



DIVISION OF
CORPORATION FINANCE

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

March 16, 2023

Alan L. Dye
Hogan Lovells US LLP

Re: UnitedHealth Group Incorporated (the "Company")
Incoming letter dated December 27, 2022

Dear Alan L. Dye:

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

The Proposal requests that the board require the Company's hospitals to provide plant-based food options to patients at every meal, within vending machines and in the cafeterias used by outpatients, staff and visitors.

There appears to be some basis for your view that the Company may exclude the Proposal under Rule 14a-8(i)(7). In our view, the Proposal relates to, and does not transcend, ordinary business matters. Accordingly, we will not recommend enforcement action to the Commission if the Company omits the Proposal from its proxy materials in reliance on Rule 14a-8(i)(7). In reaching this position, we have not found it necessary to address the alternative bases for omission upon which the Company relies.

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/2022-2023-shareholder-proposals-no-action>.

Sincerely,

Rule 14a-8 Review Team

cc: Debra Bouton
Beyond Investing LLC



Hogan Lovells US LLP
Columbia Square
555 Thirteenth Street, NW
Washington, DC 20004
T +1 202 637 5600
F +1 202 637 5910
www.hoganlovells.com

Rule 14a-8(b)
Rule 14a-8(f)(1)

December 27, 2022

VIA E-MAIL (shareholderproposals@sec.gov)

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

Re: UnitedHealth Group Incorporated
Shareholder Proposal of Beyond Investing LLC

Dear Ladies and Gentlemen:

On behalf of UnitedHealth Group Incorporated (the “*Company*”), we are submitting this letter pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934 to notify the Securities and Exchange Commission (the “*Commission*”) of the Company’s intention to exclude from its proxy materials for its 2023 annual meeting of shareholders (the “*2023 Proxy Materials*”) a shareholder proposal (the “*Proposal*”) submitted to the Company by Beyond Investing LLC (the “*Proponent*”). We also request confirmation that the staff of the Division of Corporation Finance (the “*Staff*”) will not recommend to the Commission that enforcement action be taken if the Company omits the Proposal from its 2023 Proxy Materials for the reasons discussed below.

In accordance with *Staff Legal Bulletin No. 14D* (Nov. 7, 2008) (“*SLB No. 14D*”), this letter and its exhibits are being delivered by e-mail to shareholderproposals@sec.gov. Pursuant to Rule 14a-8(j), a copy of this letter and its exhibits also is being sent to the Proponent. Rule 14a-8(k) and *SLB No. 14D* provide that a proponent is required to send the company a copy of any correspondence which the proponent elects to submit to the Commission or the Staff.

Page 2

Accordingly, we hereby inform the Proponent that if the Proponent elects to submit additional correspondence to the Commission or the Staff relating to the Proposal, the Proponent should concurrently furnish a copy of that correspondence to the undersigned by e-mail.

Pursuant to the guidance provided in Section F of Staff Legal Bulletin 14F (Oct. 18, 2011), we ask that the Staff provide its response to this request to the undersigned via e-mail at the address noted in the last paragraph of this letter.

The Company currently intends to file its definitive 2023 Proxy Materials with the Commission more than 80 days after the date of this letter.

THE PROPOSAL

The Proposal sets forth the following resolution to be voted on by shareholders at the Company's 2023 annual meeting of shareholders (the "**2023 Annual Meeting**"):

Resolved, that shareholders of United Health Group Incorporated (the Company) request the Board of Directors of the Company (the Board) require their hospitals to provide plant-based food options to patients at every meal, within vending machines and in the cafeterias used by outpatients, staff and visitors.

A copy of the Proponent's complete submission, including the Proposal, supporting statement, and related materials, is attached hereto as Exhibit A.

BASIS FOR EXCLUSION OF THE PROPOSAL

As discussed more fully below, the Company believes that it may omit the Proposal from its 2023 Proxy Materials pursuant to Rule 14a-8(b) and Rule 14a-8(f)(1) because the Proponent failed to provide, within fourteen (14) days of receipt of the Company's proper request:

- the requisite proof of continuous stock ownership in accordance with Rule 14a-8(b)(1);
- a proper written statement that the Proponent intends to continue ownership of the requisite Company securities through the date of the 2023 Annual Meeting in accordance with Rule 14a-8(b)(1)(ii); and
- a written statement with regard to the Proponent's ability to meet with the Company regarding the Proposal pursuant to Rule 14a-(b)(1)(iii).

BACKGROUND

On September 2, 2022, the Company received the Proposal and related cover letter from the Proponent via mail.

The initial submission of the Proposal contained numerous procedural deficiencies related to the Proponent's eligibility to submit a shareholder proposal under Rule 14a-8(b). Specifically, the submission did not provide (i) verification of the Proponent's ownership of the Company's common stock (the "***Ownership Deficiency***"), (ii) a proper written statement that the Proponent intends to continue ownership of the requisite Company securities through the date of the 2023 Annual Meeting (the "***Continued Ownership Deficiency***"), and (iii) a written statement regarding the dates and times that the Proponent was available to meet with the Company to discuss the Proposal (the "***Availability Deficiency***").

After confirming that the Proponent was not a registered owner of the Company's common stock, the Company informed the Proponent of the deficiencies in its submission, including the Ownership Deficiency, Continued Ownership Deficiency and Availability Deficiency in a letter e-mailed and mailed via United Parcel Service to the Proponent on September 16, 2022 (the "***Deficiency Letter***,"), which Deficiency Letter is attached hereto as Exhibit B. In compliance with Rule 14a-8(f), the Deficiency Letter was sent to the Proponent within 14 days of the date the Company received the Proposal. The Deficiency Notices stated, *inter alia*:

- the proof of ownership requirements as set forth in Rule 14a-8(b)(1);
- an explanation as to how the Proponent could cure the Ownership Deficiency, and attaching copies of Rule 14a-8, Staff Legal Bulletin 14F (October 18, 2011) and Staff Legal Bulletin 14G (October 26, 2012).
- the requirement to provide a written statement that the Proponent intends to continue to hold the requisite number of Company securities through the date of the 2023 Annual Meeting as set forth in Rule 14a-8(b)(1)(ii);
- an explanation that the Proposal's written statement regarding its intention to hold the Company's securities through the date of the 2023 Annual Meeting was not in compliance with Rule 14a-8(b)(1), as the statement referenced ownership requirements that are no longer applicable under Rule 14a-8(b)(1), and an explanation as to how the Proponent could cure this Continued Ownership Deficiency;
- a request to provide a written statement with regard to the dates and times the Proponent was available to meet with the Company regarding the Proposal pursuant to Rule 14a-8(b)(1)(iii); and

- that any response had to be postmarked or transmitted electronically to the Company no later than 14 calendar days from the date the Proponent received the Deficiency Letter.

Pursuant to Rule 14a-8(f)(1), the Proponent's response to the Deficiency Letter to cure the Ownership Deficiency, Continued Ownership Deficiency and Availability Deficiency was required to be postmarked or transmitted to the Company by September 30, 2022. However, as of the date of this letter, the Company has not received any response to the Deficiency Letter from the Proponent.

ANALYSIS

The Proposal May be Excluded under Rule 14a-8(b) and Rule 14a-8(f)(1) Because the Proponent Failed to Establish the Requisite Eligibility to Submit the Proposal

The Company may exclude the Proposal under Rule 14a-8(b) and Rule 14a-8(f)(1) because the Proponent failed to substantiate its eligibility to submit the Proposal in compliance with Rule 14a-8, after the Company properly notified the Proponent of the Ownership Deficiency, Continued Ownership Deficiency and Availability Deficiency, and the Proponent failed to correct any of these procedural deficiencies.

A. The Proponent Failed to Provide Sufficient Evidence of Ownership and Failed to Correct This Deficiency After Receiving Proper Notice By The Company

Under Rule 14a-8(b)(1), to be eligible to submit a proposal, a proponent must have continuously held: (i) at least \$2,000 in market value of the company's securities entitled to vote on the proposal for at least three years; (ii) at least \$15,000 in market value of the company's securities entitled to vote on the proposal for at least two years; or (iii) at least \$25,000 in market value of the company's securities entitled to vote on the proposal for at least one year, in each case, as of the submission date of the proposal.

Under Rule 14a-8(b)(2), if a proponent is not a registered shareholder of a company and has not made a filing with the Commission detailing the proponent's beneficial ownership of shares in the company (as described in Rule 14a-8(b)(2)(ii)(B)), the proponent has the burden of proving that it 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.

If the proponent fails to provide such proof of 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 Staff has consistently concurred in the exclusion of proposals when, following a timely and proper request by a company to furnish evidence of continuous share ownership, the proponent failed to provide proof of ownership within 14 calendar days from the date on which the proponent received the deficiency notice. *See Colgate-Palmolive Company* (Jan. 26, 2022); *Cisco Systems, Inc.* (Aug. 6, 2021); *AT&T Inc. (Steiner)* (Dec. 23, 2020); *Huntsman Corp.* (Jan 16, 2020).

The Proponent is not a registered shareholder of the Company and has not made a filing with the Commission detailing its beneficial ownership of the Company's common stock. Therefore, the Proponent is responsible for proving its eligibility to submit a proposal to the Company through a written statement from the "record" holder as described above. The cover letter submitting the Proposal states the Proponent has "beneficially owned more than \$2,000 worth of UNH common stock for longer than a year." However, this statement does not establish any of the ownership eligibility criteria set forth in Rule 14a-8(b)(i)(A)-(C). Additionally, the Proponent cannot rely on Rule 14a-8(b)(i)(D) because such provision applies only to shareholder meetings held prior to January 1, 2023, and the 2023 Annual Meeting will be held after January 1, 2023. Further, this statement is not provided by the "record" holder of the Company securities, and therefore the Proponent has not provided any documentary evidence regarding its share ownership as required by Rule 14a-8(b).

The Company satisfied its obligation under Rule 14a-8(f)(1) to notify the Proponent of procedural deficiencies in the Proposal, including the Ownership Deficiency, by providing the Deficiency Letter on September 16, 2022, within the time frame required by Rule 14a-8(f)(1), clearly identifying the Ownership Deficiency and specifically explaining how the Proponent could cure the deficiency. The Deficiency Letter also included copies of Rule 14a-8, Staff Legal Bulletin No. 14F (Oct. 18, 2011) and Staff Legal Bulletin No. 14G (Oct. 16, 2012).

Pursuant to Rule 14a-8(f)(1), the Proponent's response to the Deficiency Letter to cure the Ownership Deficiency was required to be postmarked or transmitted to the Company by September 30, 2022. However, as of the date of this letter, the Proponent has failed to provide any documentary evidence of its ownership of shares of the Company's common stock necessary to cure the Ownership Deficiency. Therefore, the Proponent has not demonstrated eligibility under Rule 14a-8 to submit the Proposal.

B. The Proponent Failed to Provide a Written Statement of Intention to Continue to Hold Securities in Compliance with Rule 14a-8(b)(1), and the Proponent Failed to Correct This Deficiency After Receiving Proper Notice From the Company

Rule 14a-8(b)(1)(ii) provides, in part, that “to be eligible to submit a proposal, [a shareholder proponent] must provide the company with a written statement that [the shareholder] intend[s] 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.” If the shareholder proponent fails to provide a compliant written statement of its intention to continue to hold the requisite securities through the date of the meeting, the company may exclude the proposal, but only if the company notifies the proponent in writing of such deficiencies 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 Staff has consistently concurred in the exclusion of proposals when, following a timely and proper request by a company to furnish a written statement of the proponent’s intention to hold the requisite amount of stock through the date of annual meeting at which the proposal is to be presented, the proponent fails to furnish a compliant statement within 14 calendar days from the date on which the proponent received the request. *See The Walt Disney Company* (Sept. 28, 2021); *Cisco Systems, Inc.* (Aug. 6, 2021); *AT&T Inc. (Steiner)* (Dec. 23, 2020); *Huntsman Corp.* (Jan 16, 2020); *Verizon Communications Inc.* (Jan. 10, 2013); *General Electric Company* (Jan. 30, 2012).

The Proposal states that the Proponent “intends to continue ownership of at least \$2,000 worth of UNH common stock through the date of the 2023 annual meeting.” However, while this statement does express the Proponent’s intention to hold a certain amount of Company securities through the date of the 2023 Annual Meeting, it does not satisfy the requirements of Rule 14a-8(b)(1)(ii), which requires the Proponent to provide the Company with a statement of its intention to hold the number of shares required by Rule 14a-8(b)(1)(i)(A)-(C). Instead, as explained in the Deficiency Notice, the cover letter submitting the Proposal states the Proponent’s intention to satisfy ownership requirements that are no longer applicable following amendments to Rule 14a-8(b). In its cover letter, the Proponent notes that it has “owned more than \$2,000 worth of UNH Common Stock for longer than a year.” However, this statement does not meet any of the requisite ownership criteria set forth in Rule 14a-8(b)(i)(A)-(C), which would require \$2,000 worth of the Company’s common stock to be held for at least three years prior to the date of the submission of the Proposal, or more than \$15,000 worth of the Company’s common stock to be held for at least one year. As discussed above, the Proponent cannot rely on Rule 14a-8(b)(i)(D), which applies only to shareholder meetings held prior to January 1, 2023. Therefore, because the Proponent has not provided proof of ownership of an amount of the Company’s common stock sufficient to meet the requirements of Rule 14a-8(b)(i)(A)-(C), the Proponent has not properly stated that the Proponent intends to hold the requisite number of shares through the date of the 2023 Annual Meeting. Accordingly, the Proponent’s statement of intent does not meet the requirements of Rule 14a-8(b)(1)(ii).

The Company satisfied its obligation under Rule 14a-8(f)(1) to notify the Proponent of procedural deficiencies in the Proposal, including the Continuous Ownership Deficiency, by providing the Deficiency Letter on September 16, 2022, within the time frame required by Rule 14a-8(f)(1), clearly identifying the Continuous Ownership Deficiency and specifically explaining how the Proponent could cure this deficiency.

Pursuant to Rule 14a-8(f)(1), the Proponent's response to the Deficiency Letter to cure the Continued Ownership Deficiency was required to be postmarked or transmitted to the Company by September 30, 2022. However, as of the date of this letter, the Proponent failed to provide a corrected written statement regarding its intent to continue to hold the requisite amount of securities through the date of the 2023 Annual Meeting. Therefore, the Proponent has not demonstrated eligibility under Rule 14a-8 to submit the Proposal.

C. The Proponent Failed to Submit a Written Statement of Its Availability to Meet With the Company to Discuss the Proposal as Required by Rule 14a-8(b)(1)(iii) and the Proponent Failed to Correct This Deficiency After Receiving Proper Notice By The Company

Under Rule 14a-8(b)(1)(iii), to be eligible to submit a proposal, a proponent must provide the company with a written statement that 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 shareholder proposal. This written statement must include the proponent's contact information as well as business days and specific times that the proponent is available to discuss the proposal with the company.

The Proposal states, "[w]e would be pleased to discuss the issues presented by this proposal with you." The Proponent failed provide whether it would be available to meet with the Company in person or via teleconference and failed to provide a business day or days, or specific times within regular business hours, during which it was available to meet. Therefore, the Proposal is procedurally deficient under Rule 14a-8(b)(1)(iii).

The Staff has consistently concurred in the exclusion of proposals when, following a timely and proper request by a company to correct procedural deficiencies in a proposal, the proponent failed to respond within 14 calendar days from the date on which the proponent received the deficiency notice. *See Huntsman Corp.* (Jan. 16, 2020); *AT&T Inc.* (Dec. 9, 2019); *Anthem, Inc.* (Feb. 21, 2019); *General Electric Company* (Mar. 1, 2019).

The Company satisfied its obligation under Rule 14a-8(f)(1) to notify the Proponent of procedural deficiencies in the Proposal, including the Availability Deficiency, by providing the Deficiency Letter on September 16, 2022, within the time frame required by Rule 14a-8(f)(1), clearly identifying the Availability Deficiency and specifically explaining how the Proponent could cure the Availability Deficiency. The Proponent failed to provide a written statement of its

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
December 27, 2022

Page 8

availability to meet with the Company, to cure the Availability Deficiency. Therefore, the Proponent has not demonstrated eligibility under Rule 14a-8 to submit the Proposal.

Accordingly, we ask that the Staff concur that the Company may exclude the Proposal from its 2023 Proxy Materials under Rule 14a-8(b) and Rule 14a-8(f)(1).

CONCLUSION

We respectfully request that the Staff concur with the Company's view and confirm that it will not recommend enforcement action to the Commission if the Company omits the Proposal from its 2023 Proxy Materials.

If you have any questions or need additional information, please feel free to contact me at (202) 637-5737. When a written response to this letter is available, I would appreciate your sending it to me by e-mail at alan.dye@hoganlovells.com.

Sincerely,



Alan L. Dye

Enclosures

cc: Faraz A. Choudhry (UnitedHealth Group Incorporated)
Debra Bouton (Beyond Investing LLC)

Exhibit A

Copy of the Proposal and Related Correspondence



September 2, 2022

Secretary to the Board of Directors
UnitedHealth Group
UnitedHealth Group Center
9900 Bren Road East
Minnetonka, Minnesota 55343
Re: Shareholder proposal for 2023 annual meeting

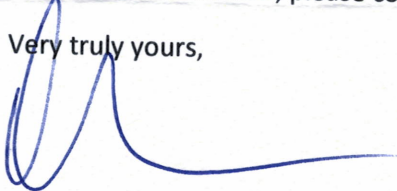
Dear Secretary,

I, Debra Bouton, on behalf of Beyond Investing, LLC, submit the enclosed shareowner proposal for inclusion in the proxy statement that UnitedHealth Group Inc. plans to circulate to shareowners in anticipation of the 2023 annual meeting. The proposal is being submitted under SEC Rule 14a-8 and relates to governance policies.

Beyond Investing LLC is located at 11600 New Haven Drive, Spring Hill, Florida 34609. Beyond Investing LLC has beneficially owned more than \$2,000 worth of UNH common stock for longer than a year. Beyond Investing LLC intends to continue ownership of at least \$2,000 worth of UNH common stock through the date of the 2023 annual meeting.

We would be pleased to discuss the issues presented by this proposal with you. If you require any additional information, please contact me.

Very truly yours,


Debra Bouton
Beyond Investing LLC
11600 New Haven Drive
Spring Hill, Florida 34609
Phone: [REDACTED]

[\[REDACTED\]@beyondinvesting.com](mailto:[REDACTED]@beyondinvesting.com)

Stockholder Proposal Regarding Serving Plant-Based Meals in Hospitals

The following proposal is submitted by Beyond Investing LLC, the beneficial owner of 5435 shares of UNH common stock.

RESOLVED, that shareholders of United Health Group Incorporated (the Company) request the Board of Directors of the Company (the Board) require their hospitals to provide plant-based food options to patients at every meal, within vending machines and in the cafeterias used by outpatients, staff and visitors.

SUPPORTING STATEMENT:

Optimal hospital care includes serving plant-based foods to assist patients on their road to recovery while in the hospital and informing patients of the benefits of a plant-based diet beyond their hospital stay. In a hospital, the food provided to patients is a key part of their treatment. Providing meals that are plant-based and which meet the individuals' nutritional needs is essential to the patient's recovery and improvement of their overall long-term health.

According to The American College of Cardiology, hospitalization can be a "teachable moment." "By adopting plant-based options and eliminating cancer-causing food products, hospitals not only provide a vital service to patients, staff, and visitors. They also serve a key educational function, modeling healthful habits." ¹

Healthful diets may also play a role in the economics of medical care, particularly for heart patients. Acute heart failure is the most common cause of readmission to a hospital within 30 days of discharge.² Under the Affordable Care Act, the Hospital Readmissions Reduction Program reduces payments to hospitals for readmissions within 30 days of discharge from the prior hospital stay.³ Individual hospital 30-day readmission rates are also compared to national averages, increasing pressure on both physicians and hospital administrators to improve outcomes. To the extent that hospitals help patients adopt healthful habits, their health benefits may be accompanied by financial benefits. The World Health Organization has determined that processed meat is a major contributor to colorectal cancer, classifying it as a "carcinogenic to humans." Processed meat is also linked to death from heart disease, stroke, and type 2 diabetes. According to the Physicians Committee for Responsible Medicine, "Plant-based diets help reduce the risk of cardiovascular disease, diabetes, and many cancers." ⁴

Given the impact of nutrition on a patient's recovery process and overall health, the proposers of this resolution believe the United Health Group Inc. board and management have a responsibility to its investors and stakeholders to require their hospitals to provide plant-based food options to hospital patients, staff and visitors.

References:

¹ "Planting a Seed: Heart-Healthy Food Recommendations for Hospitals." American College of Cardiology, 2017.
<https://www.acc.org/membership/sections-and-councils/prevention-of-cardiovascular-disease-section/about-us/section-sub-groups/features/hospital-food-program>

² Jencks S, Williams M, Coleman E. Rehospitalizations among Patients in the Medicare Fee-for-Service Program. *Journal of Vascular Surgery*. 2009;50(1):234.

³ Cms.gov. Readmissions Reduction Program - Centers for Medicare & Medicaid Services 2015.
<https://www.cms.gov/medicare/medicare-fee-for-service-payment/acuteinpatientpps/readmissions-reduction-program.html>

⁴ <https://www.pcrm.org/healthy-hospital-program#:~:text=In%202017%2C%20the%20American%20Medical,processed%20meat%20from%20hospital%20menus>.

Exhibit B

Copy of Deficiency Letter

UNITEDHEALTH GROUP

Faraz A. Choudhry
Deputy General Counsel
9900 Bren Road East, MN008-T502
Minnetonka, MN 55343
Tel [REDACTED] | Fax [REDACTED]

September 16, 2022

VIA EMAIL [REDACTED]@beyondinvesting.com) and UPS

Debra Bouton
Beyond Investing LLC
11600 New Haven Drive
Spring Hill, Florida 34609

Dear Ms. Bouton:

I am writing on behalf of UnitedHealth Group Incorporated (“UnitedHealth”) regarding the Rule 14a-8 shareholder proposal entitled “Stockholder Proposal Regarding Serving Plant-Based Meals in Hospitals” (the “Proposal”) you submitted for consideration at UnitedHealth’s 2023 Annual Meeting of Shareholders.

The Proposal contains certain procedural deficiencies, as set forth below, which Securities and Exchange Commission (“SEC”) regulations require us to bring to your attention.

Ownership Verification

Rule 14a-8(b) under the Securities Exchange Act of 1934, as amended, provides that each shareholder proponent must submit sufficient proof that it has 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 least \$15,000 in market value of the company's securities entitled to vote on the proposal for at least two years; 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, all as of the date the shareholder proposal was submitted.

UnitedHealth’s stock records do not indicate that you are the record owner of sufficient shares to satisfy this requirement. In addition, to date we have not received proof from you evidencing that you have satisfied Rule 14a-8’s ownership requirements as of the date that the Proposal was submitted to UnitedHealth. In this regard, the letter attached to the Proposal we received is dated September 2, 2022. Therefore, for purposes of this letter, we consider September 2, 2022, to be the date that you submitted the Proposal.

To remedy this defect, you must submit sufficient proof of ownership of UnitedHealth shares held by you. As explained in Rule 14a-8(b), sufficient proof may be in one of the following forms:

- A written statement from the “record” holder of the shares (usually a broker or a bank) verifying that, as of the date the Proposal was submitted (*i.e.*, September 2, 2022), you have continuously held the requisite number of UnitedHealth shares in accordance with the ownership requirements of Rule 14a-8(b).
- If you have filed a Schedule 13D, Schedule 13G, Form 3, Form 4 or Form 5, or amendments to those documents or updated forms demonstrating that you meet at least one of the ownership requirements of Rule 14a-8(b), a copy of the schedule and/or form, and any subsequent amendments reporting a change in the ownership level and a written statement that you have continuously held the requisite number of UnitedHealth shares in accordance with the ownership requirements of Rule 14a-8(b).

For your reference, please find enclosed a copy of SEC Rule 14a-8.

To help shareholders comply with the requirement to prove ownership by providing a written statement from the “record” holder of the shares, the SEC’s Division of Corporation Finance (the “SEC Staff”) published Staff Legal Bulletin No. 14F (“SLB 14F”). In SLB 14F, the SEC Staff stated that only brokers or banks that are Depository Trust Company (“DTC”) participants will be viewed as “record” holders for purposes of Rule 14a-8. Thus, you will need to obtain the required written statement from the DTC participant through which your UnitedHealth shares are held. If you are not certain whether your broker or bank is a DTC participant, you may check the DTC’s participant list, which is currently available on the Internet at <http://www.dtcc.com/~media/Files/Downloads/client-center/DTC/alpha.ashx>.

If your broker or bank is not on DTC’s participant list, you will need to obtain proof of ownership from the DTC participant through which your securities are held. You should be able to determine the name of this DTC participant by asking your broker or bank. If the DTC participant knows the holdings of your broker or bank, but does not know your holdings, you may satisfy the proof of ownership requirement 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 by you for at least one of the ownership requirements listed above – with one statement from the broker or bank confirming your ownership, and the other statement from the DTC participant confirming the broker or bank’s ownership. Please see the enclosed copy of SLB 14F for further information. Additional guidance regarding the sufficiency of proof of ownership letters provided by affiliates of DTC participants or by securities intermediaries that are not brokers or banks is provided in SEC Staff Legal Bulletin No. 14G, a copy of which is enclosed for your information.

Availability to Discuss the Proposal

In accordance with Rule 14a-8(b)(1)(iii), you must provide us with a written statement that you are 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. You must include your contact information as well as business days and specific times that you are available to discuss the Proposal with us. You must identify times that are within the regular business hours of the company’s principal executive offices. We have no record of receiving this written statement from you.

No Aggregation of Holdings

In accordance with Rule 14a-8(b)(1)(vi), you may not have aggregated 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. Accordingly, please provide us with a written

statement confirming that you have not aggregated your UnitedHealth shares with those of another shareholder or group of shareholders to meet the requisite amount of securities necessary to be eligible to submit a proposal. We have no record of receiving this confirmation from you.

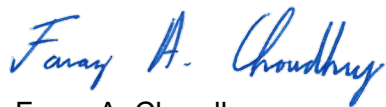
Continued Ownership Statement

In accordance with Rule 14a-8(b)(2)(ii), you must provide us with a written statement that you intend to continue to hold the requisite number of UnitedHealth shares through the date of UnitedHealth's 2023 Annual Meeting of Shareholders. The Proposal references ownership requirements that are no longer applicable under Rule 14a-8(b). Accordingly, please provide us with a written statement that you intend to continue to hold the requisite number of shares required to submit a shareholder proposal (at least \$2,000, \$15,000, or \$25,000 in market value of UnitedHealth shares for at least three years, two years or one year, respectively) through the date of UnitedHealth's 2023 Annual Meeting of Shareholders.

For the Proposal to be eligible for inclusion in UnitedHealth's proxy materials for the 2023 Annual Meeting of Shareholders, the rules of the SEC require that a response to this letter, correcting all procedural deficiencies described in 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 [REDACTED]@uhg.com.

If you have any questions with respect to the foregoing, please contact me.

Sincerely,



Faraz A. Choudhry
Deputy General Counsel

Enclosures:

Rule 14a-8 of the Securities Exchange Act of 1934
Division of Corporation Finance Staff Legal Bulletin No. 14F
Division of Corporation Finance Staff Legal Bulletin No. 14G

[Enclosures Omitted]

From: claire.smith@beyondinvesting.com
To: weston.gaines@hoganlovells.com; [ShareholderProposals](#)
Cc: faraz.choudhry@uhg.com; alan.dye@hoganlovells.com; debra.bouton@beyondinvesting.com
Subject: FW: re Beyond Investing Shareholder Proposal for 2023 annual meeting
Date: Tuesday, January 3, 2023 8:40:26 AM
Attachments: [UNH Availability to Discuss Proposal statement.pdf](#)
[UNH Continued Ownership statement.pdf](#)
[UNH No Aggregation of Holdings statement.pdf](#)
[UNH Proof of Ownership Unitedhealth.pdf](#)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

In view of the below and attached, we find the refusal of UnitedHealth Group (UNH) in the matter of the Beyond Investing LLC proposal for the UNH 2023 AGM to be without justification.

Dec 27, 2022 3:55 PM

UnitedHealth Group - Shareholder Proposal of Beyond Investing LLC

Many thanks,
Claire

From: claire.smith@beyondinvesting.com <claire.smith@beyondinvesting.com>
Sent: 03 January 2023 13:27
To: 'weston.gaines@hoganlovells.com' <weston.gaines@hoganlovells.com>
Cc: 'debra.bouton@beyondinvesting.com' <debra.bouton@beyondinvesting.com>
Subject: FW: re Beyond Investing Shareholder Proposal for 2023 annual meeting

Dear Gaines,

I do not understand why you are asserting to the SEC that Beyond Investing is deficient in its submissions, when these items were send to UNH on 30th September 2022 (see below).

Please withdraw your note to the SEC forthwith.

Many thanks,
Claire

From: Debra Bouton <no-reply@beyondadvisors.bitrix24.com>
Sent: 30 September 2022 17:33
To: faraz.choudhry@uhg.com; ocs_lcra@uhg.com; claire.smith@beyondinvesting.com
Subject: re Beyond Investing Shareholder Proposal for 2023 annual meeting

September 30, 2022

Dear Mr. Choudhry,

I am writing in response to your letter regarding the Rule 14a-8 shareholder proposal entitled **“Stockholder Proposal Regarding Serving Plant-Based Meals in Hospitals”** (the “Proposal”) that was submitted for consideration at UnitedHealth’s 2023 Annual Meeting of Shareholders by Beyond Investing LLC.

Please see the attached written statements, per your request, to address the following proposal deficiencies outlined in your letter:

1. Ownership Verification
2. Availability to discuss the proposal
3. No aggregation of holdings
4. Continued ownership statement

We would be pleased to discuss the issues presented by this proposal with you. If you require any additional information, please contact me.

Sincerely,

Debra Bouton

Beyond Investing LLC

11600 New Haven Drive

Spring Hill, Florida 34609

Phone: 727-277-1789

debra.bouton@beyondinvesting.com

Sent by bitrix24.com

[msg:11748-ljxxgp]



All of **us** serving you®

US Vegan Climate ETF
Beyond Investing, LLC
11600 New Haven Drive
Spring Hill, FL 34609

September 28, 2022

RE: US Vegan Climate ETF

To Whom It May Concern:

In response to your proof of ownership inquiry, based on US Bank NA's records, as of September 2, 2022, US Vegan Climate ETF held 5,365 shares of Unitedhealth Group Inc Com, and has continuously held a position in this security for at least one year.

Quantity:	5,365
CUSIP:	91324P102
Description:	UNITEDHEALTH GROUP INC COM

This information is effective as of 09/02/2022 or Effective Date, and US Bank assumes no obligation to update or otherwise revise this information should anything change.

Sincerely,

US Bank National Association

Name: Kelli Roth
Title: Assistant Vice President



September 29, 2022

UnitedHealth Group
Faraz A. Choudhry
Deputy General Counsel
Faraz.choudhry@uhg.com
Re: Shareholder proposal for 2023 annual meeting

Dear Mr. Choudhry,

In response to your letter regarding the Rule 14a-8 shareholder proposal entitled **“Stockholder Proposal Regarding Serving Plant-Based Meals in Hospitals”** (the “Proposal”) that was submitted for consideration at UnitedHealth’s 2023 Annual Meeting of Shareholders by Beyond Investing LLC., this letter is to state that we can meet with the company via teleconference no less than 10 calendar days, nor more than 30 calendar days, after submission of the Proposal.

Contact information:

Debra Bouton
Phone: 727-277-1789
debra.bouton@beyondinvesting.com

Claire Smith
Phone: 844-329-9300
claire.smith@beyondinvesting.com

We are available Monday – Friday between the hours of 9am -5pm EST.

Sincerely,

A handwritten signature in blue ink, appearing to read "Debra Bouton", is written over the "Sincerely," text. The signature is fluid and cursive, extending to the right.

Debra Bouton
Beyond Investing LLC
11600 New Haven Drive
Spring Hill, Florida 34609



September 29, 2022

UnitedHealth Group
Faraz A. Choudhry
Deputy General Counsel
Faraz.choudhry@uhg.com
Re: Shareholder proposal for 2023 annual meeting

Dear Mr. Choudhry,

In response to your letter regarding the Rule 14a-8 shareholder proposal entitled **“Stockholder Proposal Regarding Serving Plant-Based Meals in Hospitals”** (the “Proposal”) that was submitted for consideration at UnitedHealth’s 2023 Annual Meeting of Shareholders by Beyond Investing LLC., this letter is to confirm that we have not aggregated our UnitedHealth shares with those of another shareholder or group of shareholders to meet the requisite amount of securities necessary to be eligible to submit a proposal.

Sincerely,

A handwritten signature in blue ink, appearing to read "Debra Bouton", is written over the word "Sincerely," and extends to the right across the page.

Debra Bouton
Beyond Investing LLC
11600 New Haven Drive
Spring Hill, Florida 34609
Phone: 727-277-1789
debra.bouton@beyondinvesting.com



September 29, 2022

UnitedHealth Group
Faraz A. Choudhry
Deputy General Counsel
Faraz.choudhry@uhg.com
Re: Shareholder proposal for 2023 annual meeting

Dear Mr. Choudhry,

In response to your letter regarding the Rule 14a-8 shareholder proposal entitled "**Stockholder Proposal Regarding Serving Plant-Based Meals in Hospitals**" (the "Proposal") that was submitted for consideration at UnitedHealth's 2023 Annual Meeting of Shareholders by Beyond Investing LLC., this letter is to confirm that we intend to continue to hold the requisite number of shares required to submit a shareholder proposal through the date of UnitedHealth's 2023 Annual Meeting of Shareholders.

Sincerely,

A handwritten signature in blue ink, appearing to read "Debra Bouton", is written over the word "Sincerely,". The signature is fluid and extends to the right.

Debra Bouton
Beyond Investing LLC
11600 New Haven Drive
Spring Hill, Florida 34609
Phone: 727-277-1789
debra.bouton@beyondinvesting.com



Hogan Lovells US LLP
Columbia Square
555 Thirteenth Street, NW
Washington, DC 20004
T +1 202 637 5600
F +1 202 637 5910
www.hoganlovells.com

Rule 14a-8(b)
Rule 14a-8(f)(1)
Rule 14a-8(i)(5)
Rule 14a-8(i)(7)
Rule 14a-8(i)(10)

January 23, 2023

VIA E-MAIL (shareholderproposals@sec.gov)

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

Re: UnitedHealth Group Incorporated
Shareholder Proposal of Beyond Investing LLC

Dear Ladies and Gentlemen:

On behalf of UnitedHealth Group Incorporated, we are submitting this letter to respond to the Proponent's e-mail to the Staff on January 3, 2023 (the "**Proponent E-mail**"), objecting to the Company's intention, expressed in our letter to the Staff dated December 27, 2022 (the "**Initial Letter**"), to omit the Proposal from its 2023 Proxy Materials. For ease of reference, capitalized terms used in this letter have the same meaning ascribed to them in the Initial Letter.

This letter responds to the new information set forth in the Proponent E-mail. In addition, if, based on the new information included in the Proponent E-mail, the Staff does not concur that the Proposal is excludable on the bases cited in the Initial Letter, the Company hereby requests that the Staff concur that the Proposal is excludable on the following alternative bases: (i) Rule 14a-8(i)(5) because it is not economically relevant to the Company's business; (ii) Rule 14a-8(i)(7) because it deals with a matter relating to the Company's ordinary business operations; and (iii) Rule 14a-8(i)(10) because the Company has substantially implemented the Proposal. The Company intends to file its definitive 2023 Proxy Materials with the Commission more than 80 days after the date of this letter.

I. The Proponent E-mail

The “Background” section of the Initial Letter sets forth the factual background and correspondence between the Company and the Proponent. On January 3, 2023, the Proponent forwarded to the Staff and the Company an e-mail (the “***Proponent E-mail***”) the Proponent purportedly sent to the Company on September 30, 2022, the last date by which the Proponent could have cured the Ownership Deficiency, Continued Ownership Deficiency, and Availability Deficiency pursuant to Rule 14a-8(f)(1). The Proponent E-mail included attachments that were responsive to the matters discussed in the Deficiency Letter. A copy of the Proponent E-mail and the related attachments is included hereto as Exhibit A.¹

The Proponent E-mail was the first the Company had seen of the correspondence and attachments included in the Proponent E-mail. Upon receipt of the Proponent E-mail on January 3, 2022, the Company promptly began to research whether the original Proponent E-mail had been electronically received by the Company on September 30, 2022, or at any other time prior to January 3, 2023. The e-mail inboxes for Mr. Faraz Choudhry and the Corporate Secretary’s general e-mail inbox did not contain the Proponent E-mail. An information security expert in the Company’s information technology department was unable to confirm whether any e-mails had been received from [REDACTED], which is the e-mail address purportedly used by the Proponent solely to deliver the Proponent E-mail. The information security expert noted, however, that the e-mail domain in question (“[REDACTED]”) does not publish its Domain Messaging Authentication Reporting Conformance (DMARC) Policy, which may have prevented the receipt of the e-mail from the Proponent.

It is worth noting that in all other correspondence, the Proponent had used a different e-mail address: [REDACTED]. This is the e-mail address the Proponent had used to transmit the Proposal and is also the e-mail address included in the signature block of the original cover letter submitting the Proposal. It is also the e-mail address to which the Company transmitted the Deficiency Letter. The Proponent also used a different e-mail address, [REDACTED], to forward the Proponent E-mail to the Staff. Therefore, the e-mail address purportedly used to deliver the Proponent E-mail, which contained a “no-reply”

¹ Because the Company does not believe that the Proponent’s response to the Company’s Deficiency Notice was properly delivered or received by the Company, this letter does not examine in detail the sufficiency of the Proponent’s responses to cure the Ownership Deficiency, Continued Ownership Deficiency, and Availability Deficiency. However, the Company notes that the broker letter provided by the Proponent states that “US Vegan Climate ETF” is the holder of the Company’s shares included in the broker letter, and the Proponent provided no information as to its relationship with US Vegan Climate ETF or its authority to submit the Proposal on US Vegan Climate ETF’s behalf. The broker letter does not, therefore, cure the Ownership Deficiency.

username and a different domain name, did not match the other e-mail addresses used by the Proponent to correspond with the Company or the Staff.

In Staff Legal Bulletin No. 14L (Nov. 3, 2021) (“*SLB No. 14L*”), the Staff discussed the use of e-mail when submitting proposals and making other communications:

Email delivery confirmations and company server logs may not be sufficient to prove receipt of emails as they only serve to prove that emails were sent. In addition, spam filters or incorrect email addresses can prevent an email from being delivered to the appropriate recipient. The staff therefore suggests that to prove delivery of an email for purposes of Rule 14a-8, the sender should seek a reply e-mail from the recipient in which the recipient acknowledges receipt of the e-mail.

Specifically, the Staff stated the following regarding “Submitting Responses to Notices of Defects”:

Rule 14a-8(f)(1) also provides that a shareholder’s response to a deficiency notice must be postmarked, or transmitted electronically, no later than 14 days from the date of receipt of the company’s notification. If a shareholder uses email to respond to a company’s deficiency notice, the burden is on the shareholder or representative to use an appropriate email address (e.g., an email address provided by the company, or the email address of the counsel who sent the deficiency notice), and we encourage them to seek confirmation of receipt.

Here, while the Proponent appears to have addressed the Proponent E-mail to the e-mail address of the counsel who sent the Deficiency Letter, the Proponent E-mail was never received by the Company, likely either because the unconventional (and different) e-mail address used by the Proponent to submit the Proponent E-mail caused the Company’s e-mail servers to reject the submission, or because it was never sent. Notably, the Proponent never requested confirmation of receipt and did not send a follow-up communication regarding the Proponent E-mail until after the Initial Letter had been submitted to the Staff.

Accordingly, because the Proponent E-mail was not transmitted electronically to the Company no later than 14 days after the receipt of the Deficiency Letter, the Company continues to believe that the Proposal may be excluded under Rule 14a-8(b) and Rule 14a-8(f)(1) because the Proponent failed to establish the requisite eligibility to submit the proposal after proper notice.

II. Rule 14a-8(i)(5) – The Proposal Relates to Operations Which Account for Less Than Five Percent of the Company’s Total Assets, Net Earnings and Total Revenues and Is Not Otherwise Significantly Related to the Company’s Business

Rule 14a-8(i)(5) allows a company to exclude for lack of relevance a proposal that relates to operations which (i) account for less than five percent of the company’s total assets at the end of its most recent fiscal year, (ii) account for less than five percent of its net earnings and total revenues for its most recent fiscal year, and (iii) is not otherwise significantly related to the company’s business.

In SLB No. 14L, the Staff stated that for purposes of Rule 14a-8(i)(5), “proposals that raise issues of broad social or ethical concern related to the company’s business may not be excluded, even if the relevant business falls below the economic thresholds of Rule 14a-8(i)(5).” However, the Staff has consistently permitted the exclusion of proposals directed at a particular product, category of products or activity as not being “otherwise significantly related” to a company’s business, even when such products or activities are purported to be controversial, if the relevant operations do not exceed the relevant 5% thresholds. *See, e.g., The Procter & Gamble Co.* (Aug. 11, 2003) (concurring with the exclusion of a proposal involving embryonic stem cell research); *American Stores Company* (Mar. 25, 1994) (concurring with the exclusion of a proposal asking the company to terminate its sale of tobacco products when such sales did not meet the 5% thresholds); *Kmart Corp.* (Mar. 11, 1994) (concurring with the exclusion of a proposal asking the company to review its sale of firearms where such products did not meet the 5% thresholds); and *Arch Coal, Inc.* (Jan. 19, 2007) (concurring with the exclusion of a proposal relating to emissions from power plants where the company did not have any power plant operations).

The Company’s total assets, total revenues, and net earnings as of and for the year ended December 31, 2021 (the last day of its most recently ended fiscal year publicly available) were \$212.2 billion (total assets); \$287.6 billion (total revenues) and \$17.7 billion (net earnings). The Proposal requests that the Board of Directors of the Company “require their hospitals to provide plant-based food options to patients at every meal, within vending machines and in the cafeterias used by outpatients, staff and visitors.” The Company, through its global operations within its UnitedHealthcare reporting segment owns and operates 44 hospitals in Brazil, Chile, Colombia and Peru. The Company does not own or operate any other hospitals, in the United States or elsewhere. Combined, these 44 hospitals in South America account for well below 5% of each the Company’s total assets, total revenues, and net earnings, and are therefore immaterial to the Company’s operations. Of these immaterial amounts, an even more insignificant, *de minimis* amount relates to the assets and revenues earned by the Company from the meals, vending machines, and cafeterias included in the 44 hospitals. Therefore, the matters raised by the Proposal clearly are economically insignificant to the Company for purposes of Rule 14a-8(i)(5).

In addition, plant-based food options at the 44 hospitals owned by the Company in South America do not raise an issue of “broad social or ethical concern.” As referenced above, the food offerings provided by the Company’s hospitals are a *de minimis* component of the Company’s overall business. As discussed below, the meals and food options for patients available at each of these 44 hospitals are healthy, designed to support the health and recovery of patients, directed by nutritionists, and customized by licensed clinicians based on medical conditions and diagnoses.

Serving nutritious meals at hospitals, including plant-based options, is hardly a controversial position at the Company’s hospitals or within the medical community writ large. Therefore, this Proposal, which concerns an economically insignificant portion of the Company’s business, does not raise an issue of broad social or ethical concern that relates to that business. Accordingly, the Company believes that the Proposal may be excluded under Rule 14a-8(i)(5).

III. Rule 14a-8(i)(7) – The Proposal Relates to Matters of the Company’s Ordinary Business

A. Background

Rule 14a-8(i)(7) permits a company to omit from its proxy materials a shareholder proposal that relates to the company’s “ordinary business operations.” According to the Commission, the purpose of the ordinary business exclusion is to “confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting.” *See* Securities Exchange Act Release No. 34-40018 (May 21, 1998) (the “**1998 Release**”). In the 1998 Release, the Commission explained that the ordinary business exclusion rests on two central considerations: first, that “[c]ertain tasks are so fundamental to management’s ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight”; and second, the degree to which the proposal attempts 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.”

As explained in the 1998 Release, under the first consideration, a proposal that raises matters that 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” may be excluded, unless the proposal raises policy issues that are so significant as to transcend day-to-day matters. One of such management tasks cited in the 1998 Release included “decisions on production quality and quantity.”

The staff has historically taken the position that a shareholder proposal that raises a significant social policy issue may not be excluded under Rule 14a-8(i)(7) if the policy issue

would “transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote.” (1998 Release). In determining whether a proposal presents a policy issue that transcends the ordinary business of the company, the Staff noted in SLB No. 14L, that it will focus on “whether the proposal raises issues with a broad societal impact” and on the related “social policy significance,” regardless of whether a nexus exists between the policy issue and the company.

B. The Subject Matter of the Proposal Relates to the Company’s Products and Services; a Matter of Ordinary Business

The Proposal requests that the Board of Directors of the Company “require their hospitals to provide plant-based food options to patients at every meal, within vending machines and in the cafeterias used by outpatients, staff and visitors.” As discussed above, the Company owns and operates 44 hospitals in South America. At its core, the Proposal attempts to direct the Company to sell a particular product in these hospitals and therefore involves the Company’s ordinary business.

The Staff has consistently concurred in the exclusion of proposals concerning the sale of particular products and services, because deciding which products and services to offer is particularly within the management function of a company and requires complex analysis beyond the ability of shareholders as a group. *See, e.g., The TJX Companies* (Apr. 16, 2018) (permitting exclusion of a proposal requesting the board develop an animal welfare policy applying to all of the Company’s stores, merchandise and suppliers because it concerned the company’s products and services for sale); *The Home Depot, Inc.* (Mar. 21, 2018) (permitting exclusion of proposal encouraging the company to end sales of glue traps because it related to the products and services offered for sale by the company); *Papa John’s International, Inc.* (Feb. 13, 2015) (permitting exclusion of proposal encouraging the company to expand menu offerings to include vegan cheeses and vegan meats as the proposal related to the products offered for sale by the company); *Wal-Mart Stores, Inc.* (Mar. 24, 2008) (permitting exclusion of a proposal requesting the board issue a report on the viability of Wal-Mart’s U.K. cage-free egg policy); *PetSmart, Inc.* (Apr. 14, 2006) (permitting exclusion of a proposal requesting the board issue a report based on the company’s findings in an investigation into whether to end bird sales).

Allowing shareholders to dictate the menu items offered in the hospitals owned by the Company would inappropriately delegate management’s role to shareholders. Decisions regarding menu items inherently involve complex operational and business issues requiring knowledge of things such as the clinical and dietary needs of the patients in these hospitals as well as the visitors and staff, the source and availability of menu items for each hospital, and logistical items concerning budgets, supply chain networks, regulations and local food preferences. Assessing these and the many other factors that influence the Company’s decisions regarding food options at its hospitals in South America requires the judgment of the Company’s management, which, unlike individual shareholders, is well-positioned to and has the necessary

skills, knowledge, information and resources to make informed decisions on such business and operational matters.

C. The Proposal Does Not Focus on a Significant Social Policy That Transcends the Company's Ordinary Business Operations

The Commission noted in the 1998 Release that shareholder proposals relating to ordinary business operations but “focusing on sufficiently significant social policy issues ... generally would not be considered to be excludable, because the proposals would transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote.” The Proposal, however, does not focus on a significant social policy issue that transcends the Company’s ordinary business operations.

The Proposal requests that the Company’s hospitals “provide plant-based food options to patients at every meal, within vending machines and in the cafeterias used by outpatients, staff and visitors.” The Supporting Statement references nutritional benefits that come from plant-based foods. However, the Staff has previously permitted exclusion of proposals relating to nutrition where the proposal also relates to the offering of a company’s products and services. *See, e.g., Papa John’s International, Inc.* (Feb. 13, 2015); *McDonald’s Corp.* (Mar. 24, 1992) (permitting exclusion of a proposal asking the company to “offer [a low-fat] burger, switch to an all-vegetable cooking oil and offer salads ... in keeping with enlightened medical research findings and nutritional practice”).

In addition, while the Proposal references health impacts of the Company’s menu options in its hospitals, it is broadly concerned with economic considerations. The Supporting Statement references: “[h]ealthy diets may also play a role in the *economics* of medical care,” “[t]o the extent that hospitals help patients adopt healthy habits, their health benefits may be accompanied by *financial benefits*,” “board and management have a responsibility to its *investors* and stakeholders” (emphasis added in each), and also discusses reductions in payments to hospitals for readmitted patients under the Affordable Care Act.² The Staff has long distinguished between proposals that focus on a significant social policy issue and those that contain references to a significant social policy issue but are actually directed at a company’s ordinary business matters. *See, e.g., Amazon, Inc.* (Apr. 7, 2022) (UAW Retiree Medical Benefits Trust) (permitting exclusion of a proposal requesting a report on risks to the company related to staffing of its business and operations despite the suggestion by the proponent that the focus was on human capital management); *Amazon.com, Inc.* (Apr. 8, 2022) (James McRitchie) and *Repligen Corporation* (Apr. 1, 2022) (both permitting exclusion under Rule 14a-8(i)(7) of proposals requesting reports on information about the distribution of stock-based incentives to employees, including data about EEO-1 employee classification despite declarations in the

² The references to the Affordable Care Act included in the Supporting Statement are inapposite and irrelevant, considering that the Company does not own or operate any hospitals in the United States.

supporting statements that the intention was for the proposals to address a significant social policy issue).

Because the Proposal relates to the ordinary business matters regarding the products and services the Company offers at its hospitals in South America and does not raise an issue that transcends the Company's ordinary business operations, the Proposal is excludable under Rule 14a-8(i)(7).

D. The Proposal Would Permit Shareholders to Micromanage the Company's Ordinary Business Operations

The Proposal also is excludable because it seeks to "micro-manage" the Company by probing too deeply into matters of a complex nature upon which the Company's shareholders, as a group, would not be in a position to make an informed judgment. The Staff has consistently permitted exclusion of shareholder proposals that attempt to micromanage a company by substituting shareholder judgment for that of management with respect to complex day-to-day business operations that are beyond the knowledge and expertise of shareowners. *See, e.g., The Coca-Cola Company* (Feb. 16, 2022) (permitting exclusion of a proposal because it micromanaged the company by requiring the company to submit any proposed political statement to the next shareholder meeting for approval prior to issuing the subject statement publicly); *JPMorgan Chase & Co.* (Mar. 22, 2019) (permitting exclusion of a proposal because it micromanaged the company by requiring the company to adopt a policy prohibiting the vesting of equity-based awards for senior executives due to a voluntary resignation to enter government service); *Walgreens Boots Alliance, Inc.* (Nov. 20, 2018) (permitting exclusion of a proposal because it micromanaged the company by requesting that stock buybacks adopted by the board not become effective until approved by shareholders); *JPMorgan Chase & Co.* (Mar. 30, 2018) (permitting exclusion of a proposal because it micromanaged the company by requesting that the board establish a human rights committee); *Amazon.com, Inc.* (Jan. 18, 2018) (permitting exclusion of a proposal because it micromanaged the company by requesting that the company list certain efficient showerheads before others on its website).

In SLB No. 14L, the Staff stated that, when considering whether a shareholder proposal impermissibly micromanages a company, "we 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 Staff explained that "[t]his approach is consistent with the Commission's views on the ordinary business exclusion, which is designed to preserve management's discretion on ordinary business matters but not prevent shareholders from providing high-level direction on large strategic corporate matters."

The Company operates only 44 hospitals, all of which are in South America. The decisions made in these hospitals regarding food products and offerings comprise a *de minimis* amount of the entire operations of the Company. Regulating the items included in the cafeterias

and vending machines of such an insignificant portion of the Company's overall enterprise is precisely the level of granularity referenced by the Staff in SLB No. 14L that should be considered to be impermissible micromanagement of the Company's day-to-day decision-making. Limiting management's discretion in determining how to address the dietary needs and preferences of the patient, staff and visitor populations at its hospitals in South America is far from the "high-level direction on large strategic corporate matters" contemplated in SLB No. 14L and should not be the domain of shareholders. Because the Proposal micromanages the ordinary business matters regarding the products and services the Company offers at its hospitals in South America, the Proposal is excludable under Rule 14a-8(i)(7).

IV. Rule 14a-8(i)(10) – The Company has Substantially Implemented the Proposal

A. Background

Rule 14a-8(i)(10) permits a company to exclude a shareholder proposal from its proxy materials if "the company has already substantially implemented the proposal." The Commission stated in 1976 that the predecessor to Rule 14a-8(i)(10) was "designed to avoid the possibility of shareholders having to consider matters which already have been favorably acted upon by the management." SEC Release No. 34-12598 (July 7, 1976). Originally, the staff narrowly interpreted this predecessor rule and granted no-action relief only when proposals were "'fully' effected" by the company. SEC Release No. 34-19135 (Oct. 14, 1982). By 1983, however, the Commission recognized that the "previous formalistic application of [the rule] defeated its purpose" because proponents were successfully convincing the staff to deny no-action relief by submitting proposals that differed from existing company policy by only a few words. SEC Release No. 34-20091 (Aug. 16, 1983). Therefore, in 1983, the Commission adopted a revised interpretation to the rule to permit the omission of proposals that had been "substantially implemented" (id.) and subsequently codified this revised interpretation. SEC Release No. 34-40018 (May 21, 1998). Thus, when a company has already taken action to address the underlying concerns and essential objectives of a shareholder proposal, the proposal has been "substantially implemented" and may be excluded. See, e.g., *General Mills, Inc.* (Aug. 6, 2021); *salesforce.com, inc.* (Apr. 20, 2021); *Alphabet Inc.* (Apr. 16, 2021); *Comcast Corporation* (Apr. 9, 2021).

Applying this standard, the Staff has noted that "a determination that the company has substantially implemented the proposal depends upon whether [the company's] particular policies, practices and procedures compare favorably with the guidelines of the proposal." *Texaco, Inc.* (March 28, 1991). The Staff has concurred that, when substantially implementing a stockholder proposal, companies can address aspects of implementation in ways that may differ from the manner in which the stockholder proponent would implement the proposal.

Page 10

B. *The Company Has Substantially Implemented the Proposal by Providing Plant-Based Food Options to Patients, Visitors and Staff*

The Proposal requests that the Board of Directors of the Company “require their hospitals to provide plant-based food options to patients at every meal, within vending machines and in the cafeterias used by outpatients, staff and visitors.” The Company owns and operates 44 hospitals. As discussed below, the hospitals offer a variety of plant-based options for meals and vending machines.

Upon receipt of the Proposal, the Company conducted a comprehensive review of its 44 hospitals in Brazil, Chile, Colombia and Peru. This review included consulting with the clinical teams, legal teams, supply chain teams, and operations teams of these hospitals via conversations and e-mails, substantiating their input through discussions with applicable vendors, the teams responsible for the management of these processes, and conducting a random sampling of the vending machines in the hospitals. Based on this thorough review, the Company can confirm that meals and vending machines in its hospitals offer a variety of plant-based food options to patients, staff and visitors. Meals in the Company’s facilities for patients are healthy, designed to support their health and recovery, directed by nutritionists, and customized by licensed clinicians based on medical conditions and diagnoses.


In sum, the Company has addressed the Proposal’s underlying concern. Plant-based food options are available to patients in its hospitals at every meal and within vending machines and cafeterias used by outpatients, staff and visitors. Therefore, the Proposal has been substantially implemented and is excludable under Rule 14a-8(i)(10).

CONCLUSION

We respectfully request that the Staff concur with the Company’s view and confirm that it will not recommend enforcement action to the Commission if the Company omits the Proposal from its 2023 Proxy Materials.

If you have any questions or need additional information, please feel free to contact me at (202) 637-5737. When a written response to this letter is available, I would appreciate your sending it to me by e-mail at alan.dye@hoganlovells.com.

Sincerely,



Alan L. Dye

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
January 23, 2023

Page 11

Enclosures

cc: Office of the Corporate Secretary (UnitedHealth Group Incorporated)
Debra Bouton (Beyond Investing LLC)

Exhibit A

Copy of the Proponent E-mail and Related Correspondence

From: [REDACTED]
Sent: Tuesday, January 3, 2023 8:39 AM
To: Gaines, Weston J.; shareholderproposals@sec.gov
Cc: [REDACTED]; Dye, Alan L.; [REDACTED]
Subject: FW: re Beyond Investing Shareholder Proposal for 2023 annual meeting
Attachments: UNH Availability to Discuss Proposal statement.pdf; UNH Continued Ownership statement.pdf; UNH No Aggregation of Holdings statement.pdf; UNH Proof of Ownership Unitedhealth.pdf

[EXTERNAL]

In view of the below and attached, we find the refusal of UnitedHealth Group (UNH) in the matter of the Beyond Investing LLC proposal for the UNH 2023 AGM to be without justification.

Dec 27, 2022 3:55 PM
UnitedHealth Group - Shareholder Proposal of Beyond Investing LLC

Many thanks,
Claire

From: [REDACTED] >
Sent: 03 January 2023 13:27
To: [REDACTED] >
Cc: [REDACTED] >
Subject: FW: re Beyond Investing Shareholder Proposal for 2023 annual meeting

Dear Gaines,
I do not understand why you are asserting to the SEC that Beyond Investing is deficient in its submissions, when these items were send to UNH on 30th September 2022 (see below).

Please withdraw your note to the SEC forthwith.

Many thanks,
Claire

From: Debra Bouton <[REDACTED]>
Sent: 30 September 2022 17:33
To: [REDACTED]
Subject: re Beyond Investing Shareholder Proposal for 2023 annual meeting

September 30, 2022

Dear Mr. Choudhry,

I am writing in response to your letter regarding the Rule 14a-8 shareholder proposal entitled **“Stockholder Proposal Regarding Serving Plant-Based Meals in Hospitals”** (the “Proposal”) that was submitted for consideration at UnitedHealth’s 2023 Annual Meeting of Shareholders by Beyond Investing LLC.

Please see the attached written statements, per your request, to address the following proposal deficiencies outlined in your letter:

1. Ownership Verification
2. Availability to discuss the proposal
3. No aggregation of holdings
4. Continued ownership statement

We would be pleased to discuss the issues presented by this proposal with you. If you require any additional information, please contact me.

Sincerely,

Debra Bouton

Beyond Investing LLC

[REDACTED]

[REDACTED]

Phone: [REDACTED]

[REDACTED]

Sent by bitrix24.com

[msg:11748-ljxxgp]



September 29, 2022

UnitedHealth Group
Faraz A. Choudhry
Deputy General Counsel
[REDACTED]

Re: Shareholder proposal for 2023 annual meeting

Dear Mr. Choudhry,

In response to your letter regarding the Rule 14a-8 shareholder proposal entitled "**Stockholder Proposal Regarding Serving Plant-Based Meals in Hospitals**" (the "Proposal") that was submitted for consideration at UnitedHealth's 2023 Annual Meeting of Shareholders by Beyond Investing LLC., this letter is to state that we can meet with the company via teleconference no less than 10 calendar days, nor more than 30 calendar days, after submission of the Proposal.

Contact information:

Debra Bouton

Phone: [REDACTED]
[REDACTED]

Claire Smith

Phone: [REDACTED]
[REDACTED]

We are available Monday – Friday between the hours of 9am -5pm EST.

Sincerely,

A handwritten signature in blue ink, appearing to read "Debra Bouton", is written over the "Sincerely," and extends to the right across the page.

Debra Bouton
Beyond Investing LLC
11600 New Haven Drive
Spring Hill, Florida 34609



September 29, 2022

UnitedHealth Group
Faraz A. Choudhry
Deputy General Counsel
[REDACTED]

Re: Shareholder proposal for 2023 annual meeting

Dear Mr. Choudhry,

In response to your letter regarding the Rule 14a-8 shareholder proposal entitled "**Stockholder Proposal Regarding Serving Plant-Based Meals in Hospitals**" (the "Proposal") that was submitted for consideration at UnitedHealth's 2023 Annual Meeting of Shareholders by Beyond Investing LLC., this letter is to confirm that we intend to continue to hold the requisite number of shares required to submit a shareholder proposal through the date of UnitedHealth's 2023 Annual Meeting of Shareholders.

Sincerely,

A handwritten signature in blue ink, appearing to read "Debra Bouton", is written over the word "Sincerely,". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Debra Bouton
Beyond Investing LLC
11600 New Haven Drive
Spring Hill, Florida 34609
Phone: [REDACTED]
[REDACTED]



September 29, 2022

UnitedHealth Group
Faraz A. Choudhry
Deputy General Counsel

[REDACTED]
Re: Shareholder proposal for 2023 annual meeting

Dear Mr. Choudhry,

In response to your letter regarding the Rule 14a-8 shareholder proposal entitled **"Stockholder Proposal Regarding Serving Plant-Based Meals in Hospitals"** (the "Proposal") that was submitted for consideration at UnitedHealth's 2023 Annual Meeting of Shareholders by Beyond Investing LLC., this letter is to confirm that we have not aggregated our UnitedHealth shares with those of another shareholder or group of shareholders to meet the requisite amount of securities necessary to be eligible to submit a proposal.

Sincerely,

A handwritten signature in blue ink, appearing to read "Debra Bouton", is written over the word "Sincerely,". The signature is fluid and extends to the right.

Debra Bouton
Beyond Investing LLC
11600 New Haven Drive
Spring Hill, Florida 34609
Phone: [REDACTED]
[REDACTED]



All of **us** serving you®

US Vegan Climate ETF
Beyond Investing, LLC
11600 New Haven Drive
Spring Hill, FL 34609

September 28, 2022

RE: US Vegan Climate ETF

To Whom It May Concern:

In response to your proof of ownership inquiry, based on US Bank NA's records, as of September 2, 2022, US Vegan Climate ETF held 5,365 shares of Unitedhealth Group Inc Com, and has continuously held a position in this security for at least one year.

Quantity:	5,365
CUSIP:	91324P102
Description:	UNITEDHEALTH GROUP INC COM

This information is effective as of 09/02/2022 or Effective Date, and US Bank assumes no obligation to update or otherwise revise this information should anything change.

Sincerely,

US Bank National Association

Name: Kelli Roth
Title: Assistant Vice President