



DIVISION OF
CORPORATION FINANCE

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

March 8, 2023

Mark D. Austin
Eastman Chemical Company

Re: Eastman Chemical Company (the "Company")
Incoming letter dated December 28, 2022

Dear Mark D. Austin:

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

The Proposal requests that the board of directors adopt an enduring policy, and amend the governing documents as necessary, in order that two separate people hold the office of the Chairman and the office of the CEO.

We are unable to concur in your view that the Company may exclude the Proposal under Rule 14a-8(i)(3). We are unable to conclude that you have demonstrated objectively that the Proposal is materially false or misleading.

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: John Chevedden



Legal Department
Eastman Chemical Company
P.O. Box 511
Kingsport, Tennessee 37662-5075

Clark L. Jordan
Vice President, Legal and Corporate Secretary
Phone: (423) 229-2334
cjordan@eastman.com

December 28, 2022

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: Eastman Chemical Company
Exclusion of Shareholder Proposal by John Chevedden**

Ladies and Gentlemen:

I am writing on behalf of Eastman Chemical 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 2023 annual meeting of shareholders (the “Proxy Materials”) the enclosed shareholder proposal and supporting statement (collectively, the “Proposal”) submitted by John Chevedden (the “Proponent”) requesting that “the Board of Directors adopt an enduring policy, and amend the governing documents as necessary in order that 2 separate people hold the office of the Chairman and the office of the CEO.”

The Company respectfully requests that the staff of the Division of Corporation Finance (the “Staff”) of the U.S. 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.

Background

On November 23, 2022, the Company received the Proposal from the Proponent, which states in relevant part as follows:

Proposal 4 – Independent Board Chairman

Shareholders request that the Board of Directors adopt an enduring policy, and amend the governing documents as necessary in order that 2 separate people hold the office of the Chairman and the office of the CEO as follows:

Whenever possible, the Chairman of the Board shall be an Independent Director.

The Board has the discretion to select a Temporary Chairman of the Board who is not an Independent Director to serve while the Board is seeking an Independent Chairman of the Board.

Although it is a best practice to adopt this proposal soon, this policy could be phased in when there is a leadership transition.

This proposal topic won 52% support at Boeing and 54% support at Baxter International. Boeing then adopted this proposal topic in June 2020. The roles of Chairman and CEO are fundamentally different and should be held by 2 directors, a CEO and a Chairman who is completely independent of the CEO and our company.

Eastman Chemical is Exhibit A in why the Lead Director role is an empty suit compared to an independent Board Chairman.

Our so-called Lead Director, Mr. David Raisbeck violates the most important attribute of a Lead Director – independence. As director tenure goes up director independence goes down. Mr. Raisbeck has 23-years of excessive director tenure. And Mr. Raisbeck has not had a day job for 15-years. Mr. Raisbeck's long tenure makes him a prime candidate to retire. It is time for a change.

A lead director is no substitute for an independent board chairman. With the current CEO serving as Chair this means giving up a substantial check and balance safeguard that can only occur with an independent Board Chairman. A lead director cannot call a special shareholder meeting.

A lead director can delegate many details of his lead director duties to management and then simply rubber-stamp it. Management has not explained how shareholders can be sure of what goes on in regard to lead director delegation.

A lead director with long tenure can also give excessive deference to the Eastman Chemical CEO.

The increased complexities of companies of more than \$10 Billion in annual revenue, like Eastman Chemical, demand that 2 persons fill the 2 most important jobs in the company.

Please vote yes:
Independent Board Chairman – Proposal 4

Basis for Exclusion

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

Rule 14a-8(i)(3) permits a company to exclude all or portions of a shareholder proposal “[i]f the proposal or supporting statement is contrary to any of the Commission’s proxy rules, including [Rule] 14a-9, which prohibits materially false or misleading statements in proxy soliciting materials.” More specifically, Rule 14a-9 provides that no solicitation may be made by means of any proxy materials “containing any statement which, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading” The Staff has made clear that it “will concur in the company’s reliance on rule 14a-8(i)(3) to exclude or modify a proposal or statement only where that company has demonstrated objectively that the proposal or statement is *materially* false or misleading.” Staff Legal Bulletin No. 14B (September 15, 2004).

The Proposal includes numerous false and misleading statements about the Company’s Lead Director and in so doing gives the Company’s shareholders the false impression that Mr. Raisbeck is not properly independent and is not satisfying his duties as Lead Director to the Company. Most troubling is the assertion that the Company’s independent Lead Director “violates the most important attribute of a Lead Director – independence” because of his years of service on the Board. This is not the case. In fact, Mr. Raisbeck is independent under all applicable independence standards. The Proponent’s statement in this regard is therefore both objectively and materially false. The Proponent further asserts that a lead director can “delegate many details of his lead director duties to management and then simply rubber-stamp it.” We do not know the origin of the Proponent’s statement in this regard but it is, again, objectively and materially false. The Lead Director’s duties are set out clearly in the Company’s Corporate Governance Guidelines, which are readily available on the Company’s website. There is no provision for delegation of the Lead Director’s duties to management and Mr. Raisbeck certainly does not do so. These and other statements within the Proposal misstate fundamental facts about the Company’s governance and Lead Director, thereby rendering it impossible for shareholders to properly assess the Company’s corporate governance practices in considering whether to support the Proposal.

The Staff has previously concurred in the exclusion of shareholder proposals pursuant to Rule 14a-8(i)(3) in cases where the proposal is materially false or misleading. *See, e.g., Microsoft Corporation* (October 7, 2016) (in which the Staff concurred in the exclusion of a proposal requesting that “[t]he board shall not take any action whose primary purpose is to prevent the effectiveness of shareholder vote without a compelling justification for such action” because “neither shareholders nor the company would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires,” and where the company’s arguments included assertions that the proponent’s supporting statement misstated important principles of Delaware law); *Ferro Corporation* (March 17, 2015) (in which the Staff concurred in the exclusion of a proposal requesting that the company reincorporate in Delaware where the company argued that the proposal was false and misleading because of misstatements about Ohio law as compared to Delaware law and in some cases incorrectly suggested that Ohio law afforded greater rights to shareholders); and *ConocoPhillips* (March 13, 2012) (in which the Staff concurred in the exclusion of a proposal recommending that the board commission an audit of compliance controls failing to prevent Foreign Corrupt Practices Act violations by the board chairman where the company argued, among other things, that the proposal incorrectly characterized payments to a Libyan settlement fund as illegal and that there was no factual support that any illegal payments were made).

The Proposal’s misstatements go well beyond minor defects and embody the types of false and misleading statements that the Rule 14a-8(i)(3) exclusion was intended to address. While the Proponent has become accustomed to being able to make objectively false and misleading statements by simply positing that the Company should address the Proponent’s incorrect factual assertions in the Company’s statement in opposition, here he goes too far in asking the Company’s shareholders to vote on a proposal to adopt governance changes predicated on factually incorrect statements about multiple elements of the Company’s existing governance, including, in particular, the independence of the Company’s Lead Director. It is not in shareholders’ interests to require them to wade through a litany of incorrect text, which the Company must then address in the statement in opposition, to decide how to vote. Proponents have, and should continue, to be held to a higher minimum standard than that, and the responsibility for ensuring a proposal is factually correct in all material respects and not materially misleading should rest with the shareholder and not the company. As described above, the Proposal is not only objectively misleading, but materially so, in that it seeks to mislead shareholders as to the need for the actions requested in the Proposal. Thus, the Proposal fits into the limited line of recent precedent in which the Staff has concurred in exclusion under Rule 14a-8(i)(3).

For the reasons set out above, the Company believes that the Proposal may properly be excluded under Rule 14a-8(i)(3), on the basis that the Proposal contains materially false and misleading statements in violation of Rule 14a-9.

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 cjordan@eastman.com or (423) 229-2334. 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.

Best regards,



Clark L. Jordan
Vice President, Legal and Corporate Secretary

cc: John Chevedden

EXHIBIT "A"

██████████

Mr. Clark L. Jordan

JOHN CHEVEDOEN

██████████

Corporate Secretary
Eastman Chemical Company (EMN)
200 S. Wilcox Drive
Kingsport TN 37662

Revised November 23, 2022

██████████

Dear Mr. Jordan.

This Rule 14a-8 proposal is respectfully submitted in support of the long-term performance of our company.

This Rule 14a-8 proposal is intended as a low-cost method to improve company performance - especially compared to the substantial capitalization of our company.

This proposal is for the next annual shareholder meeting.

I intend to continue to hold through the date of the Company's 2023 Annual Meeting of Stockholders the requisite amount of Company shares used to satisfy the applicable ownership requirement.

This submitted format, with the shareholder-supplied emphasis, is intended to be used for definitive proxy publication.

Please assign the proper sequential proposal number in each appropriate place.

Sincerely,

— **J** —

October 9, 2022
Date

cc: Brian L. Henry ██████████
Senior Counsel and Assistant Secretary
Susan R. Hale ██████████
Teresa J. Darnell ██████████

[EM - Rule 14a-8 Proposal. October 9, 2022 Revised November 23, 2022)
!This line and any line above it - No1 for publication.]

Proposal 4 - Independent Board Chairman

Shareholders request that the Board of Directors adopt an enduring policy, and amend the governing documents as necessary in order that 2 separate people hold the office of the Chairman and the office of the CEO as follows:

Whenever possible, the Chairman of the Board shall be an Independent Director.

The Board has the discretion to select a Temporary Chairman of the Board, who is not an Independent Director to serve while the Board is seeking an Independent Chairman of the Board.

Although it is a best practice to adopt this proposal soon, this policy could be phased in when there is a leadership transition.

This proposal topic won 52% support at Boeing and 54% support at Baxter International. Boeing then adopted this proposal topic in June 2020. The roles of Chairman and CEO are fundamentally different and should be held by 2 directors, a CEO and a Chairman who is completely independent of the CEO and our company).

Eastman Chemical is Exhibit A in why the Lead Director role is an empty suit compared to an independent Board Chairman.

Our so-called Lead Director, Mr. David Raisbeck violates the most important attribute of a Lead Director - independence. As director tenure goes up director independence goes down. Mr. Raisbeck has 23-years of excessive director tenure. And Mr. Raisbeck has not had a day job for 15-years. Mr. Raisbeck's long tenure makes him a prime candidate to retire. It is time for a change.

A lead director is no substitute for an independent board chairman. With the current CEO serving as Chair this means giving up a substantial check and balance safeguard that can only occur with an independent Board Chairman. A lead director cannot call a special shareholder meeting.

A lead director can delegate many details of his lead director duties to others and then simply rubber-stamp it. Management has not explained how shareholders can be sure of what goes on in regard to lead director delegation.

A lead director with long tenure can also give excessive deference to the Eastman Chemical CEO.

The increased complexities of companies of more than \$10 Billion in annual revenue, like Eastman Chemical, demand that 2 persons fill the 2 most important jobs in the company.

Please vote yes:

Independent Board Chairman - Proposal 4

[The line above - Is for publication. Please assign the correct proposal number in the 2 places.]

Notes:

"Proposal 4" stands in for the final proposal number that management will assign.

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

Accordingly, going forward, we believe that it would not be appropriate for companies to exclude supporting statement language and/or an entire proposal in reliance on rule 14a-8(l)(3) in the following circumstances:

- the company objects to factual assertions because they are not supported;
- the company objects to factual assertions that, while not materially false or misleading, may be disputed or countered;
- the company objects to factual assertions because those assertions may be interpreted by shareholders in a manner that is unfavorable to the company, its directors, or its officers; and/or
- the company objects to statements because they represent the opinion of the shareholder proponent or a referenced source. but the statements are not identified specifically as such.

We believe that it is appropriate under rule 14a-8 for companies to address these objections in their statements of opposition.

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

The stock supporting this proposal will be held until after the annual meeting and the proposal will be presented at the annual meeting. I intend to continue holding the same required amount of Company shares through the date of the Company's 2023 Annual Meeting of Stockholders as is/will be documented in my ownership proof.

Please acknowledge this proposal promptly by email [REDACTED]

I do not intend that dashes (-) in the proposal be replaced by hyphens (-).
Please alert the proxy editor.

The color version of the below graphic is to be published immediately after the bold title line of the proposal at the **beginning** of the proposal and be **center justified**.



JOHN CHEVEDDEN

December 29, 2022

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

1 Rule 14a-8 Proposal
Eastman Chemical Company (EMN)
Independent Board Chairman
John Chevedden

Ladies and Gentlemen:

This is a counterpoint to the December 28, 2022 no-action request.

The attached page 8 of the no action request states:

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

Accordingly, going forward, we believe that it would not be appropriate for companies to exclude supporting statement language and/or an entire proposal in reliance on rule 14a-8(l)(3) in the following circumstances:

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The no action request does not address its own exhibit.

Management cites no evidence that director independence increases or stays the same with extremely long tenure of 23-years.

There is no company provision that prohibits the Lead Director from delegating work to “others.”

Sincerely,


John Chevedden

cc: Clark L. Jordan

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Please vote yes:

Independent Board Chairman – Proposal 4

[The line above – *Is* for publication. Please assign the correct proposal number in the 2 places.]