ANSYS, Inc. Southpointe
2600 ANSYS Drive
Canonsburg, PA 15317
t: 724.746.3304
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www.ansys.com

January 4, 2023

***VIA ELECTRONIC MAIL***

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

Re: *ANSYS, Inc.*
*Omission of Stockholder Proposal of John Chevedden*
*Rule 14a-8 under the Securities Exchange Act of 1934, as amended*

Ladies and Gentlemen:

This letter is to inform you that ANSYS, Inc. (the "***Company***") intends to omit from its proxy statement and form of proxy for its 2023 Annual Meeting of Stockholders (collectively, the "***2023 Proxy Materials***") a stockholder proposal and statement in support thereof received from Mr. John Chevedden (the "***Proponent***") on October 26, 2022 (the "***Proposal***").

We respectfully request confirmation that the staff of the Division of Corporation Finance (the "***Staff***") will not recommend to the Securities and Exchange Commission (the "***Commission***") that enforcement action be taken if the Company omits the Proposal from its 2023 Proxy Materials for the reasons discussed below.

Pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the "***Exchange Act***"), we have:

- filed this letter with the Commission no later than 80 calendar days before the date that the Company intends to file its definitive 2023 Proxy Materials with the Commission; and

- concurrently sent a copy of this correspondence to the Proponent.

This letter informs the Proponent of the Company's intention to omit the Proposal from its 2023 Proxy Materials.

Rule 14a-8(k) under the Exchange Act and Section E of Staff Legal Bulletin No. 14D (November 7, 2008) ("***SLB 14D***") provide that stockholder proponents are required to send companies a copy of any correspondence that the proponents elect to submit to the Commission or the Staff. Accordingly, we are taking this opportunity to 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) under the Exchange Act and SLB 14D.

## BACKGROUND

The Proposal was submitted to the Company via email on October 26, 2022 (the "***Original Submission Date***") and was received by the Company on the same day. *See* Exhibit A. The Proponent's submission did not include any documentary evidence of his ownership of shares of the Company's common stock (the "***Shares***"). In addition, the Company reviewed its stock records, which did not indicate that the Proponent was a record owner of any Shares. The Proponent's submission also included two additional procedural defects under Rule 14a-8 under the Exchange Act concerning the Proponent's intent to hold Shares and the Proponent's engagement availability.

Subsequently, on November 4, 2022, the Company received from the Proponent via email (the "***November 4 Email***") a letter from Fidelity Investments, dated November 3, 2022, verifying ownership of 20 Shares for the continuous period from October 29, 2019 to November 3, 2022 (the "***Fidelity Letter***"). *See* Exhibit B. As discussed in more detail in the "Analysis" section below, the Fidelity Letter contained a procedural deficiency: it did not provide verification that the Proponent satisfied one of the ownership requirements set forth in Rule 14a-8(b) under the Exchange Act for annual meetings to be held after January 1, 2023 because it verified continuous ownership of $5,255.00[1] in market value of Shares for a period of two years and 363 days preceding and including the Original Submission Date.

Accordingly, the Company properly sought verification of Share ownership from the Proponent. Specifically, and in accordance with Staff Legal Bulletin No. 14L (November 3, 2021) ("***SLB 14L***"), the Company sent the Proponent a letter, dated November 7, 2022, identifying the deficiency, notifying the Proponent of the requirements of Rule 14a-8 under the Exchange Act, and explaining how the Proponent could cure the procedural deficiency (the "***Deficiency Notice***").[2] The Deficiency Notice, attached hereto as Exhibit C, provided detailed information regarding the "record" holder requirements, as clarified by Staff Legal Bulletin No. 14F (October 18, 2011) ("***SLB 14F***") and Staff Legal Bulletin No. 14G (October 16, 2012) ("***SLB 14G***"), and attached copies of Rule 14a-8 under the Exchange Act, SLB 14F and SLB 14G. Specifically, the Deficiency Notice stated:

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[1] Staff Legal Bulletin No. 14 (July 13, 2001) ("***SLB 14***") indicates that in order to determine whether a market value threshold is satisfied, the Staff looks at whether the threshold was satisfied "on any date within the 60 calendar days before the date the [stockholder] submits the proposal." During the 60-calendar-day period preceding the Original Submission Date, the Company's high trading price was $262.75.

[2] In the Deficiency Notice, the Company also identified the two additional procedural defects relating to the Proponent's intent to hold Shares and the Proponent's engagement availability. However, these deficiencies are not further discussed in this no-action request as the Proponent corrected these deficiencies in two separate email responses to the Company, each dated November 8, 2022. *See* Exhibit F and Exhibit G.

- the three ownership requirements (collectively, the "***Ownership Requirements***") that satisfy Rule 14a-8(b) under the Exchange Act for annual meetings held after January 1, 2023;

- that, according to the Company's stock records, the Proponent was not a record owner of sufficient Shares to satisfy any of the Ownership Requirements;

- that the Fidelity Letter was insufficient to demonstrate ownership because it did not satisfy any of the Ownership Requirements: "while it verifies ownership of 20 Shares from October 29, 2019 through November 3, 2022, the Fidelity Letter does not verify ownership of such Shares for the three-year period preceding and including the [Original] Submission Date, nor does it verify ownership of the requisite amount of Shares to satisfy either of the Ownership Requirements set forth in clauses (2) and (3) of the preceding paragraph";

- the type of statement or documentation necessary to demonstrate beneficial ownership under Rule 14a-8(b) under the Exchange Act, including "a written statement from the 'record' holder of [the Proponent's] Shares (usually a broker or a bank) verifying that, at the time [the Proponent] submitted the [Original] Proposal (the [Original] Submission Date), [the Proponent] continuously held the requisite amount of Shares to satisfy at least one of the Ownership Requirements"; and

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

The Company sent the Deficiency Notice to the Proponent via email and via Federal Express on November 7, 2022, which was within 14 calendar days of the Company's receipt of the Proposal. *See* Exhibit C. Federal Express records confirm delivery of a physical copy of the Deficiency Notice to the Proponent on November 9, 2022. *See* Exhibit D.

On November 8, 2022, the Company received four separate email responses from the Proponent. In the first and second emails, the Proponent resent the November 4 Email, which included the Fidelity Letter as an attachment, to two separate individuals at the Company. *See* Exhibit E. In the third email, the Proponent confirmed his engagement availability. *See* Exhibit F. In the fourth email, the Proponent confirmed that he intended to continue holding the same required amount of Shares through the date of the Company's 2023 Annual Meeting of Stockholders as was/would be documented in his proof of ownership. *See* Exhibit G. None of the four emails from the Proponent received by the Company on November 8, 2022 included a statement or documentation demonstrating beneficial ownership that satisfied any of the Ownership Requirements as described in the Deficiency Notice.

On November 27, 2022, six days after the 14-day deadline to cure the deficiencies noted in the Deficiency Notice had passed, the Company received an email from the Proponent, which purported to present a "revised" stockholder proposal and statement in support thereof (the "***November 27 Email***"). *See* Exhibit H.

## BASIS FOR EXCLUSION

We hereby respectfully request that the Staff concur in our view that the Proposal may be excluded from the 2023 Proxy Materials pursuant to Rule 14a-8(b) and Rule 14a-8(f)(1) under the Exchange Act because the Proponent failed to provide the requisite proof of continuous share ownership in response to the Company's proper request for that information.

## ANALYSIS

### The Proposal May Be Excluded Under Rule 14a-8(b) And Rule 14a-8(f)(1) Under The Exchange Act Because The Proponent Failed To Timely Establish The Requisite Eligibility To Submit The Proposal Despite Proper Notice.

Rule 14a-8(b)(1) under the Exchange Act provides, in part, that to be eligible to submit a proposal for an annual meeting that is scheduled to be held on or after January 1, 2023[3], a stockholder proponent must satisfy one of the Ownership Requirements by having continuously held either:

- at least $2,000 in market value of the company's securities entitled to vote on the proposal for at least three years (the "***Three-Year Ownership Requirement***");
- at least $15,000 in market value of the company's securities entitled to vote on the proposal for at least two years (the "***Two-Year Ownership Requirement***"); or
- at least $25,000 in market value of the company's securities entitled to vote on the proposal for at least one year (the "***One-Year Ownership Requirement***").

The Fidelity Letter—which verified continuous ownership of $5,255.00 in market value of Shares for a period of two years and 363 days preceding and including the Original Submission Date—failed to satisfy any of the Ownership Requirements. Specifically, holding $5,255.00 in market value of Shares for a period of two years and 363 days preceding and including the Original Submission Date fails to satisfy the holding period in the Three-Year Ownership Requirement and fails to satisfy the requisite amount in either the Two-Year Ownership Requirement or the One-Year Ownership Requirement.

[3] Rule 14a-8(b)(1)(i)(D) under the Exchange Act provided a transition period for stockholders who met Rule 14a-8(b)'s prior $2,000 threshold/one-year minimum holding period. As set forth in Rule 14a-8(b)(3) under the Exchange Act, the transition period expires on January 1, 2023. Exchange Act Release No. 34-89964 (September 23, 2020) further clarifies that the transition period extends only to annual or special meetings held prior to January 1, 2023, and therefore it does not apply for the Company's 2023 Annual Meeting of Stockholders.

SLB 14 specifies that when the stockholder is not the registered holder, the stockholder "is responsible for proving his or her eligibility to submit a proposal to the company," which the stockholder may do by one of the two ways provided in Rule 14a-8(b)(2)(ii) under the Exchange Act. Further, the Staff has clarified that these proof of ownership letters must come from the "record" holder of the proponent's stock, and that only Depository Trust Company ("***DTC***") participants are viewed as record holders of securities that are deposited at DTC. *See* SLB 14F. Rule 14a-8(f) under the Exchange Act provides that a company may exclude a stockholder proposal if the proponent fails to provide evidence of eligibility under Rule 14a-8 under the Exchange Act, including the Ownership Requirements of Rule 14a-8(b) under the Exchange Act, provided that the company timely notifies the proponent of the problem, and the proponent fails to correct the deficiency within the required time. Rule 14a-8(f)(1) under the Exchange Act is extremely clear with respect to the deadline for correcting the deficiency and includes, in pertinent part, the following language (emphasis added):

> Within 14 calendar days of receiving your proposal, the company must notify you in writing of any procedural or eligibility deficiencies, as well as of the time frame for your response. *Your response must be postmarked, or transmitted electronically, no later than 14 days from the date you received the company's notification*.

Here, as established above, the Company satisfied its obligation under Rule 14a-8 under the Exchange Act by transmitting to the Proponent in a timely manner the Deficiency Notice, which specifically set forth the information and instructions listed above and attached copies of Rule 14a-8, SLB 14F, and SLB 14G. *See* Exhibit C. However, despite the clear explanation in the Deficiency Notice that the Proponent had to provide the requisite documentary support, the Proponent resent the same deficient Fidelity Letter and failed to provide the requisite proof of continuous share ownership to meet the Ownership Requirements of Rule 14a-8(b) under the Exchange Act within the time period specified and as required by Rule 14a-8(f)(1) under the Exchange Act.

Under well-established precedent, the Fidelity Letter was insufficient because it failed to satisfy any of the Ownership Requirements set forth under Rule 14a-8(b)(1) under the Exchange Act and described in the Deficiency Notice. In *Walgreens Boots Alliance, Inc.* (November 8, 2022), the company received an initial broker letter verifying ownership by the proponent of shares of company common stock for a period of two years and 233 days preceding and including the date the proposal was submitted, which failed to satisfy the holding period in the Three-Year Ownership Requirement and failed to satisfy the requisite amount in either the Two-Year Ownership Requirement or the One-Year Ownership Requirement. The company clearly identified these deficiencies in its deficiency notice that was sent to the proponent within 14 calendar days of the company's receipt of the proposal. The company subsequently received a second broker letter purporting to demonstrate the proponent's ownership of the company's shares two days after the 14-day deadline to cure the deficiency had passed. The Staff concurred with the exclusion of the proposal under Rule 14a-8(f) under the Exchange Act because the proponent "did not comply with Rule 14a-8(b)(1)(i)," noting, "As required by Rule 14a-8(f), the

[c]ompany notified the [p]roponent of the problem, and the [p]roponent failed to adequately correct it." *See also Cheniere Energy, Inc.* (April 7, 2022) (concurring with the exclusion of a proposal where the proponent's proof of ownership was silent regarding the proponent's continuous ownership of company securities for the applicable period in connection with the submission of the proposal, and also silent regarding the proponent's ownership on the date the proposal was sent to the company); *Amazon.com, Inc.* (April 2, 2021) (concurring with the exclusion of a proposal where the proponent's proof of ownership established continuous ownership of company securities for the 13 months preceding November 30, 2020, but the proponent submitted the proposal on December 17, 2020); *Exxon Mobil Corp.* (February 26, 2021) (concurring with the exclusion of a proposal where the proponent's proof of ownership established continuous ownership of company securities for the 12 months preceding November 30, 2020, but the proponent submitted the proposal on December 1, 2020); *United Parcel Service, Inc.* (January 28, 2016) (concurring with the exclusion of a proposal where the proponent's proof of ownership did not establish continuous ownership of company securities for the entire one-year period preceding and including the submission date); *Starbucks Corporation* (December 11, 2014) (concurring with the exclusion of a proposal where the proponent's proof of ownership established continuous ownership of company securities for one year as of September 26, 2014, but the proponent submitted the proposal on September 24, 2014); *Mondelēz International, Inc.* (February 11, 2014) (concurring with the exclusion of a proposal where the proponent's proof of ownership failed to provide verification of ownership of the requisite number of company securities as of the date the proposal was submitted and failed to verify continuous ownership of company securities for the full one-year period preceding and including such date); and *PepsiCo, Inc.* (Albert) (January 10, 2013) (concurring with the exclusion of a proposal where the proponent's proof of ownership established continuous ownership of company securities for the one-year period up to and including November 19, 2012, but the proposal was submitted on November 20, 2012).

As with the precedents cited above, the Proponent failed to provide, along with his submission of the Proposal, sufficient verification of his ownership of the requisite number of Shares as of the Original Submission Date from the record owner of those Shares. The Proponent's submission of the November 27 Email did not relieve the Proponent of his obligation to provide adequate proof of ownership within the 14-day time period following his receipt of the Deficiency Notice relating to the Proposal. Section D(3) of SLB 14F states that when a stockholder submits a revised proposal, the stockholder "must prove ownership as of the date the original proposal is submitted." The Staff has concurred that submitting a revised proposal will not change a proponent's obligation to provide, within 14 days of receipt of a company's proper request for such information, proof of ownership as of the date of submission of the original proposal. In *Cheniere Energy, Inc.* (March 19, 2021), the Staff concurred with the exclusion of a proposal where the proponent attempted to restart the timeline to provide the required proof of ownership by submitting a revised proposal 54 days after receiving a timely deficiency notice and failing to respond with sufficient proof of ownership. Similarly, in *Dominion Energy, Inc.* (December 17, 2018), the Staff concurred with the exclusion of a proposal where the proponent attempted to restart the timeline to provide the required proof of ownership by submitting a revised proposal, noting that the proponent "appear[ed] to have failed to supply, within 14 days of receipt of the [c]ompany's request, documentary support sufficiently evidencing that he satisfied the minimum ownership requirement for the one-year period as required by rule 14a-8(b)," and noted, citing SLB 14F, "that a [stockholder] must prove ownership as of the date a proposal is first submitted and that a proponent who does not adequately prove ownership in connection with that proposal is not permitted to submit another proposal for the same meeting at a later date." *See also Sprint Corporation* (December 13, 2019) (concurring with the exclusion of a proposal where the proponent failed to provide timely proof of ownership for a proposal and "attempted to fix this failure by resubmitting [a revised proposal]…to restart the timeline" 29 days after receipt of the company's deficiency notice); and *Ameren Corporation* (January 12, 2017) (concurring with the exclusion of a proposal where the proponent submitted a revised proposal after failing to provide sufficient proof of ownership in response to a company's timely deficiency notice). As with the precedents cited above, in this case, the Proponent's submission of the purported "revised" stockholder proposal in the November 27 Email does not change the fact that the Proponent failed to provide proof of ownership within 14 days of receipt of the Deficiency Notice relating to the Proposal.

Accordingly, and consistent with the Staff's prior no-action letters cited above, the Proposal may be excluded pursuant to Rule 14a-8(b) and Rule 14a-8(f)(1) under the Exchange Act.

## CONCLUSION

Based upon the foregoing analysis, we respectfully request that the Staff concur that it will take no action if the Company excludes the Proposal from its 2023 Proxy Materials. We would be happy to provide you with any additional information and answer any questions that you may have regarding this subject. Correspondence regarding this letter should be sent to Janet.Lee@ansys.com. If we can be of any further assistance in this matter, please do not hesitate to call me at (724) 820-3727.

Sincerely,

Janet Lee
Vice President, General Counsel &
Secretary

Enclosures

cc: John Chevedden
Bradley C. Brasser, Jones Day

**EXHIBIT A**

**From:** John Chevedden [redacted]
**Sent:** Wednesday, October 26, 2022 6:45:10 PM
**To:** Janet Lee [redacted]; Paula Moreno [redacted]; Patrick Belville [redacted]
**Subject:** Rule 14a-8 Proposal (ANSS)

**[External Sender]**

Dear Ms. Lee,
Please see the attached rule 14a-8 proposal.
Please confirm that this is the correct email address for rule 14a-8 proposals.
John Chevedden

FOR Shareholder Rights

**JOHN CHEVEDDEN**

[redacted] [redacted]

Ms. Janet Lee
Corporate Secretary
ANSYS, Inc. (ANSS)
2600 ANSYS Drive
Canonsburg, PA 15317
[redacted]

Dear Ms. Lee,

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.

Please use the title of the proposal in bold in all references to the proposal in the proxy and on the ballot. If there is objection to the title please negotiate or seek no action relief. This is important because it is not infrequent that rule 14a-8 proposals have been within 1% of being approved by shareholders. The rule 14a-8 proposal title is a key part of the rule 14a-8 proposal submission.

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 formally requesting a broker letter from me.

Sincerely,

John Chevedden

John Chevedden

October 26, 2022

Date

cc: Paula Moreno [redacted]
Patrick Belville [redacted]

[ANSS – Rule 14a-8 Proposal, October 26, 2022]
[This line and any line above it is not for publication.]

**Proposal 4 – Adopt a Shareholder Right to Call a Special Shareholder Meeting**

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 regardless of length of stock ownership.

One of the main purposes of this proposal is to give shareholders the right to formally participate in calling for a special shareholder meeting regardless of their length of stock ownership and to make sure that street name shareholders can participate in calling for a special shareholder meeting.

Some companies prohibit shareholders from participating in calling for a special shareholder if they own stock for less than one continuous year. Requiring one continuous year of stock ownership can serve as a poison pill. I know of no instance of shareholders ever having success in calling for a special shareholder meeting at a company that excludes all shares not held for a continuous full year.

It is important to vote for this Shareholder Right to Call a Special Shareholder Meeting proposal because we have no right to act by written consent. Shareholders at many companies have a right to call a special shareholder and the right to act by written consent.

Calling a special shareholder meeting is hardly ever used by shareholders but the main point of calling 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 reasonable Plan B alternative of calling a special shareholder meeting. 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 reasonable right to call a special shareholder meeting is an important step for effective shareholder engagement with management.

Please vote yes:

**Adopt a Shareholder Right to Call a Special Shareholder Meeting – 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(I)(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 [redacted]l meeting. Please acknowledge this proposal promptly by email [redacted]

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**.

This proposal is not intended to be more than 500 words. Should it exceed 500 words after notification to the proponent then the words that exceed 500 words shall be taken out of the proposal starting with the last full sentence of the proposal and moving upwards as needed to omit full sentences.

Please use the title of the proposal in bold in all references to the proposal in the proxy and on the ballot.
If there is objection to the title please negotiate or seek no action relief.
Please do not insert any management words between the top line of the proposal and the concluding line of the proposal.

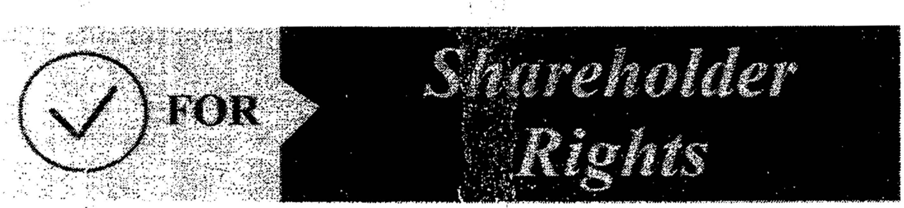

**EXHIBIT B**

**From:** John Chevedden [redacted]
**Sent:** Friday, November 4, 2022 1:09 PM
**To:** Janet Lee [redacted]; Paula Moreno [redacted]; Patrick Belville [redacted]
**Subject:** Rule 14a-8 Broker letter (ANSS)

**[External Sender]**

Rule 14a-8 Broker letter (ANSS)

Personal Investing

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

Fidelity INVESTMENTS

JOHN R CHEVEDDEN
[redacted]

November 3, 2022

Dear Mr. Chevedden,

This letter is provided at the request of Mr. John R. Chevedden, a customer of Fidelity investments.

Please accept this letter as confirmation that as of market close on November 3, 2022, Mr. Chevedden has continuously owned no fewer than the shares quantities of the securities shown on the below table since the respective dates below:

| Security | Number of Shares | Date |
|---|---|---|
| Intercontinental Exchange, Inc. (ICE) | 50.000 | 10/18/2019 |
| CoStar Group, Inc. (CSGP) | 100.000 | 12/6/2019 |
| ANSYS, Inc. (ANSS) | 20.000 | 10/29/2019 |
| Zoetis Inc. (ZTS) | 40.000 | 10/29/2019 |
| Dover Corporation (DOV) | 50.000 | 10/1/2019 |

These securities are registered in the name of National Financial Services LLC, a DTC participant (DTC number 0226) a Fidelity Investments subsidiary. The DTC clearinghouse number for Fidelity is 0266.

I hope you find this information helpful. If you have any questions regarding this issue or general inquiries regarding the account, please contact John Cheveddendirectly. They may follow up with us directly if necessary. If you have any questions regarding Fidelity Investment's products and services please call us at 800-544-6666 for assistance.

Sincerely,

Ericka Steele

Ericka Steele
Operations Specialist

Our File: W088451-03NOV22

# EXHIBIT C

**From:** Paula Moreno
**Sent:** Monday, November 7, 2022 2:14 PM
**To:** John Chevedden [redacted]
**Cc:** Janet Lee [redacted]; Patrick Belville [redacted]
**Subject:** RE: Rule 14a-8 Broker letter (ANSS)

Dear Mr. Chevedden,

Please see attached for our deficiency notice. Could you please confirm receipt? We'll also be sending you a hard copy.

Best regards,

Paula

**Paula Moreno / Assistant General Counsel - Securities and Corporate Governance**

Ansys

[redacted]

www.ansys.com

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**From:** John Chevedden [redacted]
**Sent:** Friday, November 4, 2022 1:09 PM
**To:** Janet Lee [redacted]; Paula Moreno [redacted]; Patrick Belville [redacted]
**Subject:** Rule 14a-8 Broker letter (ANSS)

**[External Sender]**

Rule 14a-8 Broker letter (ANSS)

Ansys

ANSYS, Inc.
Southpointe
2600 ANSYS Drive
Canonsburg, PA 15317

[redacted]

www.ansys.com

November 7, 2022

***VIA ELECTRONIC MAIL***

Mr. John Chevedden
[redacted]

Dear Mr. Chevedden:

I am writing on behalf of ANSYS, Inc. (the "*Company*"). On October 26, 2022 (the "*Submission Date*"), the Company received the stockholder proposal that you submitted pursuant to Rule 14a-8 of the Securities Exchange Act of 1934, as amended (the "*Exchange Act*"), for inclusion in the proxy statement for the Company's 2023 Annual Meeting of Stockholders (the "*Proposal*").

The Proposal contains certain procedural deficiencies, as set forth below, which the rules and regulations of the Securities and Exchange Commission ("*SEC*") require us to bring to your attention. Unless these deficiencies can be remedied in the appropriate timeframe required under applicable SEC rules as described below, the Company will be entitled to exclude the Proposal from its proxy materials for the Company's 2023 Annual Meeting of Stockholders.

**Proof of Ownership under Rule 14a-8(b)**

Rule 14a-8(b) of the Exchange Act provides that for annual or special meetings held after January 1, 2023, stockholder proponents must submit sufficient proof of their continuous ownership of:

- at least $2,000 in market value of the Company's securities entitled to vote on the Proposal for at least three years preceding and including the Submission Date; or
- at least $15,000 in market value of the Company's securities entitled to vote on the Proposal for at least two years preceding and including the Submission Date; or
- at least $25,000 in market value of the Company's securities entitled to vote on the Proposal for at least one year preceding and including the Submission Date (each, an "*Ownership Requirement*," and, collectively, the "*Ownership Requirements*").

The Company's stock records do not indicate that you are a record owner of sufficient shares of the Company's common stock (the "*Shares*") to satisfy any of the Ownership Requirements. In addition, to date, we have not received adequate proof that you have satisfied any of the Ownership Requirements as of the Submission Date. The November 3, 2022 letter from Fidelity Investments that you provided (the "*Fidelity Letter*") is insufficient because while it verifies ownership of 20 Shares from October 29, 2019 through November 3, 2022, the Fidelity Letter does not verify ownership of such

Shares for the three-year period preceding and including the Submission Date, nor does it verify ownership of the requisite amount of Shares to satisfy either of the Ownership Requirements set forth in clauses (2) and (3) of the preceding paragraph.

To remedy this defect, you must submit a new proof of ownership letter verifying that you have satisfied at least one of the Ownership Requirements. As explained in Rule 14a-8(b) and in SEC staff guidance, sufficient proof must be in the form of:

(1) a written statement from the "record" holder of your Shares (usually a broker or bank) verifying that, at the time you submitted the Proposal (the Submission Date), you continuously held the requisite amount of Shares to satisfy at least one of the Ownership Requirements; or

(2) if you have filed with the SEC a Schedule 13D, Schedule 13G, Form 3, Form 4, and/or Form 5, or amendments to those documents or updated forms demonstrating that you met at least one of the Ownership Requirements, a copy of the schedule and/or form, and any subsequent amendments reporting a change in the ownership level and a written statement that you continuously held the requisite amount of Shares to satisfy at least one of the Ownership Requirements.

If you intend to demonstrate your ownership by submitting a written statement from the "record" holder of your Shares as set forth in (1) above, please note that most large U.S. brokers and banks deposit their customers' securities with, and hold those securities through, the Depository Trust Company ("*DTC*"), a registered clearing agency that acts as a securities depository (DTC is also known through the account name of Cede & Co.), or an affiliate thereof. Under SEC Staff Legal Bulletin Nos. 14F and 14G, only DTC participants, or affiliates of DTC participants, are viewed as record holders of securities. You can confirm whether your broker or bank is a DTC participant or an affiliate of a DTC participant by asking your broker or bank or, in the case of DTC participants, by checking DTC's participant list, which is available at *https://www.dtcc.com/client-center/dtc-directories*. In these situations, stockholders need to obtain proof of ownership from the DTC participant or an affiliate of a DTC participant through which the securities are held, as follows:

(1) If the broker or bank is a DTC participant or an affiliate of a DTC participant, then you need to submit a written statement from the broker or bank verifying that you continuously held the requisite amount of Shares to satisfy at least one of the Ownership Requirements.

(2) If the broker or bank is not a DTC participant or an affiliate of a DTC participant, then you need to submit proof of ownership from the DTC participant or affiliate of a DTC participant through which the Shares are held verifying that you continuously held the requisite amount of Shares to satisfy at least one of the Ownership Requirements. If your broker is an introducing broker, you may also be able to learn the identity and telephone number of the DTC participant or

affiliate of a DTC participant through your account statements, because the clearing broker identified on the account statements generally will be a DTC participant or an affiliate of a DTC participant. If the DTC participant or affiliate of a DTC participant that holds your Shares is not able to confirm your individual holdings but is able to confirm the holdings of your broker or bank, then you need to satisfy the proof of ownership requirements by obtaining and submitting two proof of ownership statements verifying that you continuously held the requisite amount of Shares to satisfy at least one of the Ownership Requirements: (i) one from your broker or bank confirming your ownership; and (ii) the other from the DTC participant or affiliate of a DTC participant confirming the broker or bank's ownership.

In addition to satisfying at least one of the Ownership Requirements, under Rule 14a-8(b) of the Exchange Act, you must provide the Company with a written statement of your intent to continue to hold through the date of the Company's 2023 Annual Meeting of Stockholders the requisite amount of Shares used to satisfy the applicable Ownership Requirement. As we have not yet received any proof of ownership from you, and therefore do not know with certainty which of the Ownership Requirements will be satisfied, we believe that your written statement in your letter accompanying the Proposal that you "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" is not adequate as it does not specify which requisite amount of Shares is applicable to you. To remedy this defect, you must submit a written statement that you intend to continue to hold the same requisite amount of Shares through the date of the Company's 2023 Annual Meeting of Stockholders as will be documented in your proof of ownership.

**Meeting with the Company under Rule 14a-8(b)**

Rule 14a-8(b) of the Exchange Act provides that stockholder proponents must provide the Company with a written statement that they are able to meet with the Company in person or via teleconference no less than 10 calendar days, nor more than 30 calendar days, after the Submission Date (a "*Written Statement*"). To date, we have not received a Written Statement from you. To remedy this defect, you must provide the Company with a Written Statement, which must include your contact information as well as business days and specific times (no less than 10 calendar days, nor more than 30 calendar days after the Submission Date), that you are available to discuss the Proposal with the Company. You must identify times that are within the regular business hours of the Company's principal executive offices (i.e., between 9 a.m. and 5:30 p.m. Eastern Time).

The SEC's rules require that any response to this letter be postmarked or transmitted electronically no later than 14 calendar days from the date you receive this letter. Please address any response to me at [redacted], ANSYS, Inc., 2600 ANSYS Drive, Canonsburg, PA 15317.

If you have any questions with respect to the foregoing, please contact me at the email address listed above. For your reference, I am enclosing copies of Rule 14a-8 and Staff Legal Bulletin Nos. 14F and 14G.

Sincerely,

DocuSigned by:
Paula Moreno
F8939932634A402...

Paula Moreno
Assistant General Counsel -
Securities and Corporate Governance

Enclosures

that will be the subject of the security holder's solicitation or communication and attesting that:

(i) The security holder will not use the list information for any purpose other than to solicit security holders with respect to the same meeting or action by consent or authorization for which the registrant is soliciting or intends to solicit or to communicate with security holders with respect to a solicitation commenced by the registrant; and

(ii) The security holder will not disclose such information to any person other than a beneficial owner for whom the request was made and an employee or agent to the extent necessary to effectuate the communication or solicitation.

(d) The security holder shall not use the information furnished by the registrant pursuant to paragraph (a)(2)(ii) of this section for any purpose other than to solicit security holders with respect to the same meeting or action by consent or authorization for which the registrant is soliciting or intends to solicit or to communicate with security holders with respect to a solicitation commenced by the registrant; or disclose such information to any person other than an employee, agent, or beneficial owner for whom a request was made to the extent necessary to effectuate the communication or solicitation. The security holder shall return the information provided pursuant to paragraph (a)(2)(ii) of this section and shall not retain any copies thereof or of any information derived from such information after the termination of the solicitation.

(e) The security holder shall reimburse the reasonable expenses incurred by the registrant in performing the acts requested pursuant to paragraph (a) of this section.

NOTE 1 TO §240.14A–7. Reasonably prompt methods of distribution to security holders may be used instead of mailing. If an alternative distribution method is chosen, the costs of that method should be considered where necessary rather than the costs of mailing.

NOTE 2 TO §240.14A–7 When providing the information required by §240.14a–7(a)(1)(ii), if the registrant has received affirmative written or implied consent to delivery of a single copy of proxy materials to a shared address in accordance with §240.14a–3(e)(1), it shall exclude from the number of record holders those to whom it does not have to deliver a separate proxy statement.

[57 FR 48292, Oct. 22, 1992, as amended at 59 FR 63684, Dec. 8, 1994; 61 FR 24657, May 15, 1996; 65 FR 65750, Nov. 2, 2000; 72 FR 4167, Jan. 29, 2007; 72 FR 42238, Aug. 1, 2007]

### § 240.14a–8 Shareholder proposals.

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

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

(b) *Question 2:* Who is eligible to submit a proposal, and how do I demonstrate to the company that I am eligible? (1) To be eligible to submit a proposal, you must satisfy the following requirements:

(i) You must have continuously held:

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

(B) At least $15,000 in market value of the company's securities entitled to vote on the proposal for at least two years; or

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

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

(ii) You must provide the company with a written statement that you intend to continue to hold the requisite amount of securities, determined in accordance with paragraph (b)(1)(i)(A) through (C) of this section, through the date of the shareholders' meeting for which the proposal is submitted; and

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

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

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

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

(A) Identifies the company to which the proposal is directed;

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

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

(D) Includes your statement authorizing the designated representative to submit the proposal and otherwise act on your behalf;

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

(F) Includes your statement supporting the proposal; and

(G) Is signed and dated by you.

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

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

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

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

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

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

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

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

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

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

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

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

(ii) You have continuously maintained a minimum investment of at least $2,000 of such securities from January 4, 2021 through the date the proposal is submitted to the company.

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

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

(d) *Question 4:* How long can my proposal be? The proposal, including any accompanying supporting statement, may not exceed 500 words.

(e) *Question 5:* What is the deadline for submitting a proposal? (1) If you are submitting your proposal for the company's annual meeting, you can in most cases find the deadline in last year's proxy statement. However, if the company did not hold an annual meeting last year, or has changed the date of its meeting for this year more than 30 days from last year's meeting, you can usually find the deadline in one of the company's quarterly reports on Form 10–Q (§ 249.308a of this chapter), or in shareholder reports of investment companies under § 270.30d–1 of this chapter of the Investment Company Act of 1940. In order to avoid controversy, shareholders should submit their proposals by means, including electronic means, that permit them to prove the date of delivery.

(2) The deadline is calculated in the following manner if the proposal is submitted for a regularly scheduled annual meeting. The proposal must be received at the company's principal executive offices not less than 120 calendar days before the date of the company's proxy statement released to shareholders in connection with the previous year's annual meeting. However, if the company did not hold an annual meeting the previous year, or if the date of this year's annual meeting has been changed by more than 30 days from the date of the previous year's meeting, then the deadline is a reasonable time before the company begins to print and send its proxy materials.

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

(f) *Question 6:* What if I fail to follow one of the eligibility or procedural requirements explained in answers to Questions 1 through 4 of this section? (1) The company may exclude your proposal, but only after it has notified you of the problem, and you have failed adequately to correct it. Within 14 calendar days of receiving your proposal, the company must notify you in writing of any procedural or eligibility deficiencies, as well as of the time frame for your response. Your response must be postmarked, or transmitted electronically, no later than 14 days from the date you received the company's notification. A company need not provide you such notice of a deficiency if the deficiency cannot be remedied, such as if you fail to submit a proposal by the company's properly determined deadline. If the company intends to exclude the proposal, it will later have to make a submission under § 240.14a–8 and provide you with a copy under Question 10 below, § 240.14a–8(j).

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

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

(h) *Question 8:* Must I appear personally at the shareholders' meeting to present the proposal? (1) Either you, or your representative who is qualified under state law to present the proposal on your behalf, must attend the meeting to present the proposal. Whether you attend the meeting yourself or send a qualified representative to the meeting in your place, you should make sure that you, or your representative, follow the proper state law procedures for attending the meeting and/or presenting your proposal.

(2) If the company holds its shareholder meeting in whole or in part via electronic media, and the company permits you or your representative to present your proposal via such media, then you may appear through electronic media rather than traveling to the meeting to appear in person.

(3) If you or your qualified representative fail to appear and present the proposal, without good cause, the company will be permitted to exclude all of your proposals from its proxy materials for any meetings held in the following two calendar years.

(i) *Question 9:* If I have complied with the procedural requirements, on what other bases may a company rely to exclude my proposal? (1) Improper under state law: If the proposal is not a proper subject for action by shareholders under the laws of the jurisdiction of the company's organization;

NOTE TO PARAGRAPH (i)(1): Depending on the subject matter, some proposals are not considered proper under state law if they would be binding on the company if approved by shareholders. In our experience, most proposals that are cast as recommendations or requests that the board of directors take specified action are proper under state law. Accordingly, we will assume that a proposal drafted as a recommendation or suggestion is proper unless the company demonstrates otherwise.

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

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

(3) *Violation of proxy rules:* If the proposal or supporting statement is contrary to any of the Commission's proxy rules, including § 240.14a-9, which prohibits materially false or misleading statements in proxy soliciting materials;

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

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

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

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

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

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

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

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

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

(v) Otherwise could affect the outcome of the upcoming election of directors.

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

NOTE TO PARAGRAPH (i)(9): A company's submission to the Commission under this section should specify the points of conflict with the company's proposal.

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

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

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

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

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

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

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

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

(j) *Question 10:* What procedures must the company follow if it intends to exclude my proposal? (1) If the company intends to exclude a proposal from its proxy materials, it must file its reasons with the Commission no later than 80 calendar days before it files its definitive proxy statement and form of proxy with the Commission. The company must simultaneously provide you with a copy of its submission. The

Commission staff may permit the company to make its submission later than 80 days before the company files its definitive proxy statement and form of proxy, if the company demonstrates good cause for missing the deadline.

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

(i) The proposal;

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

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

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

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

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

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

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

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

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

(2) However, if you believe that the company's opposition to your proposal contains materially false or misleading statements that may violate our anti-fraud rule, § 240.14a–9, you should promptly send to the Commission staff and the company a letter explaining the reasons for your view, along with a copy of the company's statements opposing your proposal. To the extent possible, your letter should include specific factual information demonstrating the inaccuracy of the company's claims. Time permitting, you may wish to try to work out your differences with the company by yourself before contacting the Commission staff.

(3) We require the company to send you a copy of its statements opposing your proposal before it sends its proxy materials, so that you may bring to our attention any materially false or misleading statements, under the following timeframes:

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

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

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

EFFECTIVE DATE NOTE: At 85 FR 70294, Nov. 4, 2020, § 240.14a–8 was amended by adding paragraph (b)(3), effective Jan. 4, 2021 through Jan. 1, 2023.

### § 240.14a–9 False or misleading statements.

(a) No solicitation subject to this regulation shall be made by means of

# Shareholder Proposals

## Staff Legal Bulletin No. 14F (CF)

**Action:** Publication of CF Staff Legal Bulletin

**Date:** October 18, 2011

**Summary:** This staff legal bulletin provides information for companies and shareholders regarding Rule 14a-8 under the Securities Exchange Act of 1934.

**Supplementary Information:** The statements in this bulletin represent the views of the Division of Corporation Finance (the "Division"). This bulletin is not a rule, regulation or statement of the Securities and Exchange Commission (the "Commission"). Further, the Commission has neither approved nor disapproved its content.

**Contacts:** For further information, please contact the Division's Office of Chief Counsel by calling (202) 551-3500 or by submitting a web-based request form at https://www.sec.gov/forms/corp_fin_interpretive.

## A. The purpose of this bulletin

This bulletin is part of a continuing effort by the Division to provide guidance on important issues arising under Exchange Act Rule 14a-8. Specifically, this bulletin contains information regarding:

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

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

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

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

To be eligible to submit a shareholder proposal, a shareholder must have continuously held at least $2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the shareholder meeting for at least one year as of the date the shareholder submits the proposal. The shareholder must also continue to hold the required amount of securities through the date of the meeting and must provide the company with a written statement of intent to do so.[1]

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

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

### 2. The role of the Depository Trust Company

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

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

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

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

We believe that taking this approach as to who constitutes a “record” holder for purposes of Rule 14a-8(b)(2)(i) will provide greater certainty to beneficial owners and companies. We also note that this approach is consistent with Exchange Act Rule 12g5-1 and a 1988 staff no-action letter addressing that rule,[8] under which brokers and banks that are DTC participants are considered to be the record holders of securities on deposit with DTC when calculating the number of record holders for purposes of Sections 12(g) and 15(d) of the Exchange Act.

Companies have occasionally expressed the view that, because DTC’s nominee, Cede & Co., appears on the shareholder list as the sole registered owner of securities deposited with DTC by the DTC participants, only DTC or Cede & Co. should be viewed as the “record” holder of the securities held on deposit at DTC for purposes of Rule 14a-8(b)(2)(i). We have never interpreted the rule to require a shareholder to obtain a proof of ownership letter from DTC or Cede & Co., and nothing in this guidance should be construed as changing that view.

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

Shareholders and companies can confirm whether a particular broker or bank is a DTC participant by checking DTC’s participant list, which is currently available on the Internet at http://www.dtcc.com/~/media/Files/Downloads/client-center/DTC/alpha.ashx.

*What if a shareholder’s broker or bank is not on DTC’s participant list?*

The shareholder will need to obtain proof of ownership from the DTC participant through which the securities are held. The shareholder should be able to find out who this DTC participant is by asking the shareholder’s broker or bank.[9]

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

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

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

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

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

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

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

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

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

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

## D. The submission of revised proposals

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

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

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

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

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

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

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

A shareholder must prove ownership as of the date the original proposal is submitted. When the Commission has discussed revisions to proposals,[14] it has not suggested that a revision triggers a requirement to provide proof of ownership a second time. As outlined in Rule 14a-8(b), proving ownership includes providing a written statement that the shareholder intends to continue to hold the securities through the date of the shareholder meeting. Rule 14a-8(f)(2) provides that if the shareholder "fails in [his or her] promise to hold the required number of securities through the date of the meeting of shareholders, then the company will be permitted to exclude all of [the same shareholder's] proposals from its proxy materials for any meeting held in the following two calendar years." With these provisions in mind, we do not interpret Rule 14a-8 as requiring additional proof of ownership when a shareholder submits a revised proposal.[15]

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

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

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

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

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

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

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

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

[2] For an explanation of the types of share ownership in the U.S., see Concept Release on U.S. Proxy System, Release No. 34-62495 (July 14, 2010) [75 FR 42982] ("Proxy Mechanics Concept Release"), at Section II.A. The term "beneficial owner" does not have a uniform meaning under the federal securities laws. It has a different meaning in this bulletin as compared to "beneficial owner" and "beneficial ownership" in Sections 13 and 16 of the Exchange Act. Our use of the term in this bulletin is not intended to suggest that registered owners are not beneficial owners for purposes of those Exchange Act provisions. *See* Proposed Amendments to Rule 14a-8 under the Securities Exchange Act of 1934 Relating to Proposals by Security Holders, Release No. 34-12598 (July 7, 1976) [41 FR 29982], at n.2 ("The term 'beneficial owner' when used in the context of the proxy rules, and in light of the purposes of those rules, may be interpreted to have a broader meaning than it would for certain other purpose[s] under the federal securities laws, such as reporting pursuant to the Williams Act.").

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

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

[5] *See* Exchange Act Rule 17Ad-8.

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

[7] *See KBR Inc. v. Chevedden*, Civil Action No. H-11-0196, 2011 U.S. Dist. LEXIS 36431, 2011 WL 1463611 (S.D. Tex. Apr. 4, 2011); *Apache Corp. v. Chevedden,* 696 F. Supp. 2d 723 (S.D. Tex. 2010). In both cases,

the court concluded that a securities intermediary was not a record holder for purposes of Rule 14a-8(b) because it did not appear on a list of the company's non-objecting beneficial owners or on any DTC securities position listing, nor was the intermediary a DTC participant.

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

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

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

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

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

[13] This position will apply to all proposals submitted after an initial proposal but before the company's deadline for receiving proposals, regardless of whether they are explicitly labeled as "revisions" to an initial proposal, unless the shareholder affirmatively indicates an intent to submit a second, *additional* proposal for inclusion in the company's proxy materials. In that case, the company must send the shareholder a notice of defect pursuant to Rule 14a-8(f)(1) if it intends to exclude either proposal from its proxy materials in reliance on Rule 14a-8(c). In light of this guidance, with respect to proposals or revisions received before a company's deadline for submission, we will no longer follow *Layne Christensen Co.* (Mar. 21, 2011) and other prior staff no-action letters in which we took the view that a proposal would violate the Rule 14a-8(c) one-proposal limitation if such proposal is submitted to a company after the company has either submitted a Rule 14a-8 no-action request to exclude an earlier proposal submitted by the same proponent or notified the proponent that the earlier proposal was excludable under the rule.

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

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

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

*Modified: Oct. 18, 2011*

# Shareholder Proposals

## Staff Legal Bulletin No. 14G (CF)

**Action:** Publication of CF Staff Legal Bulletin

**Date:** October 16, 2012

**Summary:** This staff legal bulletin provides information for companies and shareholders regarding Rule 14a-8 under the Securities Exchange Act of 1934.

**Supplementary Information:** The statements in this bulletin represent the views of the Division of Corporation Finance (the "Division"). This bulletin is not a rule, regulation or statement of the Securities and Exchange Commission (the "Commission"). Further, the Commission has neither approved nor disapproved its content.

**Contacts:** For further information, please contact the Division's Office of Chief Counsel by calling (202) 551-3500 or by submitting a web-based request form at https://www.sec.gov/forms/corp_fin_interpretive.

## A. The purpose of this bulletin

This bulletin is part of a continuing effort by the Division to provide guidance on important issues arising under Exchange Act Rule 14a-8. Specifically, this bulletin contains information regarding:

- the parties that can provide proof of ownership under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8;
- the manner in which companies should notify proponents of a failure to provide proof of ownership for the one-year period required under Rule 14a-8(b)(1); and
- the use of website references in proposals and supporting statements.

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

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

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

To be eligible to submit a proposal under Rule 14a-8, a shareholder must, among other things, provide documentation evidencing that the shareholder has continuously held at least $2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the shareholder meeting for at least one year as of the date the shareholder submits the proposal. If the shareholder is a beneficial owner of the securities, which means that the securities are held in book-entry form through a securities intermediary, Rule 14a-8(b)(2)(i) provides that this documentation can be in the form of a "written statement from the 'record' holder of your securities (usually a broker or bank)…."

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

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

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

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

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

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

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

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

Accordingly, going forward, we will not concur in the exclusion of a proposal under Rules 14a-8(b) and 14a-8(f) on the basis that a proponent's proof of ownership does not cover the one-year period preceding and including the date the proposal is submitted unless the company provides a notice of defect that identifies the specific date on which the proposal was submitted and explains that the proponent must obtain a new proof of ownership letter verifying continuous ownership of the requisite amount of securities for the one-year period preceding and including such date to cure the defect. We view the proposal's date of submission as the date the proposal is postmarked or transmitted electronically. Identifying in the notice of defect the specific date on which the proposal was submitted will help a proponent better understand how to remedy the defects described above and will be particularly helpful in those instances in which it may be difficult for a proponent to determine the date of submission, such as when the proposal is not postmarked on the same day it is placed in the mail. In addition, companies should include copies of the postmark or evidence of electronic transmission with their no-action requests.

## D. Use of website addresses in proposals and supporting statements

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*Modified: Oct. 16, 2012*

**EXHIBIT D**

DELIVERED

# Wednesday

11/9/2022 at 11:02 am

Signature not required

Package delivered to recipient address

Obtain Proof of delivery

How was your delivery?

DELIVERY STATUS

Delivered

TR

77

## Travel history

SORT BY DATE/TIME

Ascending

TIME ZONE

Local Scan Time

| | | | |
|---|---|---|---|
| Monday, 11/7/2022 | 2:28 PM | Shipment information sent to FedEx | |
| Tuesday, 11/8/2022 | 6:34 PM | Picked up | PITTSBURGH, |
| | 6:46 PM | Shipment arriving On-Time | PITTSBURGH, |
| | 8:21 PM | Left FedEx origin facility | PITTSBURGH, |
| | 10:40 PM | Arrived at FedEx hub | MEMPHIS, TN |
| Wednesday, 11/9/2022 | 2:47 AM | Departed FedEx hub | MEMPHIS, TN |
| | 4:32 AM | At destination sort facility | LOS ANGELES |
| | 7:39 AM | At local FedEx facility | HAWTHORNE |
| | 8:29 AM | On FedEx vehicle for delivery | HAWTHORNE |
| | 11:02 AM | Delivered<br>Package delivered to recipient address - release authorized | REDONDO BE |

# <u>EXHIBIT E</u>

**From:** John Chevedden [redacted]
**Sent:** Tuesday, November 8, 2022 10:09 AM
**To:** Janet Lee [redacted]
**Subject:** Rule 14a-8 Broker letter (ANSS)

**[External Sender]**

**From:** John Chevedden [redacted]
**Subject: Rule 14a-8 Broker letter (ANSS)**
**Date:** November 4, 2022 at 11:08:43 AM PDT
**To:** Janet Lee [redacted], Paula Moreno [redacted], Patrick Belville [redacted]

Rule 14a-8 Broker letter (ANSS)

Personal Investing

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

Fidelity INVESTMENTS

JOHN R CHEVEDDEN
[redacted]

November 3, 2022

Dear Mr. Chevedden,

This letter is provided at the request of Mr. John R. Chevedden, a customer of Fidelity investments.

Please accept this letter as confirmation that as of market close on November 3, 2022, Mr. Chevedden has continuously owned no fewer than the shares quantities of the securities shown on the below table since the respective dates below:

| Security | Number of Shares | Date |
|---|---|---|
| Intercontinental Exchange, Inc. (ICE) | 50.000 | 10/18/2019 |
| CoStar Group, Inc. (CSGP) | 100.000 | 12/6/2019 |
| ANSYS, Inc. (ANSS) | 20.000 | 10/29/2019 |
| Zoetis Inc. (ZTS) | 40.000 | 10/29/2019 |
| Dover Corporation (DOV) | 50.000 | 10/1/2019 |

These securities are registered in the name of National Financial Services LLC, a DTC participant (DTC number 0226) a Fidelity Investments subsidiary. The DTC clearinghouse number for Fidelity is 0266.

I hope you find this information helpful. If you have any questions regarding this issue or general inquiries regarding the account, please contact John Cheveddendirectly. They may follow up with us directly if necessary. If you have any questions regarding Fidelity Investment's products and services please call us at 800-544-6666 for assistance.

Sincerely,

Ericka Steele

Ericka Steele
Operations Specialist

Our File: W088451-03NOV22

**From:** John Chevedden [redacted]
**Sent:** Tuesday, November 8, 2022 9:11 AM
**To:** Paula Moreno
**Subject:** Rule 14a-8 Broker letter (ANSS)
**Attachments:** 04112022_13.pdf

**[External Sender]**

**From:** John Chevedden [redacted]
**Subject: Rule 14a-8 Broker letter (ANSS)**
**Date:** November 4, 2022 at 11:08:43 AM PDT
**To:** Janet Lee [redacted], Paula Moreno [redacted] Patrick Belville [redacted]

Rule 14a-8 Broker letter (ANSS)

Personal Investing

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

Fidelity INVESTMENTS

JOHN R CHEVEDDEN
[redacted]

November 3, 2022

Dear Mr. Chevedden,

This letter is provided at the request of Mr. John R. Chevedden, a customer of Fidelity investments.

Please accept this letter as confirmation that as of market close on November 3, 2022, Mr. Chevedden has continuously owned no fewer than the shares quantities of the securities shown on the below table since the respective dates below:

| Security | Number of Shares | Date |
|---|---|---|
| Intercontinental Exchange, Inc. (ICE) | 50.000 | 10/18/2019 |
| CoStar Group, Inc. (CSGP) | 100.000 | 12/6/2019 |
| ANSYS, Inc. (ANSS) | 20.000 | 10/29/2019 |
| Zoetis Inc. (ZTS) | 40.000 | 10/29/2019 |
| Dover Corporation (DOV) | 50.000 | 10/1/2019 |

These securities are registered in the name of National Financial Services LLC, a DTC participant (DTC number 0226) a Fidelity Investments subsidiary. The DTC clearinghouse number for Fidelity is 0266.

I hope you find this information helpful. If you have any questions regarding this issue or general inquiries regarding the account, please contact John Cheveddendirectly. They may follow up with us directly if necessary. If you have any questions regarding Fidelity Investment's products and services please call us at 800-544-6666 for assistance.

Sincerely,

Ericka Steele

Ericka Steele
Operations Specialist

Our File: W088451-03NOV22

**EXHIBIT F**

**From:** John Chevedden [redacted]
**Sent:** Tuesday, November 8, 2022 9:13 AM
**To:** Paula Moreno [redacted]; Janet Lee [redacted]; Patrick Belville [redacted]
**Subject:** (ANSS))

**[External Sender]**

(ANSS))

Available for an off the record telephone meeting:
Nov 21   1:30 pm PT
Nov 22   1:30 pm PT

Confirmation requested by:
Nov 18
I have no need for a meeting.

John Chevedden
[redacted]

# EXHIBIT G

**From:** John Chevedden [redacted]
**Sent:** Tuesday, November 8, 2022 9:24 AM
**To:** Paula Moreno [redacted]; Janet Lee [redacted]; Patrick Belville [redacted]
**Subject:** (ANSS)

**[External Sender]**

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.

**EXHIBIT H**

**From:** John Chevedden [redacted]
**Sent:** Sunday, November 27, 2022 10:13 PM
**To:** Paula Moreno [redacted]; Janet Lee [redacted]; Patrick Belville [redacted]
**Subject:** Rule 14a-8 Proposal (ANSS) REVISED

**[External Sender]**

Rule 14a-8 Proposal (ANSS) REVISED

Dear Ms. Moreno,
Please see the attached rule 14a-8 proposal.
John Chevedden

FOR Shareholder Rights

**JOHN CHEVEDDEN**

[redacted] [redacted]

Ms. Janet Lee
Corporate Secretary
ANSYS, Inc. (ANSS)
2600 ANSYS Drive
Canonsburg, PA 15317
[redacted]

Revised November 27, 2022

Dear Ms. Lee,

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.

Please use the title of the proposal in bold in all references to the proposal in the proxy and on the ballot. If there is objection to the title please negotiate or seek no action relief. This is important because it is not infrequent that rule 14a-8 proposals have been within 1% of being approved by shareholders. The rule 14a-8 proposal title is a key part of the rule 14a-8 proposal submission.

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 formally requesting a broker letter from me.

Sincerely,

John Chevedden
John Chevedden

October 26, 2022
Date

cc: Paula Moreno [redacted]
Patrick Belville [redacted]

[ANSS – Rule 14a-8 Proposal, October 26, 2022 | Revised November 27, 2022]
[This line and any line above it is not for publication.]

**Proposal 4 – Adopt a Shareholder Right to Call a Special Shareholder Meeting**

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 regardless of length of stock ownership.

One of the main purposes of this proposal is to give shareholders the right to formally participate in calling for a special shareholder meeting regardless of their length of stock ownership and to make sure that street name shareholders can participate equally in calling for a special shareholder meeting to the fullest extent possible.

Some companies prohibit shareholders from participating in calling for a special shareholder if they own stock for less than one continuous year. Requiring one continuous year of stock ownership can serve as a poison pill. I know of no instance of shareholders ever having success in calling for a special shareholder meeting at a company that excludes all shares not held for a continuous full year.

It is important to vote for this Shareholder Right to Call a Special Shareholder Meeting proposal because we have no right to act by written consent. Shareholders at many companies have a right to call a special shareholder and the right to act by written consent.

Calling a special shareholder meeting is hardly ever used by shareholders but the main point of calling 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 reasonable Plan B alternative of calling a special shareholder meeting. 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 reasonable right to call a special shareholder meeting is an important step for effective shareholder engagement with management.

Please vote yes:

**Adopt a Shareholder Right to Call a Special Shareholder Meeting – Proposal 4**

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

Notes:

**Please use the title of the proposal in bold in all references to the proposal in the proxy and on the ballot.** If there is objection to the title please negotiate or seek no action relief as a last resort.

"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 or will be documented in my ownership proof.**

Please acknowledge this proposal promptly by email [redacted].

It is 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.**