



DIVISION OF
CORPORATION FINANCE

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

March 20, 2023

Jeffrey S. Hochman
Willkie Farr & Gallagher LLP

Re: CNO Financial Group, Inc. (the "Company")
Incoming letter dated December 30, 2022

Dear Jeffrey S. Hochman:

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

The Proposal requests that the board take the steps necessary to amend the appropriate Company governing documents to give the owners of a combined 10% of the Company's outstanding common stock the power to call a special shareholder meeting.

We are unable to concur in your view that the Company may exclude the Proposal under Rule 14a-8(i)(3). We do not believe 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

December 30, 2022

VIA E-MAIL (shareholderproposals@sec.gov)

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

Re: *CNO Financial Group, Inc.*
Stockholder Proposal of Kenneth Steiner & John Chevedden
Securities Exchange Act of 1934 – Rule 14a-8

Ladies and Gentlemen:

We submit this letter on behalf of our client, CNO Financial Group, Inc., a Delaware corporation (the “Company”), which requests confirmation that the staff of the Division of Corporation Finance (the “Staff”) of the Securities and Exchange Commission (the “Commission”) will not recommend enforcement action to the Commission if, in reliance on Rule 14a-8 (“Rule 14a-8”) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), the Company excludes the enclosed stockholder proposal and supporting statement (the “Proposal”) submitted by Kenneth Steiner (“Mr. Steiner”), with John Chevedden (“Mr. Chevedden”) and/or his designee authorized to act as Mr. Steiner’s proxy (Mr. Steiner and Mr. Chevedden are hereinafter referred to collectively as the “Proponent”), from the Company’s proxy materials for its 2023 annual meeting of shareholders (the “2023 Proxy Materials”) because the Proposal contains materially false and misleading statements regarding the requisite threshold for the Company’s shareholders to call a special meeting.

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

- filed this letter with the Commission no later than eighty (80) calendar days before the Company intends to file its definitive 2023 Proxy Materials with the Commission; and
- concurrently sent a copy of this correspondence to the Proponent.

In accordance with Staff Legal Bulletin No. 14D (Nov. 7, 2008) (“SLB 14D”), this letter and its attachments are being emailed to the Staff at shareholderproposals@sec.gov. Rule 14a-8(k) and SLB 14D provide that a stockholder proponent is required to send a company a copy of any correspondence that the proponent elects to submit to the Commission or the Staff. Accordingly, we hereby inform the Proponent that if the Proponent elects to submit additional correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should be furnished concurrently to the undersigned on behalf of the Company pursuant to Rule 14a-8(k) and SLB 14D.

I. THE PROPOSAL & RELATED CORRESPONDENCE

The Proposal requests the Company's board of directors (the "Board") to "take the steps necessary to amend the appropriate company governance documents to give the owners of a combined 10% of our outstanding common stock the power to call a special shareholder meeting." The Proposal states further that it "appears that all shares held in street name are 100% disqualified from participating in the calling of a special shareholder meeting. If 50% of CNO Financial shares are held in street name then it would take 50% of the shares held not in street name (25% times 2) to call for a special shareholder meeting."

The Company received the Proposal on November, 19, 2022 via electronic mail. On December 2, 2022, the Company then advised the Proponent in correspondence sent via electronic mail (the "Deficiency Letter") that the Proposal contains certain procedural deficiencies and materially false and misleading statements because all Company shares may participate in calling such a meeting regardless of whether they are held in street name.

Copies of the Proposal, including the Deficiency Letter, are attached hereto as Exhibit A. The Company intends to exclude the Proposal in its 2023 Proxy Materials.

II. BASIS FOR EXCLUSION & ANALYSIS

We hereby respectfully request on behalf of the Company that the Staff concur with the Company's view that the Proposal may properly be excluded from the 2023 Proxy Materials in reliance on Rule 14a-8(i)(3) because the Proposal contains materially false and misleading statements.

A. Background of Rule 14a-8(i)(3)

Rule 14a-8(i)(3) provides that a shareholder proposal may be excluded if it is contrary to any of the Commission's proxy rules, including Rule 14a-9 under the Exchange Act, which prohibits materially false or misleading statements in proxy soliciting materials. As the Staff explains in Staff Legal Bulletin No. 14B (Sept. 15, 2004) ("SLB 14B"), Rule 14a-8(i)(3) permits the exclusion of all or part of a shareholder proposal or the supporting statement if, among other things, the company demonstrates objectively that a factual statement is materially false or misleading.

At times, the Staff will permit shareholders to make minor revisions to proposals or supporting statements that do not alter the substance of the proposal. However, revision is appropriate only for "proposals that comply generally with the substantive requirements of [R]ule 14a-8, but contain some relatively minor defects that are easily corrected." Staff Legal Bulletin No. 14 (July 13, 2001) ("SLB 14"). In SLB 14B, the Staff noted that its "intent to limit this practice to minor defects was evidenced by [its] statement in SLB 14 that [they] may find it appropriate for companies to exclude the entire proposal, supporting statement, or both as materially false or misleading if a proposal or supporting statement would require detailed and extensive editing in order to bring it into compliance with the proxy rules."

Applying this standard, the Staff previously concurred in the exclusion of shareholder proposals pursuant to Rule 14a-8(i)(3) in cases where the proposals or supporting statements contained materially false and misleading statements. *See, e.g., Ferro Corporation* (avail. Mar. 17, 2015) (concurring in the exclusion of a proposal requesting that the company reincorporate in Delaware based on misstatements of Ohio law, which suggested that the shareholders would have increased rights if Delaware law governed the company instead of Ohio law); *General Electric Co.* (avail. Jan. 6, 2009) (concurring in the exclusion of a proposal under which any director who received more than 25% in “withheld” votes would not be permitted to serve on any key board committee for two years because the company did not typically allow shareholders to withhold votes in director elections); *Johnson & Johnson* (avail. Jan. 31, 2007) (concurring in the exclusion of a proposal to provide stockholders a “vote on an advisory management resolution ... to approve the Compensation Committee [R]eport” because the proposal would create the false implication that shareholders would receive a vote on executive compensation); *State Street Corp.* (avail. Mar. 1, 2005) (concurring in the exclusion of a proposal requesting shareholder action pursuant to a section of state law that had been recodified and was thus no longer applicable); and *General Magic, Inc.* (avail. May 1, 2000) (concurring in the exclusion of a proposal requesting that the company make “no more false statements” to its shareholders because the proposal created the false impression that the company tolerated dishonest behavior by its employees when in fact the company had corporate policies to the contrary).

As described below, the Company believes that the Proposal contains materially false and misleading statements, such that the Proposal may be omitted in its entirety consistent with SLB 14.

B. The Proposal Contains Materially False and Misleading Statements

The Proposal contains materially false and misleading statements regarding the requisite threshold needed for the Company's shareholders to call a special meeting (the “Special Meeting Threshold”). The Proposal states that it “appears that all shares that are held in street name are **100% disqualified** [emphasis added] from participating in the calling of a special shareholder meeting. If 50% of CNO Financial shares are held in street name then it would take 50% of the shares held not in street name (25% times 2) to call for a special shareholder meeting.”

The above statements are objectively and materially false and misleading because they fundamentally misrepresent the Special Meeting Threshold. Article Twelve of the Company's Amended and Restated Certificate of Incorporation (the “Charter”), a copy of which is attached hereto as Exhibit B, expressly provides that the Special Meeting Threshold is 25% of all issued and outstanding shares of the Company's common stock entitled to vote at such a meeting. No provision of the Charter or the Company's other “governance documents” prevent shares held in street name from being entitled to so vote. The fact that a shareholder holding in street name must instruct his or her broker, in accordance with customary procedures, to participate in calling a special meeting does not, in any way, prevent the shareholder from participating in the calling of the shareholder meeting let alone “100% disqualif[y]” the shareholder from participating, as the Proposal states.

In fact, had the Proponent taken the time to review the results of the Company's most recent annual shareholders meeting, he would have noticed that, even for routine annual meetings, substantially all of the Company's shareholders participate in the voting. Of the approximately 117.4 million shares of common stock outstanding and entitled to vote at the Company's 2022 annual meeting of shareholders, as disclosed in the Company's Current Report on Form 8-K filed on May 19, 2022, approximately 106.4 million shares, or approximately 90.6%, were voted (for/against/abstain), with only approximately 4.0 million, or approximately 3.4%, broker non-votes (representing shares held in street name for which voting instructions were not provided to the broker) and approximately 7.0 million shares, or approximately 6.0%, not voted at all. This very high level of voting participation (90.6%, excluding the broker non-vote) reflects the fact that, for the Company's shareholders, even those who may hold their shares in street name, there is no significant barrier to voting – and they certainly are not “100% disqualified from participating” as the Proponent falsely and misleadingly states in the Proposal.

For similar reasons, the Proponent's example “[i]f 50% of CNO Financial shares are held in street name then it would take 50% of the shares held not in street name (25% times 2) to call for a special shareholder meeting” is materially misleading. It pointedly fabricates an example that bears no relation to reality, as demonstrated by the actual voting results of the Company (as described above), fashioning a false and misleading result by incorrectly assuming that 50% of the Company's shares are held in street name and then artificially excluding all shares held in street name. Rather, the threshold for calling a special meeting of shareholders is 25% of the outstanding Company shares, not “50% of a limited class of shareholders . . . , and excluding all other shareholders,” as falsely and misleadingly stated in the Proposal.

In short, the Proposal contains materially false and misleading statements because, similar to the reasoning of *General Magic, Inc.*, it gives the dishonest impression that a significant portion of the Company's shareholders would not be entitled to participate in calling a special shareholder meeting when the Company's “governance documents” provide otherwise. Not only is that not true as a theoretical matter, as the Charter provides *all shareholders* with such right, but is demonstrably true in practice with respect to recent voting results, as described above. Thus, the Proposal should be excluded pursuant to Rule 14a-8.

C. The Proponent Should Not Be Permitted to Revise His Supporting Statement

We recognize that the Staff has permitted proponents to cure defects in their proposals or supporting statements so long as the revisions are “minor in nature and do not alter the substance of the proposal.” See *SLB*. However, we respectfully request that the Staff decline to grant the Proponent such an opportunity for correction. In *SLB 14*, the Staff noted that it adopted the practice of allowing proponents to revise proposals to “deal with proposals that generally comply with the substantive requirements of the rule, but contain some relatively minor defects that are easily corrected.”

The Proposal states that one of its “main purposes ... is to give all shareholders, including street name shareholders, the right to formally participate in calling for a special shareholder meeting.” In his own words, the Proponent confirms that the intent of the Proposal is inexorably linked to the materially false and misleading assertion that shares held in street name appear to be “100% disqualified,” making the Special Meeting Threshold effectively far above the 25% stated in the Charter (i.e., 50%, *double* the actual threshold in the Charter, according to the example given in the Proposal). Thus, in contrast to a minor defect easily corrected, it is the Proponent’s (and the Proposal’s) purpose that is flawed and so far from generally compliant with the substantive requirements of the rule, making an opportunity to correct such ineffective.

We further note that the Proponent, prior to the submission of this request and following receipt of the Deficiency Letter, did not avail himself of the opportunity to correct the misstatements identified above and accordingly should not be given a further opportunity to correct.

III. CONCLUSION

For the reasons discussed above, the Company believes that it may properly omit the Proposal in its entirety from the 2023 Proxy Materials in reliance on Rule 14a-8. As such, we respectfully request that the Staff concur with the Company’s view and not recommend enforcement action to the Commission if the Company omits the Proposal from its 2023 Proxy Materials.

Should the Staff disagree with these conclusions, or if any additional information is desired to support the Company’s position, we would greatly appreciate an opportunity to confer with the Staff about these matters before the Staff issues its response. If you have any questions with respect to this matter, please do not hesitate to contact me or Jared Fertman at (212) 728-8000 or jhochman@willkie.com and jfertman@willkie.com.

Very truly yours,

/s/ Jeffrey S. Hochman

Jeffrey S. Hochman

Attachments

cc: Matthew Zimpfer (CNO Financial)
Rachel J. Spehler (CNO Financial)
Jared Fertman (Willkie Farr)

Exhibit A

Proposal

Kenneth Steiner

PII

Ms. Rachel J. Spehler
CNO Financial Group, Inc. (CNO)
11825 North Pennsylvania Street
Carmel, IN 46032
PH: 317 817 6100

Dear Ms. Spehler,

I purchased stock in our company because I believed our company had potential for improved performance. My attached Rule 14a-8 proposal is submitted in support of the long-term performance of our company. This Rule 14a-8 proposal is submitted as a low-cost method to improve company performance.

My proposal is for the next annual shareholder meeting. I will meet Rule 14a-8 requirements including the continuous ownership of the required stock value until after the date of the respective shareholder meeting. My submitted format, with the shareholder-supplied emphasis, is intended to be used for definitive proxy publication.

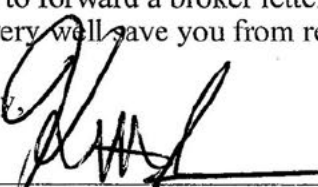
This is my proxy for John Chevedden and/or his designee to forward this Rule 14a-8 proposal to the company and to act on my behalf regarding this Rule 14a-8 proposal, and/or modification of it, for the forthcoming shareholder meeting before, during and after the forthcoming shareholder meeting. Please direct all future communications regarding my rule 14a-8 proposal to John Chevedden

PII

to facilitate prompt and verifiable communications.
Please identify this proposal as my proposal exclusively.

I expect to forward a broker letter soon so if you acknowledge this proposal in an email message it may very well save you from requesting a broker letter from me.

Sincerely,



Kenneth Steiner



Date

[CNO – Rule 14a-8 Proposal, November 18, 2022]
[This line and any line above it is not for publication.]
Proposal 4 – Special Shareholder Meeting Improvement

Shareholders ask our Board to take the steps necessary to amend the appropriate company governing documents to give the owners of a combined 10% of our outstanding common stock the power to call a special shareholder meeting.

One of the main purposes of this proposal is to give all shareholders, including street name shareholders, the right to formally participate in calling for a special shareholder meeting.

Currently it takes a theoretical 25% of all shares outstanding to call for a special shareholder meeting.

It then appears that all the shares that are held in street name are 100% disqualified from participating in the calling of a special shareholder meeting. If 50% of CNO Financial shares are held in street name then it would take 50% of the shares held not in street name (25% times 2) to call for a special shareholder meeting.

A right for 50% of a limited class of shareholders to call a special meeting, and excluding all other shareholders, is not much of a right for the Board to brag about. Plus the so-called right to act by written consent is restricted in a similar manner applying only to non-street name shareholders.

Calling for a special shareholder meeting is hardly ever used by shareholders but the main point of the right to call for a special shareholder meeting is that it gives shareholders at least significant standing to engage effectively with management.

Management will have an incentive to genuinely engage with shareholders, instead of stonewalling, if shareholders have a realistic Plan B option of calling a special shareholder meeting.

It is important to improve the governance of CNO with proposals such as this that give shareholders a greater right to hold the Board accountable since CNO stock has not done much since its \$22 price in 2004.

Please vote yes:

Special Shareholder Meeting Improvement – 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 PII

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**.





December 2, 2022

VIA E-MAIL

PII

Mr. John Chevedden

PII

Mr. Kenneth Steiner

PII

Re: Shareholder Proposal for CNO Financial Group, Inc.

Dear Messrs. Chevedden and Steiner:

On behalf of CNO Financial Group, Inc. (the “Company”), we hereby acknowledge receipt of an email sent by Mr. Chevedden to me on November 19, 2022, submitting a shareholder proposal on behalf of Mr. Steiner relating to the rights of shareholders of the Company to call special meetings of shareholders, as further described therein (the “Proposal”), for inclusion in the Company’s proxy statement relating to its 2023 annual meeting of shareholders.¹

We write to inform you that in accordance with Rule 14a-8 of the Securities Exchange Act of 1934, as amended (“Rule 14a-8”), regarding the inclusion of shareholder proposals in a company’s proxy statement, you have failed to provide proof of your eligibility to submit the Proposal for the following reasons:

- At the time you submit your proposal you must provide your eligibility to the Company by providing either (a) a written statement from the “record” holder of your securities (usually a broker or bank) verifying that, at the time the Proposal was submitted, Mr. Steiner continuously held at least \$2,000, \$15,000, or \$25,000 in market value of the Company’s securities entitled to vote on the Proposal for at least three years, two years, or one year, respectively or (b) a copy of a Schedule 13D, Schedule 13G, Form 3, Form 4, Form 5, or amendments to those documents

¹ Although Mr. Steiner’s proxy letter sent with the Proposal is dated November 1, 2022, it was not received until November 19, 2022.

Mr. John Chevedden
Mr. Kenneth Steiner
December 2, 2022
Page 2

or updated forms, reflecting Mr. Steiner's ownership of the required number of shares as of or before the date on which the eligibility period begins.

- At the time you submit your proposal you must confirm in writing that you are able to meet the Company in person or via teleconference no less than 10 calendar days or no more than 30 calendar days after submission of the proposal. You must also note the business days and specific times (between 9:00 a.m. and 5:30 p.m. EST) you are available to discuss the proposal with the Company.
- The Proposal contains materially false and misleading statements regarding the requisite threshold for the Company's shareholders to call a special meeting. The Proposal states incorrectly that:

It then appears that all shares that are held in street name are **100% disqualified** [emphasis added] from participating in the calling of a special shareholder meeting. If 50% of CNO Financial shares are held in street name then it would take 50% of the shares held not in street name (25% times 2) to call for a special shareholder meeting.

This statement is false and misleading. *All Company shares* may participate in calling a special shareholder meeting, including shares held in street name. The fact that a shareholder holding in street name must instruct his or her broker does not, in any way, prevent a shareholder from participating in any shareholder meeting let alone "disqualify" the shareholder from participation. Thus, the threshold for calling a special meeting of shareholders is 25% of the outstanding Company shares, not "50% of a limited class of shareholders . . . , and excluding all other shareholders," as falsely and misleadingly stated in the Proposal. Accordingly, in addition to the above reasons, the Proposal is ineligible for inclusion in the Company's proxy statement under Rule 14a-8(i)(3), including Rule 14a-9 referenced therein, which prohibits false and misleading statements.

If you do not provide the Company with the proper written evidence remediating the above issues that is postmarked or transmitted electronically to the Company within 14 calendar days of receiving this letter, the Proposal will be automatically ineligible for inclusion in the Company's proxy statement for its 2023 annual meeting of shareholders under Rule 14a-8(f) under the Securities Exchange Act. For your information, we have attached copies of Rule 14a-8, which governs shareholder proposals, and Staff Legal Bulletin 14L, which describes the documentation that must be submitted when a shareholder submits proposals through a representative.

Sincerely,



Rachel J. Spehler
Vice President, Deputy General Counsel and Secretary

Exhibit B

CNO Financial Group, Inc.

Amended and Restated Certificate of Incorporation

AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
CNO FINANCIAL GROUP, INC.

ARTICLE ONE

The name of the Corporation is CNO Financial Group, Inc.

ARTICLE TWO

The address of the Corporation's registered office in the State of Delaware is 2711 Centerville Road, Suite 400, Wilmington, DE 19808. The name of its registered agent at such address is Corporation Service Company.

ARTICLE THREE

The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware.

ARTICLE FOUR

Section 1. Authorized Shares. The total number of shares of capital stock which the Corporation has authority to issue is 8,265,000,000 shares, consisting of:

- (a) 265,000,000 shares of Preferred Stock, par value \$.01 per share ("Preferred Stock"); and
- (b) 8,000,000,000 shares of Common Stock, par value \$.01 per share ("Common Stock").

The Preferred Stock and the Common Stock shall have the rights, preferences and limitations set forth below.

Section 2. Preferred Stock. The Preferred Stock may be issued from time to time and in one or more series. The Board of Directors of the Corporation is authorized to determine or alter the powers, preferences and rights, and the qualifications, limitations and restrictions granted to or imposed upon any wholly unissued series of Preferred Stock, and within the limitations or restrictions stated in any resolution or resolutions of the Board of Directors

originally fixing the number of shares constituting any series of Preferred Stock, to increase or decrease (but not below the number of shares of any such series of Preferred Stock then outstanding) the number of shares of any such series of Preferred Stock, and to fix the number of shares of any series of Preferred Stock. In the event that the number of shares of any series of Preferred Stock shall be so decreased, the shares constituting such decrease shall resume the status which such shares had prior to the adoption of the resolution originally fixing the number of shares of such series of Preferred Stock subject to the requirements of applicable law.

Section 3. Common Stock.

(a) Dividends. Except as otherwise provided by the Delaware General Corporation Law or this Amended and Restated Certificate of Incorporation (the "Certificate"), the holders of Common Stock, subject to the rights of holders of any series of Preferred Stock, shall share ratably in all dividends as may from time to time be declared by the Board of Directors in respect of the Common Stock out of funds legally available for the payment thereof and payable in cash, stock or otherwise and other distributions, whether in respect of liquidation or dissolution (voluntary or involuntary) or otherwise after payment of liabilities and liquidation preference on any outstanding Preferred Stock.

(b) Preemptive Rights. No holder of Common Stock shall have any preemptive rights with respect to the Common Stock or any other securities of the Corporation, or to any obligations convertible (directly or indirectly) into securities of the Corporation whether now or hereafter authorized.

(c) Voting Rights. Except as otherwise provided by the Delaware General Corporation Law or this Certificate and subject to the rights of holders of any series of Preferred Stock, all of the voting power of the stockholders of the Corporation shall be vested in the holders of the Common Stock, and each holder of Common Stock shall have one vote for each share held by such holder on all matters voted upon by the stockholders of the Corporation.

Section 4. Limitations on Voting Rights.

Notwithstanding the voting rights granted to holders of Common Stock and Preferred Stock (collectively, the "Stock") elsewhere in this Certificate or in any certificate of designations with respect to Preferred Stock, the voting rights of any Stock held by any holder as of the effective date of the Reorganizing Debtors' Joint Plan of Reorganization pursuant to Chapter 11 of the United States Bankruptcy Code, dated March 18, 2003, as amended from time to time shall be automatically reduced, with respect to any particular stockholder vote or action by written consent, to the extent, if any, required to avoid a presumption of control arising from the beneficial ownership of voting securities under the insurance statutes or regulations applicable to any direct or indirect insurance company subsidiary of the Corporation, provided that no such reduction shall (without such holder's written consent) reduce such voting rights (i) by more than the minimum amount required to reduce such voting rights to less than 10% of the aggregate voting rights of all Stock entitled to vote or consent with respect to such vote or action, or (ii) to the extent that such holder's acquisition of control or deemed acquisition of control of the direct and indirect insurance company subsidiaries of the Corporation has been approved

under, or is exempt from the approval requirements of, all insurance statutes and regulations applicable to the direct and indirect insurance company subsidiaries of the Corporation.

ARTICLE FIVE

The Corporation is to have perpetual existence.

ARTICLE SIX

Except as otherwise provided in this Certificate (including any duly authorized certificate of designation of any series of Preferred Stock), Directors shall be elected in accordance with the procedures and requirements prescribed by the Bylaws of the Corporation. Elections of directors need not be by written ballot unless the Bylaws of the Corporation shall so provide.

ARTICLE SEVEN

Subject to any rights of the holders of any series of Preferred Stock pursuant to a duly authorized certificate of designation to elect additional Directors under specified circumstances, the number of directors which shall constitute the Board of Directors shall initially be established at seven and, thereafter, shall be fixed from time to time by resolution adopted by the affirmative vote of a majority of the total number of Directors then in office.

ARTICLE EIGHT

In furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized to make, alter, amend or repeal the Bylaws of the Corporation.

ARTICLE NINE

Section 1. Limitation of Liability.

(a) To the fullest extent permitted by the Delaware General Corporation Law as it now exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than permitted prior thereto), and except as otherwise provided in the Corporation's Bylaws, no Director of the Corporation shall be liable to the Corporation or its stockholders for monetary damages arising from a breach of fiduciary duty owed to the Corporation or its stockholders.

(b) Any repeal or modification of the foregoing paragraph by the stockholders of the Corporation shall not adversely affect any right or protection of a Director of the Corporation existing at the time of such repeal or modification.

Section 2. Right to Indemnification. Each person who was or is made a party or is threatened to be made a party to or is otherwise involved (including involvement as a witness) in any action, suit or proceeding, whether civil, criminal, administrative or investigative (a “proceeding”), by reason of the fact that he or she is or was a Director, officer or employee of the Corporation or a wholly owned subsidiary of the Corporation or, while a Director, officer or employee of the Corporation or a wholly owned subsidiary of the Corporation, is or was serving at the request of the Corporation or a wholly owned subsidiary of the Corporation as a Director, officer, employee, partner, member, manager, trustee, fiduciary or agent of another corporation or of a partnership, joint venture, limited liability company, trust or other entity or enterprise, including service with respect to an employee benefit plan (an “indemnitee”) shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the Delaware General Corporation Law, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than permitted prior thereto), against all expense, liability and loss (including attorneys’ fees, judgments, fines, excise taxes or penalties and amounts paid in settlement) reasonably incurred or suffered by such indemnitee in connection therewith and such indemnification shall continue as to an indemnitee who has ceased to be a Director, officer, employee, partner, member, trustee, fiduciary or agent and shall inure to the benefit of the indemnitee’s heirs, executors and administrators; provided, however, that the Corporation shall indemnify any such indemnitee in connection with a proceeding (or part thereof) initiated by such indemnitee only if such proceeding (or part thereof) was authorized by the Board of Directors of the Corporation. The right to indemnification conferred in this Section 2 of this ARTICLE NINE shall be a contract right and shall include the obligation of the Corporation to pay the expenses incurred in defending any such proceeding in advance of its final disposition (an “advance of expenses”); provided, however, that, if and to the extent that the Delaware General Corporation Law requires, an advance of expenses incurred by an indemnitee in his or her capacity as a Director or officer shall be made only upon delivery to the Corporation of an undertaking, by or on behalf of such indemnitee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal that such indemnitee is not entitled to be indemnified for such expenses under this Section 2 or otherwise.

ARTICLE TEN

Section 1. Classification of Directors. At each annual meeting of stockholders, directors of the Corporation shall be elected to hold office until the next succeeding annual meeting and until their successors have been duly elected and qualified; except that if any such election shall be not so held, such election shall take place at a stockholders’ meeting called and held in accordance with the Delaware General Corporation Law.

Section 2. Removal. Subject to the rights, if any, of the holders of any series of Preferred Stock to remove directors (with or without cause) and fill the vacancies thereby created (as specified in any duly authorized certificate of designation of any series of Preferred Stock), (i) prior to the second annual meeting of stockholders, no Director may be removed from office without cause and without the affirmative vote of the holders of a majority of the voting power of the then outstanding shares of capital stock entitled to vote generally in the election of Directors

voting together as a single class and (ii) thereafter, a Director may be removed with or without cause with the affirmative vote of the holders of a majority of the voting power of the then outstanding shares of capital stock entitled to vote generally in the election of Directors voting together as a single class; provided, however, that if the holders of any class or series of capital stock are entitled by the provisions of any duly authorized certificate of designation to elect one or more Directors, such Director or Directors so elected may be removed with or without cause by the vote of the holders of a majority of the outstanding shares of that class or series entitled to vote.

Section 3. Vacancies. Subject to the rights of the holders of any series of Preferred Stock to remove Directors and fill the vacancies thereby created (as specified in any duly authorized certificate of designation of any series of Preferred Stock), vacancies occurring on the Board of Directors for any reason may be filled by vote of a majority of the remaining members of the Board of Directors, although less than a quorum, at any meeting of the Board of Directors or by the stockholders. A person so elected by the Board of Directors to fill a vacancy shall hold office until the next succeeding annual meeting of stockholders of the Corporation and until his or her successor shall have been duly elected and qualified.

ARTICLE ELEVEN

Meetings of stockholders may be held within or without the State of Delaware, as the Bylaws may provide. The books of the Corporation may be kept (subject to any provision contained in the statutes) outside of the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the Bylaws of the Corporation.

ARTICLE TWELVE

The stockholders of the Corporation may take any action by written consent in lieu of a meeting. Subject to the rights of the holders of any series of Preferred Stock as specified in any duly authorized certificate of designation, special meetings of stockholders of the Corporation may be called only by the Board of Directors pursuant to a resolution adopted by the affirmative vote of the majority of the total number of directors then in office, by the chairman of the Board of Directors or the chief executive officer of the Corporation, or by the secretary of the Corporation upon request in writing of the stockholder or stockholders holding of record at least 25% of the voting power of the issued and outstanding shares of stock of the Corporation entitled to vote at such meeting.

ARTICLE THIRTEEN

The Corporation expressly elects not to be governed by Section 203 of the Delaware General Corporation Law.

ARTICLE FOURTEEN

The Corporation shall not issue any class of non-voting equity securities unless and solely to the extent permitted by Section 1123(a)(6) of the United States Bankruptcy Code (the “Bankruptcy Code”) as in effect on the date of filing this Certificate with the Secretary of State of the State of Delaware; provided, however, that this ARTICLE FOURTEEN: (a) will have no further force and effect beyond that required under Section 1123(a)(6) of the Bankruptcy Code; (b) will have such force and effect, if any, only for so long as Section 1123(a)(6) of the Bankruptcy Code is in effect and applicable to the Corporation; and (c) in all events may be amended or eliminated in accordance with applicable law from time to time in effect.

ARTICLE FIFTEEN

Section 1. Definitions. As used in this ARTICLE FIFTEEN, the following capitalized terms have the following meanings when used herein with initial capital letters (and any references to any portions of Treasury Regulation Sections 1.382-2T, 1.382-3 and 1.382-4 shall include any successor provisions):

“*4.99% Stockholder*” means any Person with a Percentage Stock Ownership of 4.99% or more.

“*4.99% Transaction*” means any Transfer described in clause (x) or (y) of Section 2 of this ARTICLE FIFTEEN.

“*Affiliate*” and “*Associate*” mean, with respect to any Person, any other Person whose common stock would be deemed to be (i) constructively owned by such first Person, or (ii) otherwise aggregated with the shares owned by such first Person (other than aggregation solely by reason of such shares being part of the same “public group” as defined under Treasury Regulation Section 1.382-2T(f)(13), in each case pursuant to the provisions of Section 382 of the Code, or any successor or replacement provision, and the Treasury Regulations promulgated thereunder.

“*Agent*” has the meaning set forth in Section 5(a) of this ARTICLE FIFTEEN.

A Person shall be deemed the “*beneficial owner*” of, shall be deemed to have “*beneficial ownership*” of and shall be deemed to “*beneficially own*” any securities which such Person: (i) directly owns, or (ii) would be deemed to own constructively pursuant to Section 382 of the Code and the Treasury Regulations promulgated thereunder (including as a result of the deemed exercise of an “option” pursuant to Treasury Regulation Section 1.382-4(d) and including, without duplication, Stock, as applicable, owned by any Affiliate or Associate of such Person); provided, that, a Person shall not be treated as “beneficially owning” Stock pursuant to clause (i) above to the extent that such Person is acting solely in a fiduciary capacity in respect of such Stock and does not have the right to receive or the power to direct the receipt of dividends from, or the proceeds from the sale of, Stock.

“*Board of Directors*” means the board of directors of the Corporation.

“*Code*” means the United States Internal Revenue Code of 1986, as amended from time to time, or any comparable successor statute, and the Treasury Regulations issued thereunder.

“*Common Stock*” means the common stock, par value \$0.01 per share, of the Corporation.

“*Corporation Security*” or “*Corporation Securities*” means (i) shares of Common Stock, (ii) shares of Preferred Stock (other than preferred stock described in Section 1504(a)(4) of the Code), (iii) warrants, rights, or options (including options within the meaning of Treasury Regulation Section 1.382-2T(h)(4)(v)) to purchase Securities of the Corporation and (iv) any Stock.

“*Effective Date*” means the later of (i) July 31, 2016 or (ii) the date of filing of this Certificate of Amendment of Amended and Restated Certificate of Incorporation with the Secretary of State of the State of Delaware.

“*Excess Securities*” has the meaning given such term in Section 4 of this ARTICLE FIFTEEN.

“*Expiration Date*” means the earlier of (i) July 31, 2019, (ii) the repeal of Section 382 of the Code or any successor statute if the Board of Directors determines that this ARTICLE FIFTEEN is no longer necessary for the preservation of Tax Benefits, (iii) the beginning of a taxable year of the Corporation to which the Board of Directors determines that no Tax Benefits may be carried forward or (iv) such date as the Board of Directors shall fix in accordance with Section 12 of this ARTICLE FIFTEEN.

“*Percentage Stock Ownership*” means the percentage Stock Ownership interest of any Person or group (as the context may require) for purposes of Section 382 of the Code as determined in accordance with the Treasury Regulation Sections 1.382-2T(g), (h), (j) and (k) and 1.382-4 or any successor provision.

“*Person*” means any individual, firm, corporation, business trust, joint stock company, partnership, trust association, limited liability company, limited partnership, or other entity, or any group of Persons making a “coordinated acquisition” of Stock or otherwise treated as an entity within the meaning of Treasury Regulation Section 1.382-3(a)(1)(i), and shall include any successor (by merger or otherwise) of any such entity; provided, however, that a Person shall not mean a Public Group.

“*Preferred Stock*” means the preferred stock, par value \$0.01 per share, of the Corporation.

“*Prohibited Distributions*” means any and all dividends or other distributions paid by the Corporation with respect to any Excess Securities received by a Purported Transferee.

“*Prohibited Transfer*” means any Transfer or purported Transfer of Corporation Securities to the extent that such Transfer is prohibited and/or void under this ARTICLE FIFTEEN.

“*Public Group*” has the meaning set forth in Treasury Regulation Section 1.382-2T(f)(13).

“*Purported Transferee*” has the meaning set forth in Section 4 of this ARTICLE FIFTEEN.

“*Securities*” and “*Security*” each has the meaning set forth in Section 7 of this ARTICLE FIFTEEN.

“*Stock*” means any interest that would be treated as “stock” of the Corporation for purposes of Section 382 of the Code (including pursuant to Treasury Regulation Section 1.382-2T(f)(18)).

“*Stock Ownership*” means any direct or indirect ownership of Stock, including any ownership by virtue of application of constructive ownership rules, with such direct, indirect, and constructive ownership determined under the provisions of Section 382 of the Code.

“*Subsidiary*” or “*Subsidiaries*” of any Person means any corporation or other entity of which securities or other ownership interests having ordinary voting power sufficient to elect a majority of the board of directors or other Persons performing similar functions are beneficially owned, directly or indirectly, by such Person, and any corporation or other entity that is otherwise controlled by such Person.

“*Tax Benefits*” means the net operating loss carryovers, capital loss carryovers, general business credit carryovers, alternative minimum tax credit carryovers and foreign tax credit carryovers, as well as any loss or deduction attributable to a “net unrealized built-in loss” of the Corporation or any of its Subsidiaries, within the meaning of Section 382 of the Code.

“*Transfer*” means, any direct or indirect sale, transfer, assignment, conveyance, pledge or other disposition or other action taken by a Person, other than the Corporation, that alters the Percentage Stock Ownership of any Person or group. A Transfer also shall include the creation or grant of an option (including an option within the meaning of Treasury Regulation Sections 1.382-2T(h)(4)(v) and 1.382-4). For the avoidance of doubt, a Transfer shall not include the creation or grant of an option by the Corporation, nor shall a Transfer include the issuance of Stock by the Corporation.

“*Transferee*” means any Person to whom Corporation Securities are Transferred.

“*Treasury Regulations*” means the regulations, including temporary regulations or any successor regulations promulgated under the Code, as amended from time to time.

Section 2. Transfer and Ownership Restrictions.

(a) In order to preserve the Tax Benefits, from and after the Effective Date of this ARTICLE FIFTEEN, any attempted Transfer of Corporation Securities prior to the Expiration Date and any attempted Transfer of Corporation Securities pursuant to an agreement entered into prior to the Expiration Date shall be prohibited and void *ab initio* (x) if the transferor is a 4.99% Stockholder or (y) to the extent that, as a result of such Transfer (or any series of Transfers of which such Transfer is a part), either (i) any Person or group of Persons would become a 4.99% Stockholder or (ii) the Percentage Stock Ownership in the Corporation of any 4.99% Stockholder would be increased. The prior sentence is not intended to prevent Corporation Securities from being DTC-eligible and shall not preclude the settlement of any transactions in Corporation Securities entered into through the facilities of a national securities exchange or any national securities quotation system; provided that if the settlement of the transaction would result in a Prohibited Transfer, such Transfer shall nonetheless be a Prohibited Transfer subject to all of the provisions and limitations set forth in this ARTICLE FIFTEEN.

(b) The Corporation may require as a condition to the registration of the Transfer of any Corporation Securities or the payment of any distribution on any Corporation Securities that the proposed Transferee or payee furnish to the Corporation all information reasonably requested by the Corporation with respect to all the direct or indirect ownership interests in such Corporation Securities. The Corporation may make such arrangements or issue such instructions to its stock transfer agent as may be determined by the Board of Directors to be necessary or advisable to implement this ARTICLE FIFTEEN, including, without limitation, authorizing such transfer agent to require an affidavit from a proposed Transferee regarding such Person's actual and constructive ownership of Stock and other evidence that a Transfer will not be prohibited by this ARTICLE FIFTEEN as a condition to registering any Transfer.

Section 3. Waiver of Transfer and Ownership Restrictions. The restrictions set forth in Section 2(a) of this ARTICLE FIFTEEN shall not apply to a Transfer that is a 4.99% Transaction if the transferor or the Transferee obtains the written approval of the Board of Directors or a duly authorized committee thereof. The Board of Directors may impose any conditions that it deems reasonable and appropriate in connection with such approval, including, without limitation, restrictions on the ability of any Transferee to Transfer Stock acquired through a Transfer. Approvals of the Board of Directors hereunder may be given prospectively or retroactively. The Board of Directors, to the fullest extent permitted by law, may exercise the authority granted by this ARTICLE FIFTEEN through duly authorized officers or agents of the Corporation. Nothing in this Section 3 shall be construed to limit or restrict the Board of Directors in the exercise of its fiduciary duties under applicable law.

Section 4. Excess Securities. No employee or agent of the Corporation shall record any Prohibited Transfer, and the purported transferee of such a Prohibited Transfer (the "*Purported Transferee*") shall not be recognized as a stockholder of the Corporation for any purpose whatsoever in respect of the Corporation Securities which are the subject of the Prohibited Transfer (the "*Excess Securities*"). Until the Excess Securities are acquired by another Person in a Transfer that is not a Prohibited Transfer, the Purported Transferee shall not be entitled with respect to such Excess Securities to any rights of stockholders of the Corporation, including, without limitation, the right to vote such Excess Securities and to receive dividends or distributions, whether liquidating or otherwise, in respect thereof, if any, and the Excess

Securities shall be deemed to remain with the transferor unless and until the Excess Securities are transferred to the Agent pursuant to Section 5 of this ARTICLE FIFTEEN or until an approval is obtained under Section 3 of this ARTICLE FIFTEEN. After the Excess Securities have been acquired in a Transfer that is not a Prohibited Transfer, the Corporation Securities shall cease to be Excess Securities. For this purpose, any Transfer of Excess Securities not in accordance with the provisions of this Section 4 or Section 5 of this ARTICLE FIFTEEN shall also be a Prohibited Transfer. For the avoidance doubt, all of the Corporation Securities which are the subject of a Prohibited Transfer shall constitute Excess Securities.

Section 5. Transfer to Agent.

(a) If the Board of Directors determines that a Transfer of Corporation Securities constitutes a Prohibited Transfer, then, upon written demand by the Corporation sent within thirty (30) days of the date on which the Board of Directors determines that the attempted Transfer would result in Excess Securities, the Purported Transferee shall transfer or cause to be transferred any certificate or other evidence of ownership of the Excess Securities within the Purported Transferee's possession or control, together with any Prohibited Distributions, to an agent designated by the Board of Directors (the "Agent"). The Agent shall thereupon sell to a buyer or buyers, which may include the Corporation, the Excess Securities transferred to it in one or more arm's-length transactions (on the public securities market on which such Excess Securities are traded, if possible, or otherwise privately); provided, however, that any such sale must not constitute a Prohibited Transfer and provided, further, that the Agent shall effect such sale or sales in an orderly fashion and shall not be required to effect any such sale or sales within any specific time frame if, in the Agent's discretion, such sale or sales would disrupt the market for the Corporation Securities, would otherwise adversely affect the value of the Corporation Securities or would be in violation of applicable securities laws.

(b) If the Purported Transferee has resold the Excess Securities before receiving the Corporation's demand to surrender Excess Securities to the Agent, the Purported Transferee shall be deemed to have sold the Excess Securities for the Agent, and shall be required to transfer to the Agent any Prohibited Distributions and proceeds of such sale, except to the extent that the Corporation grants written permission to the Purported Transferee to retain a portion of such sale proceeds not exceeding the amount that the Purported Transferee would have received from the Agent pursuant to Section 6 of this ARTICLE FIFTEEN if the Agent rather than the Purported Transferee had resold the Excess Securities.

Section 6. Application of Proceeds and Prohibited Distributions. The Agent shall apply any proceeds of a sale by it of Excess Securities and, if the Purported Transferee has previously resold the Excess Securities, any amounts received by it from a Purported Transferee, together, in either case, with any Prohibited Distributions, as follows: (a) first, such amounts shall be paid to the Agent to the extent necessary to cover its costs and expenses incurred in connection with its duties hereunder; (b) second, any remaining amounts shall be paid to the Purported Transferee, up to the amount paid by the Purported Transferee for the Excess Securities (or the fair market value at the time of the Transfer, in the event the purported Transfer of the Excess Securities was, in whole or in part, a gift, inheritance or similar Transfer) which amount shall be determined at

the discretion of the Board of Directors; and (c) third, any remaining amounts shall be paid to one or more organizations qualifying under Section 501(c)(3) of the Code (or any comparable successor provision) selected by the Board of Directors. The Purported Transferee of Excess Securities shall have no claim, cause of action or any other recourse whatsoever against any transferor of Excess Securities. The Purported Transferee's sole right with respect to such shares shall be limited to the amount payable to the Purported Transferee pursuant to this Section 6. In no event shall the proceeds of any sale of Excess Securities pursuant to this Section 6 inure to the benefit of the Corporation or the Agent, except to the extent used to cover costs and expenses incurred by Agent in performing its duties hereunder.

Section 7. Modification of Remedies for Certain Indirect Transfers. In the event of any Transfer which does not involve a transfer of securities of the Corporation within the meaning of Delaware law (“*Securities*,” and individually, a “*Security*”) but which would cause a 4.99% Stockholder to violate a restriction on Transfers provided for in this ARTICLE FIFTEEN, the application of Section 5 and Section 6 of this ARTICLE FIFTEEN shall be modified as described in this Section 7. In such case, no such 4.99% Stockholder shall be required to dispose of any interest that is not a Security, but such 4.99% Stockholder and/or any Person whose ownership of Securities is attributed to such 4.99% Stockholder shall be deemed to have disposed of and shall be required to dispose of sufficient Securities (which Securities shall be disposed of in the inverse order in which they were acquired) to cause such 4.99% Stockholder, following such disposition, not to be in violation of this ARTICLE FIFTEEN. Such disposition shall be deemed to occur simultaneously with the Transfer giving rise to the application of this provision, and such number of Securities that are deemed to be disposed of shall be considered Excess Securities and shall be disposed of through the Agent as provided in Sections 5 and 6 of this ARTICLE FIFTEEN, except that the maximum aggregate amount payable either to such 4.99% Stockholder, or to such other Person that was the direct holder of such Excess Securities, in connection with such sale shall be the fair market value of such Excess Securities at the time of the purported Transfer. All expenses incurred by the Agent in disposing of such Excess Securities shall be paid out of any amounts due such 4.99% Stockholder or such other Person. The purpose of this Section 7 is to extend the restrictions in Sections 2 and 5 of this ARTICLE FIFTEEN to situations in which there is a 4.99% Transaction without a direct Transfer of Securities, and this Section 7, along with the other provisions of this ARTICLE FIFTEEN, shall be interpreted to produce the same results, with differences as the context requires, as a direct Transfer of Corporation Securities.

Section 8. Legal Proceedings; Prompt Enforcement. If the Purported Transferee fails to surrender the Excess Securities or the proceeds of a sale thereof to the Agent within thirty (30) days from the date on which the Corporation makes a written demand pursuant to Section 5 of this ARTICLE FIFTEEN (whether or not made within the time specified in Section 5 of this ARTICLE FIFTEEN), then the Corporation may take all such actions as it deems appropriate to enforce the provisions hereof, including the institution of legal proceedings to compel the surrender. Nothing in this Section 8 shall (a) be deemed inconsistent with any Transfer of the Excess Securities provided in this ARTICLE FIFTEEN being void *ab initio*, (b) preclude the Corporation in its discretion from immediately bringing legal proceedings without a prior demand or (c) cause any failure of the Corporation to act within the time periods set forth in

Section 5 of this ARTICLE FIFTEEN to constitute a waiver or loss of any right of the Corporation under this ARTICLE FIFTEEN. The Board of Directors may authorize such additional actions as it deems advisable to give effect to the provisions of this ARTICLE FIFTEEN.

Section 9. Liability. To the fullest extent permitted by law, any stockholder subject to the provisions of this ARTICLE FIFTEEN who knowingly violates the provisions of this ARTICLE FIFTEEN and any Persons controlling, controlled by or under common control with such stockholder shall be jointly and severally liable to the Corporation for, and shall indemnify and hold the Corporation harmless against, any and all damages suffered as a result of such violation, including but not limited to damages resulting from a reduction in, or elimination of, the Corporation's ability to utilize its Tax Benefits, and attorneys' and auditors' fees incurred in connection with such violation.

Section 10. Obligation to Provide Information. As a condition to the registration of the Transfer of any Stock, any Person who is a beneficial, legal or record holder of Stock, and any proposed Transferee and any Person controlling, controlled by or under common control with the proposed Transferee, shall provide such information as the Corporation may request from time to time in order to determine compliance with this ARTICLE FIFTEEN or the status of the Tax Benefits of the Corporation.

Section 11. Legends. The Board of Directors may require that any certificates issued by the Corporation evidencing ownership of shares of Stock that are subject to the restrictions on transfer and ownership contained in this ARTICLE FIFTEEN bear the following legend:

“THE AMENDED AND RESTATED CERTIFICATE OF INCORPORATION, AS AMENDED (THE “AMENDED AND RESTATED CERTIFICATE OF INCORPORATION”), OF THE CORPORATION CONTAINS RESTRICTIONS PROHIBITING THE TRANSFER (AS DEFINED IN THE AMENDED AND RESTATED CERTIFICATE OF INCORPORATION) OF STOCK OF THE CORPORATION (INCLUDING THE CREATION OR GRANT OF CERTAIN OPTIONS, RIGHTS AND WARRANTS) WITHOUT THE PRIOR AUTHORIZATION OF THE BOARD OF DIRECTORS OF THE CORPORATION (THE “BOARD OF DIRECTORS”) IF SUCH TRANSFER AFFECTS THE PERCENTAGE OF STOCK OF THE CORPORATION (WITHIN THE MEANING OF SECTION 382 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE “CODE”) AND THE TREASURY REGULATIONS PROMULGATED THEREUNDER), THAT IS TREATED AS OWNED BY A 4.99% STOCKHOLDER (AS DEFINED IN THE AMENDED AND RESTATED CERTIFICATE OF INCORPORATION). IF THE TRANSFER RESTRICTIONS ARE VIOLATED, THEN THE TRANSFER WILL BE VOID *AB INITIO* AND THE PURPORTED TRANSFEREE OF THE STOCK WILL BE REQUIRED TO TRANSFER THE EXCESS SECURITIES (AS DEFINED IN THE AMENDED AND RESTATED CERTIFICATE OF INCORPORATION) TO THE CORPORATION'S AGENT. IN THE EVENT OF A TRANSFER WHICH DOES NOT INVOLVE SECURITIES OF THE CORPORATION WITHIN THE MEANING OF THE GENERAL CORPORATION LAW OF THE STATE OF DELAWARE

("SECURITIES") BUT WHICH WOULD VIOLATE THE TRANSFER RESTRICTIONS, THE PURPORTED TRANSFEREE (OR THE RECORD OWNER) OF THE SECURITIES WILL BE REQUIRED TO TRANSFER SUFFICIENT SECURITIES PURSUANT TO THE TERMS PROVIDED FOR IN THE CORPORATION'S AMENDED AND RESTATED CERTIFICATE OF INCORPORATION TO CAUSE THE 4.99% STOCKHOLDER TO NO LONGER BE IN VIOLATION OF THE TRANSFER RESTRICTIONS. THE CORPORATION WILL FURNISH WITHOUT CHARGE TO THE HOLDER OF RECORD OF THIS CERTIFICATE A COPY OF THE AMENDED AND RESTATED CERTIFICATE OF INCORPORATION, CONTAINING THE ABOVE-REFERENCED TRANSFER RESTRICTIONS, UPON WRITTEN REQUEST TO THE CORPORATION AT ITS PRINCIPAL EXECUTIVE OFFICE."

The Board of Directors may also require that any certificates issued by the Corporation evidencing ownership of shares of Stock that are subject to conditions imposed by the Board of Directors under Section 3 of this ARTICLE FIFTEEN also bear a conspicuous legend referencing the applicable restrictions.

Section 12. Authority of Board of Directors.

(a) The Board of Directors shall have the power to determine all matters necessary for assessing compliance with this ARTICLE FIFTEEN, including, without limitation, determining (i) the identification of 4.99% Stockholders, (ii) whether a Transfer is a 4.99% Transaction or a Prohibited Transfer, (iii) whether it shall grant a waiver in accordance with Section 3 of this ARTICLE FIFTEEN, (iv) the Percentage Stock Ownership in the Corporation of any 4.99% Stockholder, (v) whether an instrument constitutes a Corporation Security, (vi) the amount (or fair market value) due to a Purported Transferee pursuant to Section 6 of this ARTICLE FIFTEEN, and (vii) any other matters which the Board of Directors deems relevant; and the good faith determination of the Board of Directors on such matters shall be conclusive and binding for all the purposes of this ARTICLE FIFTEEN. In addition, the Board of Directors may, to the extent permitted by law, from time to time establish, modify, amend or rescind by-laws, regulations and procedures of the Corporation not inconsistent with the provisions of this ARTICLE FIFTEEN for purposes of determining whether any Transfer of Corporation Securities would jeopardize the Corporation's ability to preserve and use the Tax Benefits and for the orderly application, administration and implementation of this ARTICLE FIFTEEN.

(b) Nothing contained in this ARTICLE FIFTEEN shall limit the authority of the Board of Directors to take such other action to the extent permitted by law as it deems necessary or advisable to protect the Corporation and its stockholders in preserving the Tax Benefits; provided that the Board of Directors shall not extend the Expiration Date. Without limiting the generality of the foregoing, in the event of a change in law making one or more of the following actions necessary or desirable, the Board of Directors may, by adopting a written resolution, (i) accelerate the Expiration Date, (ii) modify the percentage Stock Ownership interest in the Corporation or the Persons or groups covered by this ARTICLE FIFTEEN, (iii) modify the definitions of any terms set forth in this ARTICLE FIFTEEN or (iv) modify the terms of this ARTICLE FIFTEEN as appropriate, in each case, in order to prevent an ownership change for

purposes of Section 382 of the Code as a result of any changes in applicable Treasury Regulations or otherwise; provided, however, that the Board of Directors shall not cause there to be such acceleration or modification unless it determines, by adopting a written resolution, that such action is reasonably necessary or advisable to preserve the Tax Benefits or that the continuation of these restrictions is no longer reasonably necessary for the preservation of the Tax Benefits. Stockholders of the Corporation shall be notified of such determination through a filing with the Securities and Exchange Commission or such other method of notice as the Secretary of the Corporation shall deem appropriate.

(c) In the case of an ambiguity in the application of any of the provisions of this ARTICLE FIFTEEN, including any definition used herein, the Board of Directors shall have the power to determine the application of such provisions with respect to any situation based on its reasonable belief, understanding or knowledge of the circumstances. In the event this ARTICLE FIFTEEN requires an action by the Board of Directors but fails to provide specific guidance with respect to such action, the Board of Directors shall have the power to determine the action to be taken so long as such action is not contrary to the provisions of this ARTICLE FIFTEEN. All such actions, calculations, interpretations and determinations which are done or made by the Board of Directors in good faith shall be conclusive and binding on the Corporation, the Agent, and all other parties for all other purposes of this ARTICLE FIFTEEN. The Board of Directors may delegate all or any portion of its duties and powers under this ARTICLE FIFTEEN to a committee of the Board of Directors as it deems necessary or advisable and, to the fullest extent permitted by law, may exercise the authority granted by this ARTICLE FIFTEEN through duly authorized officers or agents of the Corporation. Nothing in this ARTICLE FIFTEEN shall be construed to limit or restrict the Board of Directors in the exercise of its fiduciary duties under applicable law.

Section 13. Reliance. To the fullest extent permitted by law, the Corporation and the members of the Board of Directors shall be fully protected in relying in good faith upon the information, opinions, reports or statements of the chief executive officer, the chief financial officer, the chief accounting officer or the corporate controller of the Corporation or of the Corporation's legal counsel, independent auditors, transfer agent, investment bankers or other employees and agents in making the determinations and findings contemplated by this ARTICLE FIFTEEN, and the members of the Board of Directors shall not be responsible for any good faith errors made in connection therewith. For purposes of determining the existence and identity of, and the amount of any Corporation Securities owned by any stockholder, the Corporation is entitled to rely on the existence and absence of filings of Schedule 13D or 13G under the Securities Exchange Act of 1934, as amended (or similar filings), as of any date, subject to its actual knowledge of the ownership of Corporation Securities.

Section 14. Benefits of This ARTICLE FIFTEEN. Nothing in this ARTICLE FIFTEEN shall be construed to give to any Person other than the Corporation or the Agent any legal or equitable right, remedy or claim under this ARTICLE FIFTEEN. This ARTICLE FIFTEEN shall be for the sole and exclusive benefit of the Corporation and the Agent.

Section 15. Severability. The purpose of this ARTICLE FIFTEEN is to facilitate the Corporation's ability to maintain or preserve its Tax Benefits. If any provision of this ARTICLE FIFTEEN or the application of any such provision to any Person or under any circumstance shall be held invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision of this ARTICLE FIFTEEN.

Section 16. Waiver. With regard to any power, remedy or right provided herein or otherwise available to the Corporation or the Agent under this ARTICLE FIFTEEN, (a) no waiver will be effective unless expressly contained in a writing signed by the waiving party; and (b) no alteration, modification or impairment will be implied by reason of any previous waiver, extension of time, delay or omission in exercise, or other indulgence.

JOHN CHEVEDDEN

January 1, 2023

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

1 Rule 14a-8 Proposal
CNO Financial Group, Inc. (CNO)
Special Shareholder Meeting Improvement
Kenneth Steiner

Ladies and Gentlemen:

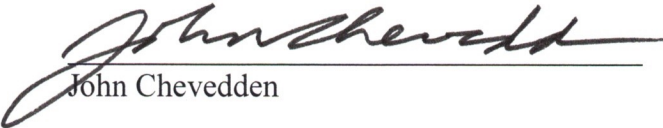
This is a counterpoint to the December 30, 2022 no-action request. This no action request may already be doing a victory lap. It was forwarded with the message “Happy New Year.”

The core part of the no action request is:

“The fact that a shareholder holding in street name must instruct his or her broker, in accordance with customary procedures, to participate in calling a special shareholder meeting does not, in any way, prevent the shareholder from participating in the calling of he shareholder meeting ...”

This is so lacking because there is no elaboration of “customary procedures.” Plus it does not answer the obvious question of whether the street name shareholder is still a street name shareholder after the “customary procedures.”

Sincerely,


John Chevedden

cc: Rachel J. Spehler

[CNO – Rule 14a-8 Proposal, November 18, 2022]
[This line and any line above it is not for publication.]
Proposal 4 – Special Shareholder Meeting Improvement

Shareholders ask our Board to take the steps necessary to amend the appropriate company governing documents to give the owners of a combined 10% of our outstanding common stock the power to call a special shareholder meeting.

One of the main purposes of this proposal is to give all shareholders, including street name shareholders, the right to formally participate in calling for a special shareholder meeting.

Currently it takes a theoretical 25% of all shares outstanding to call for a special shareholder meeting.

It then appears that all the shares that are held in street name are 100% disqualified from participating in the calling of a special shareholder meeting. If 50% of CNO Financial shares are held in street name then it would take 50% of the shares held not in street name (25% times 2) to call for a special shareholder meeting.

A right for 50% of a limited class of shareholders to call a special meeting, and excluding all other shareholders, is not much of a right for the Board to brag about. Plus the so-called right to act by written consent is restricted in a similar manner applying only to non-street name shareholders.

Calling for a special shareholder meeting is hardly ever used by shareholders but the main point of the right to call for a special shareholder meeting is that it gives shareholders at least significant standing to engage effectively with management.

Management will have an incentive to genuinely engage with shareholders, instead of stonewalling, if shareholders have a realistic Plan B option of calling a special shareholder meeting.

It is important to improve the governance of CNO with proposals such as this that give shareholders a greater right to hold the Board accountable since CNO stock has not done much since its \$22 price in 2004.

Please vote yes:

Special Shareholder Meeting Improvement – Proposal 4

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

January 29, 2023

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

2 Rule 14a-8 Proposal
CNO Financial Group, Inc. (CNO)
Special Shareholder Meeting Improvement
Kenneth Steiner

Ladies and Gentlemen:

This is a counterpoint to the December 30, 2022 no-action request.

The core part of the no action request is:

“The fact that a shareholder holding in street name must instruct his or her broker, in accordance with customary procedures, to participate in calling a special shareholder meeting does not, in any way, prevent the shareholder from participating in the calling of he shareholder meeting ...”

This is so lacking because there is no elaboration of “customary procedures.” Plus it does not answer the obvious question of whether the street name shareholder is still a street name shareholder after the “customary procedures.”

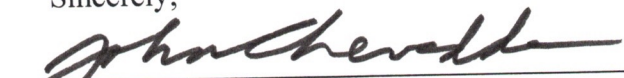
Attached is a page from the July 29, 2022 CNO Certificate of Incorporation that shows the requirement for only shareholder of record to be able to formally participate in calling for a special shareholder meeting.

A company can require that only shareholders of record can call a special shareholder meeting and only shareholders of record can act by written consent.

Attached is 30-day advance copy of the undersigned’s 2023 formatted proposal from another company. This is evidence that the other company chose not claim its street name shareholders can act by written consent when its bylaws require record holders only.

It is early in the season to be receiving 30-day advance copies of proxy-formatted materials. There will soon be a lot more 30-day advance copy formatting that will be evidence that a number of other companies chose not to go the no action route and claim that street name shareholders can call a special shareholder meeting or act by written consent when the bylaws call for record holders only.

Sincerely,


John Chevedden

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

FORM 8-K

**CURRENT REPORT
PURSUANT TO SECTION 13 OR 15(d) OF THE
SECURITIES EXCHANGE ACT OF 1934**

Date of Report (Date of earliest event reported) July 29, 2022

CNO Financial Group, Inc.

(Exact Name of Registrant as Specified in Charter)

Delaware

(State or Other
Jurisdiction of Incorporation)

001-31792

(Commission File Number)

11825 North Pennsylvania Street

Carmel, Indiana 46032

(Address of Principal Executive Offices) (Zip Code)

(317) 817-6100

(Registrant's telephone number, including area code)

75-3108137

(I.R.S. Employer
Identification No.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

<u>Title of each class</u>	<u>Trading Symbol</u>	<u>Name of each exchange on which registered</u>
<u>Common Stock, par value \$0.01 per share</u>	<u>CNO</u>	<u>New York Stock Exchange</u>
<u>Rights to purchase Series E Junior Participating Preferred Stock</u>		<u>New York Stock Exchange</u>
<u>5.125% Subordinated Debentures due 2060</u>	<u>CNOpA</u>	<u>New York Stock Exchange</u>

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

outstanding shares of capital stock entitled to vote generally in the election of Directors voting together as a single class; provided, however, that if the holders of any class or series of capital stock are entitled by the provisions of any duly authorized certificate of designation to elect one or more Directors, such Director or Directors so elected may be removed with or without cause by the vote of the holders of a majority of the outstanding shares of that class or series entitled to vote.

Section 3. Vacancies. Subject to the rights of the holders of any series of Preferred Stock to remove Directors and fill the vacancies thereby created (as specified in any duly authorized certificate of designation of any series of Preferred Stock), vacancies occurring on the Board of Directors for any reason may be filled by vote of a majority of the remaining members of the Board of Directors, although less than a quorum, at any meeting of the Board of Directors or by the stockholders. A person so elected by the Board of Directors to fill a vacancy shall hold office until the next succeeding annual meeting of stockholders of the Corporation and until his or her successor shall have been duly elected and qualified.

ARTICLE ELEVEN

Meetings of stockholders may be held within or without the State of Delaware, as the Bylaws may provide. The books of the Corporation may be kept (subject to any provision contained in the statutes) outside of the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the Bylaws of the Corporation.

ARTICLE TWELVE

The stockholders of the Corporation may take any action by written consent in lieu of a meeting. Subject to the rights of the holders of any series of Preferred Stock as specified in any duly authorized certificate of designation, special meetings of stockholders of the Corporation may be called only by the Board of Directors pursuant to a resolution adopted by the affirmative vote of the majority of the total number of directors then in office, by the chairman of the Board of Directors or the chief executive officer of the Corporation, or by the secretary of the Corporation upon request in writing of the stockholder or stockholders holding of record at least 25% of the voting power of the issued and outstanding shares of stock of the Corporation entitled to vote at such meeting.

ARTICLE THIRTEEN

The Corporation expressly elects not to be governed by Section 203 of the Delaware General Corporation Law.


ARTICLE FOURTEEN

The Corporation shall not issue any class of non-voting equity securities unless and solely to the extent permitted by Section 1123(a)(6) of the United States Bankruptcy Code (the "Bankruptcy Code") as in effect on the date of filing this Certificate with the Secretary of State of the State of Delaware; provided, however, that this ARTICLE FOURTEEN: (a) will have no further force and effect beyond that required under Section 1123(a)(6) of the Bankruptcy Code; (b) will have such force and effect, if any, only for so long as Section 1123(a)(6) of the

Stockholder Proposal

Stockholder Proposal

Right to Act by Written Consent

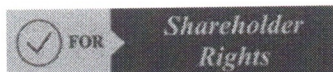
 The Board Recommends a Vote Against this Proposal

This stockholder proposal has been submitted by John Chevedden, [REDACTED] (the beneficial owner of 200 shares of [REDACTED] Common Stock). The proponent has requested we include the proposal and supporting statement in this proxy statement, and, if properly presented, the proposal will be voted on at the annual meeting.

This proposal and supporting statement are quoted verbatim below and [REDACTED] is not responsible for any inaccuracies contained in them.

The HP Board recommends a vote AGAINST this proposal and its opposition statement can be found below the proposal.

Proposal 5 – Shareholder Right to Act by Written Consent



Shareholders request that our board of directors take the steps necessary to permit written consent by the shareholders entitled to cast the minimum number of votes that would be necessary to authorize an action at a meeting at which all shareholders entitled to vote thereon were present and voting. This includes shareholder ability to initiate any appropriate topic for written consent.

We gave 51%-support to this proposal topic in 2018. Plus we gave 49%-support to this proposal topic in 2020. The 2020 vote was in effect a 51%-vote because management put its hand on the scale in regard to the 2020 proposal. Management spent shareholder money to do extra advertisements specifically against the 2020 proposal and it still got 49%-support.

This proposal is all the more important at [REDACTED] due to our restricted right to call for a special shareholder meeting. The only shares that can formally participate in calling for special shareholder meeting are the shares that are not held in street name.

Thus if 50% of [REDACTED] shares are non street name shares then it would take 30% of those shares to call for a special shareholder meeting. But since only 60% of [REDACTED] shares have the time to vote annually it could take 50% of the non street name shares that vote to call a special shareholder meeting.

Thus what seems to be a favorable 15% right to call special shareholder meeting turns into an unfavorable 50% right to call for a special shareholder meeting plus we have no right to act by written consent. Many companies allow for both a right to call a shareholder meeting and a shareholder right to act by written consent. A 50% stock ownership threshold to call for a special shareholder meeting means that any fleeting shareholder thought of calling for a special shareholder meeting is killed in the crib.

Action by written consent is hardly ever used by shareholders but the main point of the right act by written consent is that it gives shareholders at least significant standing to engage effectively with management.

Management will have an incentive to genuinely engage with shareholders instead of stonewalling if shareholders have a realistic Plan B option of acting by written consent. Management likes to claim that shareholders have multiple means to communicate with management but in most cases these means are as effective as mailing a post card to the CEO. A right to act by written consent is an important step for effective shareholder engagement with management.

Please vote yes:

Shareholder Right to Act by Written Consent - Proposal 5