commission responding to the company's arguments?

Yes, you may submit a response, but it is not required. You should try to submit any response to us, with a copy to the company, as soon as possible after the company makes its submission. This way, the Commission staff will have time to consider fully your submission before it issues its response. You should submit six paper copies of your response.

(l) *Question 12:* If the company includes my shareholder proposal in its proxy materials, what information about me must it include along with the proposal itself?

(1) The company's proxy statement must include your name and address, as well as the number of the company's voting securities that you hold. However, instead of providing that information, the company may instead include a statement that it will provide the information to shareholders promptly upon receiving an oral or written request.

(2) The company is not responsible for the contents of your proposal or supporting statement.

(m) *Question 13:* What can I do if the company includes in its proxy statement reasons why it believes shareholders should not vote in favor of my proposal, and I disagree with some of its statements?

(1) The company may elect to include in its proxy statement reasons why it believes shareholders should vote against your proposal. The company is allowed to make arguments reflecting its own point of view, just as you may express your own point of view in your proposal's supporting statement.

(2) However, if you believe that the company's opposition to your proposal contains materially false or misleading tatement that may violate our anti fraud rule, § 240 14a 9, you hould promptly end to the Commi ion taff and the company a letter explaining the rea on for your view, along with a copy of the company' tatement oppo ing your propo al To the extent po ible, your letter hould include pecific factual information demon trating the inaccuracy of the company' claim Time permitting, you may wi h to try to work out your difference with the company by your elf before contacting the Commi ion taff

(3) We require the company to end you a copy of it tatement oppo ing your propo al before it end it proxy materials, so that you may bring to our attention any materially false or misleading statements, under the following timeframes:

(i) If our no-action response requires that you make revisions to your proposal or supporting statement as a condition to requiring the company to include it in its proxy materials, then the company must provide you with a copy of its opposition statements no later than 5 calendar days after the company receives a copy of your revised proposal; or

(ii) In all other cases, the company must provide you with a copy of its opposition statements no later than 30 calendar days before its files definitive copies of its proxy statement and form of proxy under § 240.14a-6.

[63 FR 29119, May 28, 1998; 63 FR 50622, 50623, Sept 22, 1998, as amended at 72 FR 4168, Jan 29, 2007; 72 FR 70456, Dec 11, 2007; 73 FR 977, Jan 4, 2008; 76 FR 6045, Feb 2, 2011; 75 FR 56782, Sept 16, 2010; 85 FR 70294, Nov 4, 2020]

EFFECTIVE DATE NOTE

Effective Date Note: At 85 FR 70294, Nov. 4, 2020, § 240.14a-8 was amended by adding paragraph (b)(3), effective Jan. 4, 2021 through Jan 1, 2023

Shareholder Proposals

Staff Legal Bulletin No. 14F (CF)

Action: Publication of CF Staff Legal Bulletin

Date October 18, 2011

Summary: This staff legal bulletin provides information for companies and shareholders regarding Rule 14a-8 under the Securitie E change Act of 1934

Supplementary Information: The statements in this bulletin represent the views of the Division of Corporation Finance (the "Divi ion") Thi bulletin i not a rule, regulation or tatement of the Securitie and E change Commission (the "Commission"). Further, the Commission has neither approved nor disapproved its content.

Contact For further information, plea e contact the Divi ion' Office of Chief Coun el by calling (202) 551 3500 or by submitting a web-based request form at https://www.sec.gov/forms/corp_fin_interpretive.

A. The purpose of this bulletin

Thi bulletin i part of a continuing effort by the Divi ion to provide guidance on important i ue ari ing under Exchange Act Rule 14a-8. Specifically, this bulletin contains information regarding:

- Broker and bank that con titute "record" holder under Rule 14a 8(b)(2)(i) for purpo e of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8;
- Common errors shareholders can avoid when submitting proof of ownership to companies;
- The submission of revised proposals;
- Procedures for withdrawing no-action requests regarding proposals submitted by multiple proponents; and
- The Division's new process for transmitting Rule 14a-8 no-action responses by email.

You can find additional guidance regarding Rule 14a 8 in the following bulletin that are available on the Commission's website: SLB No. 14, SLB No. 14A, SLB No. 14B, SLB No. 14C, SLB No. 14D and SLB No. 14E.

B. The types of brokers and banks that constitute "record" holders under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8

1. Eligibility to submit a proposal under Rule 14a-8

To be eligible to submit a shareholder proposal, a shareholder must have continuously held at least $2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the shareholder meeting for at lea t one year a of the date the hareholder ubmit the propo al The hareholder mu t al o continue to hold the required amount of securities through the date of the meeting and must provide the company with a written statement of intent to do so.[1]

The steps that a shareholder must take to verify his or her eligibility to submit a proposal depend on how the shareholder owns the securities. There are two types of security holders in the U.S.: registered owners and beneficial owners.[2] Registered owners have a direct relationship with the issuer because their ownership of shares is listed on the records maintained by the issuer or its transfer agent. If a shareholder is a registered owner, the company can independently confirm that the shareholder's holdings satisfy Rule 14a-8(b)'s eligibility requirement.

The vast majority of investors in shares issued by U.S. companies, however, are beneficial owners, which means that they hold their securities in book-entry form through a securities intermediary, such as a broker or a bank. Beneficial owners are sometimes referred to as "street name" holders. Rule 14a-8(b)(2)(i) provides that a beneficial owner can provide proof of ownership to support his or her eligibility to submit a proposal by submitting a written statement "from the 'record' holder of [the] securities (usually a broker or bank)," verifying that, at the time the proposal was submitted, the shareholder held the required amount of securities continuously for at least one year.[3]

2. The role of the Depository Trust Company

Most large U.S. brokers and banks deposit their customers' securities with, and hold those securities through, the Depository Trust Company ("DTC"), a registered clearing agency acting as a securities depository. Such brokers and banks are often referred to as "participants" in DTC.[4] The names of these DTC participants, however, do not appear as the registered owners of the securities deposited with DTC on the list of shareholders maintained by the company or, more typically, by its transfer agent. Rather, DTC's nominee, Cede & Co., appears on the shareholder list as the sole registered owner of securities deposited with DTC by the DTC participants. A company can request from DTC a "securities position listing" as of a specified date, which identifies the DTC participants having a position in the company's securities and the number of securities held by each DTC participant on that date.[5]

3. Brokers and banks that constitute "record" holders under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8

In *The Hain Celestial Group, Inc.* (Oct. 1, 2008), we took the position that an introducing broker could be considered a "record" holder for purposes of Rule 14a-8(b)(2)(i). An introducing broker is a broker that engages in sales and other activities involving customer contact, such as opening customer accounts and accepting customer orders, but is not permitted to maintain custody of customer funds and securities.[6] Instead, an introducing broker engages another broker, known as a "clearing broker," to hold custody of client funds and securities, to clear and execute customer trades, and to handle other functions such as issuing confirmations of customer trades and customer account statements. Clearing brokers generally are DTC participants; introducing brokers generally are not. As introducing brokers generally are not DTC participants, and therefore typically do not appear on DTC's securities position listing, *Hain Celestial* has required companies to accept proof of ownership letters from brokers in cases where, unlike the positions of registered owners and brokers and banks that are DTC participants, the company is unable to verify the positions against its own or its transfer agent's records or against DTC's securities position listing.

In light of questions we have received following two recent court cases relating to proof of ownership under Rule 14a-8[7] and in light of the Commission's discussion of registered and beneficial owners in the Proxy Mechanics Concept Release, we have reconsidered our views as to what types of brokers and banks should be considered "record" holders under Rule 14a-8(b)(2)(i). Because of the transparency of DTC participants' positions in a company's securities, we will take the view going forward that, for Rule 14a-8(b)(2)(i) purposes, only DTC participants should be viewed as "record" holders of securities that are deposited at DTC. As a result, we will no longer follow *Hain Celestial*.

We believe that taking this approach as to who constitutes a "record" holder for purposes of Rule 14a-8(b)(2)(i) will provide greater certainty to beneficial owners and companies. We also note that this approach is consistent with Exchange Act Rule 12g5-1 and a 1988 staff no-action letter addressing that rule,[8] under which brokers and banks

that are DTC participant are con idered to be the record holder of ecuritie on depo it with DTC when calculating the number of record holders for purposes of Sections 12(g) and 15(d) of the Exchange Act.

Companie have occa ionally e pre ed the view that, becau e DTC' nominee, Cede & Co , appear on the shareholder list as the sole registered owner of securities deposited with DTC by the DTC participants, only DTC or Cede & Co. should be viewed as the "record" holder of the securities held on deposit at DTC for purposes of Rule 14a-8(b)(2)(i). We have never interpreted the rule to require a shareholder to obtain a proof of ownership letter from DTC or Cede & Co , and nothing in thi guidance hould be con trued a changing that view

How can a shareholder determine whether his or her broker or bank is a DTC participant

Shareholders and companies can confirm whether a particular broker or bank is a DTC participant by checking DTC' participant li t, which i currently available on the Internet at http://www.dtcc.com/~/media/Files/Downloads/client-center/DTC/alpha.ashx.

What if a shareholder's broker or bank is not on DTC's participant list

The shareholder will need to obtain proof of ownership from the DTC participant through which the securities are held The hareholder hould be able to find out who thi DTC participant i by a king the hareholder' broker or bank.[9]

If the DTC participant know the hareholder' broker or bank' holding , but doe not know the shareholder's holdings, a shareholder could satisfy Rule 14a-8(b)(2)(i) by obtaining and submitting two proof of ownership statements verifying that, at the time the proposal was submitted, the required amount of securities were continuously held for at least one year – one from the shareholder's broker or bank confirming the hareholder' owner hip, and the other from the DTC participant confirming the broker or bank' ownership.

How will the staff process no action requests that argue for exclusion on the basis that the shareholder's proof of ownership is not from a DTC participant?

The taff will grant no action relief to a company on the ba i that the hareholder' proof of owner hip i not from a DTC participant only if the company's notice of defect describes the required proof of ownership in a manner that is consistent with the guidance contained in this bulletin. Under Rule 14a-8(f)(1), the shareholder will have an opportunity to obtain the requisite proof of ownership after receiving the notice of defect.

C. Common errors shareholders can avoid when submitting proof of ownership to companies

In this section, we describe two common errors shareholders make when submitting proof of ownership for purposes of Rule 14a-8(b)(2), and we provide guidance on how to avoid these errors.

First, Rule 14a-8(b) requires a shareholder to provide proof of ownership that he or she has "continuously held at least $2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the meeting for at least one year by the date you submit the proposal" (emphasis added).[10] We note that many proof of owner hip letter do not ati fy thi requirement becau e they do not verify the hareholder' beneficial ownership for the entire one-year period preceding and including the date the proposal is submitted. In some cases, the letter speaks as of a date *before* the date the proposal is submitted, thereby leaving a gap between the date of the verification and the date the proposal is submitted. In other cases, the letter speaks as of a date *after* the date the propo al wa ubmitted but cover a period of only one year, thu failing to verify the hareholder' beneficial ownership over the required full one-year period preceding the date of the proposal's submission.

Second, many letters fail to confirm continuous ownership of the securities. This can occur when a broker or bank submits a letter that confirms the shareholder's beneficial ownership only as of a specified date but omits any reference to continuous ownership for a one-year period.

We recognize that the requirements of Rule 14a-8(b) are highly prescriptive and can cause inconvenience for shareholders when submitting proposals. Although our administration of Rule 14a-8(b) is constrained by the terms of the rule, we believe that shareholders can avoid the two errors highlighted above by arranging to have their broker or bank provide the required verification of ownership as of the date they plan to submit the proposal using the following format:

> "As of [date the proposal is submitted], [name of shareholder] held, and has held continuously for at least one year, [number of securities] shares of [company name] [class of securities]."[11]

As discussed above, a shareholder may also need to provide a separate written statement from the DTC participant through which the shareholder's securities are held if the shareholder's broker or bank is not a DTC participant.

D. The submission of revised proposals

On occasion, a shareholder will revise a proposal after submitting it to a company. This section addresses questions we have received regarding revisions to a proposal or supporting statement.

1. A shareholder submits a timely proposal. The shareholder then submits a revised proposal before the company's deadline for receiving proposals. Must the company accept the revisions?

Yes. In this situation, we believe the revised proposal serves as a replacement of the initial proposal. By submitting a revised proposal, the shareholder has effectively withdrawn the initial proposal. Therefore, the shareholder is not in violation of the one-proposal limitation in Rule 14a-8(c).[12] If the company intends to submit a no-action request, it must do so with respect to the revised proposal.

We recognize that in Question and Answer E.2 of SLB No. 14, we indicated that if a shareholder makes revisions to a proposal before the company submits its no-action request, the company can choose whether to accept the revisions. However, this guidance has led some companies to believe that, in cases where shareholders attempt to make changes to an initial proposal, the company is free to ignore such revisions even if the revised proposal is submitted before the company's deadline for receiving shareholder proposals. We are revising our guidance on this issue to make clear that a company may not ignore a revised proposal in this situation.[13]

2. A shareholder submits a timely proposal. After the deadline for receiving proposals, the shareholder submits a revised proposal. Must the company accept the revisions?

No. If a shareholder submits revisions to a proposal after the deadline for receiving proposals under Rule 14a-8(e), the company is not required to accept the revisions. However, if the company does not accept the revisions, it must treat the revised proposal as a second proposal and submit a notice stating its intention to exclude the revised proposal, as required by Rule 14a-8(j). The company's notice may cite Rule 14a-8(e) as the reason for excluding the revised proposal. If the company does not accept the revisions and intends to exclude the initial proposal, it would also need to submit its reasons for excluding the initial proposal.

3. If a shareholder submits a revised proposal, as of which date must the shareholder prove his or her share ownership?

A shareholder must prove ownership as of the date the original proposal is submitted. When the Commission has discussed revisions to proposals,[14] it has not suggested that a revision triggers a requirement to provide proof of ownership a second time. As outlined in Rule 14a-8(b), proving ownership includes providing a written statement

that the shareholder intends to continue to hold the securities through the date of the shareholder meeting. Rule 14a-8(f)(2) provides that if the shareholder "fails in [his or her] promise to hold the required number of securities through the date of the meeting of shareholders, then the company will be permitted to exclude all of [the same shareholder's] proposals from its proxy materials for any meeting held in the following two calendar years." With these provisions in mind, we do not interpret Rule 14a-8 as requiring additional proof of ownership when a shareholder submits a revised proposal.[15]

E. Procedures for withdrawing no-action requests for proposals submitted by multiple proponents

We have previously addressed the requirements for withdrawing a Rule 14a-8 no-action request in SLB Nos. 14 and 14C. SLB No. 14 notes that a company should include with a withdrawal letter documentation demonstrating that a shareholder has withdrawn the proposal. In cases where a proposal submitted by multiple shareholders is withdrawn, SLB No. 14C states that, if each shareholder has designated a lead individual to act on its behalf and the company is able to demonstrate that the individual is authorized to act on behalf of all of the proponents, the company need only provide a letter from that lead individual indicating that the lead individual is withdrawing the proposal on behalf of all of the proponents.

Because there is no relief granted by the staff in cases where a no-action request is withdrawn following the withdrawal of the related proposal, we recognize that the threshold for withdrawing a no-action request need not be overly burdensome. Going forward, we will process a withdrawal request if the company provides a letter from the lead filer that includes a representation that the lead filer is authorized to withdraw the proposal on behalf of each proponent identified in the company's no-action request.[16]

F. Use of email to transmit our Rule 14a-8 no-action responses to companies and proponents

To date, the Division has transmitted copies of our Rule 14a-8 no-action responses, including copies of the correspondence we have received in connection with such requests, by U.S. mail to companies and proponents. We also post our response and the related correspondence to the Commission's website shortly after issuance of our response.

In order to accelerate delivery of staff responses to companies and proponents, and to reduce our copying and postage costs, going forward, we intend to transmit our Rule 14a-8 no-action responses by email to companies and proponents. We therefore encourage both companies and proponents to include email contact information in any correspondence to each other and to us. We will use U.S. mail to transmit our no-action response to any company or proponent for which we do not have email contact information.

Given the availability of our responses and the related correspondence on the Commission's website and the requirement under Rule 14a-8 for companies and proponents to copy each other on correspondence submitted to the Commission, we believe it is unnecessary to transmit copies of the related correspondence along with our no-action response. Therefore, we intend to transmit only our staff response and not the correspondence we receive from the parties. We will continue to post to the Commission's website copies of this correspondence at the same time that we post our staff no-action response.

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

[2] For an explanation of the types of share ownership in the U.S., see Concept Release on U.S. Proxy System, Release No. 34-62495 (July 14, 2010) [75 FR 42982] ("Proxy Mechanics Concept Release"), at Section II.A. The term "beneficial owner" does not have a uniform meaning under the federal securities laws. It has a different meaning in this bulletin as compared to "beneficial owner" and "beneficial ownership" in Sections 13 and 16 of the

E change Act Our u e of the term in thi bulletin i not intended to ugge t that regi tered owner are not beneficial owners for purposes of those Exchange Act provisions. *See* Proposed Amendments to Rule 14a-8 under the Securities Exchange Act of 1934 Relating to Proposals by Security Holders, Release No. 34-12598 (July 7, 1976) [41 FR 29982], at n.2 ("The term 'beneficial owner' when used in the context of the proxy rules, and in light of the purpo e of tho e rule , may be interpreted to have a broader meaning than it would for certain other purpose[s] under the federal securities laws, such as reporting pursuant to the Williams Act.").

[3] If a hareholder ha filed a Schedule 13D, Schedule 13G, Form 3, Form 4 or Form 5 reflecting owner hip of the required amount of shares, the shareholder may instead prove ownership by submitting a copy of such filings and providing the additional information that is described in Rule 14a-8(b)(2)(ii).

[4] DTC holds the deposited securities in "fungible bulk," meaning that there are no specifically identifiable shares directly owned by the DTC participants. Rather, each DTC participant holds a pro rata interest or position in the aggregate number of shares of a particular issuer held at DTC. Correspondingly, each customer of a DTC participant uch a an individual inve tor own a pro rata intere t in the hare in which the DTC participant has a pro rata interest. *See* Proxy Mechanics Concept Release, at Section II.B.2.a.

[5] *See* E change Act Rule 17Ad 8

[6] *See* Net Capital Rule, Release No. 34-31511 (Nov. 24, 1992) [57 FR 56973] ("Net Capital Rule Release"), at Section II C

[7] *See KBR Inc. v. Chevedden*, Civil Action No. H-11-0196, 2011 U.S. Dist. LEXIS 36431, 2011 WL 1463611 (S.D. Te Apr 4, 2011); *Apache Corp v Chevedden,* 696 F Supp 2d 723 (S D Te 2010) In both ca e , the court concluded that a securities intermediary was not a record holder for purposes of Rule 14a-8(b) because it did not appear on a list of the company's non-objecting beneficial owners or on any DTC securities position listing, nor was the intermediary a DTC participant.

[8] *Techne Corp.* (Sept. 20, 1988).

[9] In addition, if the shareholder's broker is an introducing broker, the shareholder's account statements should include the clearing broker's identity and telephone number. *See* Net Capital Rule Release, at Section II.C.(iii). The clearing broker will generally be a DTC participant.

[10] For purposes of Rule 14a-8(b), the submission date of a proposal will generally precede the company's receipt date of the proposal, absent the use of electronic or other means of same-day delivery.

[11] This format is acceptable for purposes of Rule 14a-8(b), but it is not mandatory or exclusive.

[12] As such, it is not appropriate for a company to send a notice of defect for multiple proposals under Rule 14a-8(c) upon receiving a revised proposal.

[13] This position will apply to all proposals submitted after an initial proposal but before the company's deadline for receiving proposals, regardless of whether they are explicitly labeled as "revisions" to an initial proposal, unless the shareholder affirmatively indicates an intent to submit a second, *additional* proposal for inclusion in the company's pro y material In that ca e, the company mu t end the hareholder a notice of defect pur uant to Rule 14a 8(f)(1) if it intends to exclude either proposal from its proxy materials in reliance on Rule 14a-8(c). In light of this guidance, with respect to proposals or revisions received before a company's deadline for submission, we will no longer follow *Layne Christensen Co.* (Mar. 21, 2011) and other prior staff no-action letters in which we took the view that a propo al would violate the Rule 14a 8(c) one propo al limitation if uch propo al i ubmitted to a company after the company has either submitted a Rule 14a-8 no-action request to exclude an earlier proposal submitted by the same proponent or notified the proponent that the earlier proposal was excludable under the rule.

[14] *See, e.g.*, Adoption of Amendments Relating to Proposals by Security Holders, Release No. 34-12999 (Nov. 22, 1976) [41 FR 52994].

[15] Because the relevant date for proving ownership under Rule 14a-8(b) is the date the proposal is submitted, a proponent who does not adequately prove ownership in connection with a proposal is not permitted to submit another proposal for the same meeting on a later date.

[16] Nothing in this staff position has any effect on the status of any shareholder proposal that is not withdrawn by the proponent or its authorized representative.

Modified: Oct. 18, 2011

Shareholder Proposals

Staff Legal Bulletin No. 14G (CF)

Action: Publication of CF Staff Legal Bulletin

Date October 16, 2012

Summary: This staff legal bulletin provides information for companies and shareholders regarding Rule 14a-8 under the Securitie E change Act of 1934

Supplementary Information: The statements in this bulletin represent the views of the Division of Corporation Finance (the "Divi ion") Thi bulletin i not a rule, regulation or tatement of the Securitie and E change Commission (the "Commission"). Further, the Commission has neither approved nor disapproved its content.

Contact For further information, plea e contact the Divi ion' Office of Chief Coun el by calling (202) 551 3500 or by submitting a web-based request form at https://www.sec.gov/forms/corp_fin_interpretive.

A. The purpose of this bulletin

Thi bulletin i part of a continuing effort by the Divi ion to provide guidance on important i ue ari ing under Exchange Act Rule 14a-8. Specifically, this bulletin contains information regarding:

- the partie that can provide proof of owner hip under Rule 14a 8(b)(2)(i) for purpo e of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8;
- the manner in which companie hould notify proponent of a failure to provide proof of owner hip for the one-year period required under Rule 14a-8(b)(1); and
- the u e of web ite reference in propo al and upporting tatement

You can find additional guidance regarding Rule 14a-8 in the following bulletins that are available on the Commi ion' web ite SLB No 14, SLB No 14A, SLB No 14B, SLB No 14C, SLB No 14D, SLB No 14E and SLB No. 14F.

B. Parties that can provide proof of ownership under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8

1. Sufficiency of proof of ownership letters provided by affiliates of DTC participants for purposes of Rule 14a-8(b)(2)(i)

To be eligible to ubmit a propo al under Rule 14a 8, a hareholder mu t, among other thing , provide documentation evidencing that the shareholder has continuously held at least $2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the shareholder meeting for at least one year as of the date the shareholder submits the proposal. If the shareholder is a beneficial owner of the securities, which

means that the securities are held in book-entry form through a securities intermediary, Rule 14a-8(b)(2)(i) provides that this documentation can be in the form of a "written statement from the 'record' holder of your securities (usually a broker or bank)…."

In SLB No. 14F, the Division described its view that only securities intermediaries that are participants in the Depository Trust Company ("DTC") should be viewed as "record" holders of securities that are deposited at DTC for purposes of Rule 14a-8(b)(2)(i). Therefore, a beneficial owner must obtain a proof of ownership letter from the DTC participant through which its securities are held at DTC in order to satisfy the proof of ownership requirements in Rule 14a-8.

During the most recent proxy season, some companies questioned the sufficiency of proof of ownership letters from entities that were not themselves DTC participants, but were affiliates of DTC participants.[1] By virtue of the affiliate relationship, we believe that a securities intermediary holding shares through its affiliated DTC participant should be in a position to verify its customers' ownership of securities. Accordingly, we are of the view that, for purposes of Rule 14a-8(b)(2)(i), a proof of ownership letter from an affiliate of a DTC participant satisfies the requirement to provide a proof of ownership letter from a DTC participant.

2. Adequacy of proof of ownership letters from securities intermediaries that are not brokers or banks

We understand that there are circumstances in which securities intermediaries that are not brokers or banks maintain securities accounts in the ordinary course of their business. A shareholder who holds securities through a securities intermediary that is not a broker or bank can satisfy Rule 14a-8's documentation requirement by submitting a proof of ownership letter from that securities intermediary.[2] If the securities intermediary is not a DTC participant or an affiliate of a DTC participant, then the shareholder will also need to obtain a proof of ownership letter from the DTC participant or an affiliate of a DTC participant that can verify the holdings of the securities intermediary.

C. Manner in which companies should notify proponents of a failure to provide proof of ownership for the one-year period required under Rule 14a-8(b)(1)

As discussed in Section C of SLB No. 14F, a common error in proof of ownership letters is that they do not verify a proponent's beneficial ownership for the entire one-year period preceding and including the date the proposal was submitted, as required by Rule 14a-8(b)(1). In some cases, the letter speaks as of a date *before* the date the proposal was submitted, thereby leaving a gap between the date of verification and the date the proposal was submitted. In other cases, the letter speaks as of a date *after* the date the proposal was submitted but covers a period of only one year, thus failing to verify the proponent's beneficial ownership over the required full one-year period preceding the date of the proposal's submission.

Under Rule 14a-8(f), if a proponent fails to follow one of the eligibility or procedural requirements of the rule, a company may exclude the proposal only if it notifies the proponent of the defect and the proponent fails to correct it. In SLB No. 14 and SLB No. 14B, we explained that companies should provide adequate detail about what a proponent must do to remedy all eligibility or procedural defects.

We are concerned that companies' notices of defect are not adequately describing the defects or explaining what a proponent must do to remedy defects in proof of ownership letters. For example, some companies' notices of defect make no mention of the gap in the period of ownership covered by the proponent's proof of ownership letter or other specific deficiencies that the company has identified. We do not believe that such notices of defect serve the purpose of Rule 14a-8(f).

Accordingly, going forward, we will not concur in the exclusion of a proposal under Rules 14a-8(b) and 14a-8(f) on the basis that a proponent's proof of ownership does not cover the one-year period preceding and including the

date the proposal is submitted unless the company provides a notice of defect that identifies the specific date on which the proposal was submitted and explains that the proponent must obtain a new proof of ownership letter verifying continuous ownership of the requisite amount of securities for the one-year period preceding and including such date to cure the defect. We view the proposal's date of submission as the date the proposal is postmarked or transmitted electronically. Identifying in the notice of defect the specific date on which the proposal was submitted will help a proponent better understand how to remedy the defects described above and will be particularly helpful in those instances in which it may be difficult for a proponent to determine the date of submission, such as when the proposal is not postmarked on the same day it is placed in the mail. In addition, companies should include copies of the postmark or evidence of electronic transmission with their no action requests.

D. Use of website addresses in proposals and supporting statements

Recently, a number of proponents have included in their proposals or in their supporting statements the addresses to websites that provide more information about their proposals. In some cases, companies have sought to exclude either the website address or the entire proposal due to the reference to the website address.

In SLB No. 14, we explained that a reference to a website address in a proposal does not raise the concerns addressed by the 500-word limitation in Rule 14a-8(d). We continue to be of this view and, accordingly, we will continue to count a website address as one word for purposes of Rule 14a-8(d). To the extent that the company seeks the exclusion of a website reference in a proposal, but not the proposal itself, we will continue to follow the guidance stated in SLB No. 14, which provides that references to website addresses in proposals or supporting statements could be subject to exclusion under Rule 14a-8(i)(3) if the information contained on the website is materially false or misleading, irrelevant to the subject matter of the proposal or otherwise in contravention of the proxy rules, including Rule 14a-9.[3]

In light of the growing interest in including references to website addresses in proposals and supporting statements, we are providing additional guidance on the appropriate use of website addresses in proposals and supporting statements.[4]

1. References to website addresses in a proposal or supporting statement and Rule 14a-8(i)(3)

References to websites in a proposal or supporting statement may raise concerns under Rule 14a-8(i)(3). In SLB No. 14B, we stated that the exclusion of a proposal under Rule 14a-8(i)(3) as vague and indefinite may be appropriate if neither the shareholders voting on the proposal, nor the company in implementing the proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires. 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.

If a proposal or supporting statement refers to a website that provides information necessary for shareholders and the company to understand with reasonable certainty exactly what actions or measures the proposal requires, and such information is not also contained in the proposal or in the supporting statement, then we believe the proposal would raise concerns under Rule 14a-9 and would be subject to exclusion under Rule 14a-8(i)(3) as vague and indefinite. By contrast, if shareholders and the company can understand with reasonable certainty exactly what actions or measures the proposal requires without reviewing the information provided on the website, then we believe that the proposal would not be subject to exclusion under Rule 14a-8(i)(3) on the basis of the reference to the website address. In this case, the information on the website only supplements the information contained in the proposal and in the supporting statement.

2. Providing the company with the materials that will be published on the referenced website

We recognize that if a proposal references a website that is not operational at the time the proposal is submitted, it will be impossible for a company or the staff to evaluate whether the website reference may be excluded. In our view, a reference to a non-operational website in a proposal or supporting statement could be excluded under Rule 14a-8(i)(3) as irrelevant to the subject matter of a proposal. We understand, however, that a proponent may wish to include a reference to a website containing information related to the proposal but wait to activate the website until it becomes clear that the proposal will be included in the company's proxy materials. Therefore, we will not concur that a reference to a website may be excluded as irrelevant under Rule 14a-8(i)(3) on the basis that it is not yet operational if the proponent, at the time the proposal is submitted, provides the company with the materials that are intended for publication on the website and a representation that the website will become operational at, or prior to, the time the company files its definitive proxy materials.

3. Potential issues that may arise if the content of a referenced website changes after the proposal is submitted

To the extent the information on a website changes after submission of a proposal and the company believes the revised information renders the website reference excludable under Rule 14a-8, a company seeking our concurrence that the website reference may be excluded must submit a letter presenting its reasons for doing so. While Rule 14a-8(j) requires a company to submit its reasons for exclusion with the Commission no later than 80 calendar days before it files its definitive proxy materials, we may concur that the changes to the referenced website constitute "good cause" for the company to file its reasons for excluding the website reference after the 80-day deadline and grant the company's request that the 80-day requirement be waived.

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[1] An entity is an "affiliate" of a DTC participant if such entity directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the DTC participant.

[2] Rule 14a-8(b)(2)(i) itself acknowledges that the record holder is "usually," but not always, a broker or bank.

[3] Rule 14a-9 prohibits statements in proxy materials which, at the time and in the light of the circumstances under which they are made, are false or misleading with respect to any material fact, or which omit to state any material fact necessary in order to make the statements not false or misleading.

[4] A website that provides more information about a shareholder proposal may constitute a proxy solicitation under the proxy rules. Accordingly, we remind shareholders who elect to include website addresses in their proposals to comply with all applicable rules regarding proxy solicitations.

Modified: Oct. 16, 2012

National Legal and Policy Center

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Since 1991

October 7, 2021

Secretary
The Walt Disney Company
500 South Buena Vista Street
Burbank, CA 91521-1030

VIA EMAIL Lillian.brown@wilmerhale.com AND FED EX

Dear Secretary:

This letter responds to the October 4, 2021 letter of Lillian Brown of WilmerHale who alleged that our shareholder proposal submitted to The Walt Disney Company on September 21, 2021 was deficient.

I have enclosed a letter from our broker Fidelity verifying our ownership of The Walt Disney Company stock.

Sincerely,

Peter Flaherty
Chairman

107 Park Washington Court • Falls Church, VA • 22046
703-237-1970 • fax 703-237-2090 • www.nlpc.org

Personal Investing

P.O. Box 770001
Cincinnati, OH 45277-0045

September 30, 2021

NATIONAL LEGAL AND POLICY CTR
ATTN: PETER THOMAS FLAHERTY
107 PARK WASHINGTON CT
FALLS CHURCH, VA 22046-4519

Dear Peter Flaherty:

Thank you for contacting Fidelity Investments. This letter is in response to your request for Fidelity to verify shares currently held over one year of Disney (DIS) in your account ending in PII. I appreciate the opportunity to assist you with this matter.

Please see the tables for the requested information.

Acquisition Date	Lot Quantity	Basis Per Share	Lot Basis
06/24/1997	44	$27.01	$1,188.48

Please note that this table contains information as of September 30, 2021 and can be subject to change pending any new and subsequent transactions in the same securities. They may not reflect impact from any previous corporate actions. This information is unaudited and is not intended to replace your monthly statement or official tax documents.

I hope this information is helpful. For any other issues or general inquiries, please contact a Fidelity representative at 800-544-4442. Thank you for choosing Fidelity Investments.

Sincerely,

Joshua Suprise
Operations Specialist

Our File: W529798-20SEP21

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Since 1991

October 29, 2021

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

VIA EMAIL: shareholderproposals@sec.gov

Ladies and Gentlemen:

This letter responds to the October 26, 2021 letter from Lillian Brown of WilmerHale on behalf of The Walt Disney Company informing the Commission of the Company's intention to omit from its proxy our shareholder proposal and supporting statement titled Human Rights Due Diligence Report.

The Company asserts two bases for exclusion.

The Proposal may be excluded under Rule 14a-8(b) and Rule 14a-8(f) because the Proponent has failed to establish that he continuously held the requisite amount of the Company's securities entitled to be voted on the Proposal at the Company's 2022 annual meeting of shareholders.

The Company acknowledges receipt of a verification letter from Fidelity in a timely manner but claims, "However, the letter does not include an explicit written statement verifying that, as of the date the Proposal was submitted to the Company, the Proponent continuously held the requisite number of Company shares for the relevant holding period."

The Company is in error. The Fidelity letter states, "This letter is in response to your request for Fidelity to verify shares currently held over one year of Disney in your account ending in [PII]. I appreciate the opportunity to assist you in this matter."

The next paragraph states, "Please see the tables for the requested information," below which is a table consisting of one entry for 44 shares we acquired in 1997. Of course, the "requested information" is "shares currently held over one year."

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The two paragraphs taken together consist of an explicit, affirmative written statement verifying that, as of the date the Proposal was submitted to the Company, the Proponent continuously held the requisite number of Company shares for the relevant holding period.

The Company goes on to assert, "The Fidelity Letter appears to be a statement letter from the holder of record of the Proponent's shares as of September 30, 2021, and while it includes an 'acquisition date,' it requires the Company to assume that the ownership of the qualifying securities was continuous."

To the contrary, the Fidelity letter does not ask the Company to "assume" anything. The paragraph including the table is qualified by the previous paragraph, which states, "This letter is in response to your request for Fidelity to verify shares currently held over one year…"

Although the Fidelity letter does not contain the word "continuous," no other possibility is allowed by Fidelity's plain language. In the context of the Fidelity letter, "currently held over one year" is the same thing as "continuous."

Rule 14a-8 requires the record holder to verify continuous holding of the qualifying shares, but it does not require the actual use of the terms "continuous" or "continuously."

None of the Staff precedents cited by the Company match these circumstances.

The Proposal may be excluded pursuant to Rule 14a-8(i)(7) because the subject matter of the Proposal directly concerns the Company's ordinary business operations.

The resolution is not about "the selection of filming and production locations for the Company's motion pictures." The resolution does not even reference moviemaking. The resolution is about human rights.

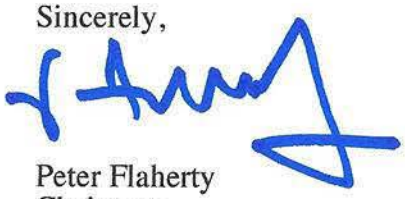
The supporting statement references China and the Uyghur minority, and Disney's collaborative relationship with their oppressors, but the resolution would apply to all of the Company's operations.

The Uyghur example is important, however, because as the supporting statement points out, "Both the Biden and Trump administrations have formally characterized the Chinese government's policy toward the Uyghur minority in Xinjiang as 'genocide.'" There is nothing ordinary about the most obvious case of corporate complicity in genocide since World War II.

Disney's open cooperation with communist and authoritarian regimes, which it acknowledges and publicizes, is a significant social policy issue that transcends its day-to-day operations.

For these reasons, this proponent asks the Commission to recommend enforcement action should the Company omit the proposal.

Sincerely,



Peter Flaherty
Chairman

cc: Lilliam Brown, WilmerHle
Jolene Negre, Assistant Secretary, The Walt Disney Company

December 14, 2021

Lillian Brown

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Via E-mail to shareholderproposals@sec.gov

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

Re: **The Walt Disney Company**
Exclusion of Shareholder Proposal by National Legal and Policy Center

Ladies and Gentlemen:

We are writing on behalf of our client, The Walt Disney Company (the "Company"), to (i) address new interpretive positions set forth in Staff Legal Bulletin No. 14L ("SLB 14L"), which was published on November 3, 2021, subsequent to the Company's October 26, 2021 correspondence (the "No-Action Request"); and (ii) respond to correspondence from the National Legal and Policy Center (the "Proponent") dated October 29, 2021 in response to the Company's No-Action Request (the "Reply Letter"). The Company continues to believe, both for the reasons set forth below and the reasons provided in the No-Action Request, that the Proposal may be excluded from the Company's Proxy Materials (the latter as defined in the No-Action Request).

The Proposal may be excluded pursuant to Rule 14a-8(i)(7) because the subject matter of the Proposal directly concerns the Company's ordinary business operations.

SLB 14L rescinds prior Staff Legal Bulletin Nos. 14I, 14J and 14K (together, the "Rescinded SLBs") and provides that, going forward, the staff of the Division of Corporation Finance (the "Staff") is "realigning its approach" to assessing whether a proposal relates to the ordinary business of a company. In particular, in assessing whether an issue transcends ordinary business, the Staff "will no longer focus on determining the nexus between a policy issue and the company, but will instead focus on the social policy significance of the issue that is the subject of the shareholder proposal. In making this determination, the staff will consider whether the proposal raises issues with a broad societal impact, such that they transcend the ordinary business of the company." SLB 14L.

We submit that this "realigned approach" should not impact whether the Proposal is required to be included in the Company's Proxy Materials. At its core, the Proposal is not about a significant policy issue but rather the day-to-day details of how the Company makes a film and otherwise conducts its ordinary business operations. More specifically, and as discussed in the No-Action Request, the Proposal's supporting statement, on its face, illuminates the Proposal's true ordinary business nature through its focus on the details of the Company's day-to-day decisions about particular projects, including decisions about the location, engagement with local officials and selection of actors in connection with the production of the film *Mulan*.

The Proponent's Reply Letter seeks to escape the Proposal's clear focus on day-to-day operations by trying to cast it as a human rights proposal. But a long line of precedent that predates the positions set out in the Rescinded SLBs makes clear that merely asserting or referencing a significant policy issue will not convert an otherwise fundamentally ordinary business topic to a significant policy issue that transcends ordinary business. To conclude otherwise would eviscerate the ordinary business exclusion, which remains sound in principle.

For these reasons, and notwithstanding the change in position expressed in SLB 14L, the Proposal may be excluded from the Proxy Materials pursuant to Rule 14a-8(i)(7) on the basis that the Proposal relates to the Company's ordinary business operations.

The Proposal is excludable because it 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.

SLB 14L provides that "[u]pon further consideration, the staff has determined that its recent application of the micromanagement concept, as outlined in SLB Nos. 14J and 14K, expanded the concept of micromanagement beyond the Commission's policy directives." Even in light of SLB 14L, for the reasons stated in our No-Action Request, the Proposal may be excluded on the basis that it seeks to micromanage the Company within the meaning of the remaining policy directives.

The Proposal seeks to micromanage the Company with regard to the type and weight of specific factors the Company uses to determine filming locations. As the Staff explained in SLB 14L, in considering arguments under the micromanagement exclusion, 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." The Proposal effectively requests a granular report of the due diligence process undertaken by the Company in determining filming locations and sets forth a specific overriding factor, that would, if approved, directly limit management's discretion to determine whether or not it chooses to film in a particular location despite other considerations.

Additionally, the Company's determinations about selection of filming locations require an understanding of complex internal workings including intricate economic, logistical and marketing decisions. The Proposal concedes the multifactorial nature of the Company's decision-making process, but still demands that one factor is "paramount" to a final choice. In considering whether a proposal is too complex to enable shareholders to be in a position 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." SLB 14L. Here, the Company's determinations for such things as filming locations are multi-faceted and complex topics, and they are not topics about which there is robust public discussion or analysis. Accordingly, the Staff's guidance in SLB 14L supports that the Proposal is excludable under Rule 14a-8(i)(7) because it seeks to micromanage the Company.

The Proposal may be excluded under Rule 14a-8(b) and Rule 14a-8(f) because the Proponent has failed to establish that it continuously held the requisite amount of the Company's securities entitled to be voted on the Proposal at the Company's 2022 annual meeting of shareholders, and the Proponent failed to supply sufficient documentary support to satisfy the ownership requirements of Rule 14a-8(b).

The Proponent's interpretation of the requirements of Rule 14a-8(b) regarding the Company's securities he holds is in error. The Proponent's Reply Letter states in relevant part that the Fidelity Letter (as defined in the No-Action Request) was issued "in response to [the Proponent's] request for Fidelity to verify shares currently held *over one year* [emphasis added]." This response as set forth in the Fidelity Letter included a table consisting of one entry for 44 shares with an acquisition date in 1997 (the "Shares"). The Proponent asserts that the Proponent's request and Fidelity's response, taken together, establish that the Shares comprise "shares currently held over one year." The Proponent also asserts that "[i]n the context of the Fidelity letter, 'currently held over one year' is the same thing as 'continuous.'"

The information provided by the Proponent does not satisfy the requirement to continuously hold the *requisite amount* of securities for the *requisite period of time* under Rule 14a-8(b) for multiple reasons. Under Rule 14a-8(b)(1)(i)(C), a proponent may satisfy the ownership requirement by continuously holding at least $25,000 in market value of a company's securities entitled to be voted on the proposal for at least one year. However, the market value of the Shares is significantly less than $25,000. Alternatively, for lower holding amounts, the Proponent would need to have held the securities continuously for a longer period of time (e.g., three years for holdings of $2,000) or qualify under the transition provision in Rule 14a-8(b)(3), the latter of which would require that a proponent have continuously held "at least $2,000 of a company's securities entitled to vote on the proposal for at least one year as of January 4, 2021." Although the market value of the Shares exceeds $2,000, the Fidelity Letter indicates that the

Shares were held for over one year as of September 30, 2021, which falls short of any of the requisite time periods set forth in Rule 14a-8(b)(3).

To satisfy the ownership requirement under Rule 14a-8(b), the Fidelity Letter would have had to establish that the Proponent continuously held the Shares for at least three years under Rule 14a-8(b)(1)(i)(C), or since January 4, 2020 under Rule 14a-9(b)(3). Although the acquisition date in 1997 is noted in the Fidelity Letter, the Fidelity Letter does not establish that the Shares were held continuously since 1997. As there is no other statement in the Fidelity Letter regarding continuous ownership for the requisite period of time in light of the market value of the Shares, the Fidelity Letter requires the Company to assume that the ownership of the qualifying securities was continuous presumably since 1997, and the Proponent does not dispute that this assumption would be required in the Reply Letter. He notes, in this regard, that "[i]n the context of the Fidelity letter, 'currently held over one year' is the same thing as 'continuous.'" This is inconsistent with the Staff's longstanding approach to a Proponent's obligation to demonstrate continuous ownership which, while not dictating the precise language or formulation of the required record holder statement, does require at a minimum some reference to continuous ownership.

Additionally, the Company notes that the Fidelity Letter is on "Fidelity Investments" letterhead, with a reference at the bottom of the Fidelity Letter to "Fidelity Brokerage Services LLC, Members NYSE, SIPC". Neither Fidelity Investments nor Fidelity Brokerage Services LLC appears to be a DTC participant as required by Rule 14a-8(b) and Staff Legal Bulletin No. 14F (October 18, 2011) ("SLB 14F").

Rule 14a-8(b) specifies that when a shareholder submitting a proposal is not a record holder, it must prove eligibility to submit the proposal through a written statement from the "record" holder (usually a broker or bank) verifying ownership of the requisite securities. SLB 14F clarified that, unless the shareholder has filed a Schedule 13D, Schedule 13G, Form 3, Form 4 or Form 5 with the SEC, this statement must come from a DTC participant, stating:

> Because of the transparency of DTC participants' positions in a company's securities, we will take the view going forward that, for Rule 14a-8(b)(2)(i) purposes, only DTC participants should be viewed as "record" holders of securities that are deposited at DTC.

SLB 14F notes that shareholders and companies can confirm whether a particular broker or bank is a DTC participant by checking DTC's publicly available participant list (the "DTC Participant List") at http://www.dtcc.com/~/media/Files/Downloads/client-center/DTC/alpha.ashx. This requirement was explicitly set forth in the Notice of Deficiency (as defined in the No-Action Request), and a complete copy of SLB 14F accompanied the Notice of

Deficiency. Neither Fidelity Investments nor Fidelity Brokerage Services LLC is listed on the DTC Participant List.

SLB 14F further provides that if a shareholder's broker or bank is not on the DTC Participant List:

> The shareholder will need to obtain proof of ownership from the DTC participant through which the securities are held. The shareholder should be able to find out who this DTC participant is by asking the shareholder's broker or bank.[1]

Again, this eligibility requirement was paired with clear instructions on how to satisfy this requirement in the Notice of Deficiency: "if the Proponent's shares are held by a bank, broker or other securities intermediary *that is not a DTC participant or an affiliate of a DTC participant*, proof of ownership must be provided by both (1) the bank, broker or other securities intermediary and (2) the DTC participant (or an affiliate thereof) that can verify the holdings of the bank, broker or other securities intermediary [emphasis added]." The Proponent failed to provide any statement or other information specifying that either Fidelity Investments or Fidelity Brokerage Services LLC is an affiliate of a DTC Participant.

The Company acknowledges that the Staff's guidance in SLB 14L provides that "companies should identify any specific defects in the proof of ownership letter, even if the company previously sent a deficiency notice prior to receiving the proponent's proof of ownership *if such deficiency notice did not identify the specific defect(s)* [emphasis added]." In the Notice of Deficiency, the Company clearly laid out the proof of ownership requirements set forth in Rule 14a-8(b). In addition to providing the above-described detailed instructions regarding establishing DTC participant status, the Company even went so far as to provide the following illustration with regard to the various ownership thresholds and corresponding holding periods a proponent might meet to utilize Rule 14a-8:

> For example, if the Proponent owns at least $15,000 in market value of the Company's securities entitled to vote on the Proposal, the Proponent would need to submit sufficient proof of its continuous ownership of the requisite number of Company shares during the two years preceding and including the Submission Date. If, on the other hand, the Proponent continuously held at least $2,000 of the Company's securities entitled to vote on the proposal for at least one year as of January 4, 2021, and has continuously maintained a minimum investment of at least $2,000 of such securities from January 4, 2021 through the Submission Date, the

[1] We note that Staff Legal Bulletin No. 14G (October 16, 2012) ("SLB 14G") clarifies that the proof of ownership letter may be provided by an affiliate of a DTC participant, and a complete copy of SLB 14G accompanied the Notice of Deficiency.

> Proponent would need to submit sufficient proof of its continuous ownership of the requisite number of Company shares for at least one year as of January 4, 2021, and from that date through and including the Submission Date.

Accordingly, the Company's Notice of Deficiency clearly identified specific defects relating to proof of ownership, including a detailed roadmap for establishing sufficient proof of continuous ownership of the Company's securities under certain ownership and holding periods, and explicit instructions regarding how to establish eligibility where a bank, broker or other securities intermediary is not a DTC participant, as appears to be the case here. To require the Company to send repeated corrections and instructions to the Proponent on how to comply with Rule 14a-8 would be both an unreasonable burden on the Company and inconsistent with Rule 14a-8.

For the reasons described above, the Company continues to believe that the Proponent has failed to properly establish that it meets the ownership requirements to include the Proposal in the Company's Proxy Materials.

Conclusion

For the foregoing reasons and the reasons set out in the No-Action Request, and consistent with the Staff's prior no-action letters, we respectfully request that the Staff concur that it will take no action if the Company excludes the Proposal from its Proxy Materials.

If the Staff has any questions with respect to the foregoing, or if for any reason the Staff does not agree that the Company may exclude the Proposal from its Proxy Materials, please do not hesitate to contact me at lillian.brown@wilmerhale.com or (202) 663-6743. In addition, should the Proponent choose to submit any response or other correspondence to the Commission, we request that the Proponent concurrently submit that response or other correspondence to the Company, as required pursuant to Rule 14a-8(k) and Staff Legal Bulletin No. 14D (November 7, 2008), and copy the undersigned.

Best regards,

Lillian Brown

cc: Jolene Negre, Associate General Counsel and Assistant Secretary
The Walt Disney Company