



DIVISION OF
CORPORATION FINANCE

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

April 12, 2023

John C. Ericson
Simpson Thatcher & Bartlett LLP

Re: Best Buy Co., Inc. (the "Company")
Incoming letter dated January 31, 2023

Dear John C. Ericson:

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

The Proposal asks the board to take the steps necessary to permit removal of directors by a majority vote of shareholders or directors with or without cause to the fullest extent possible.

There appears to be some basis for your view that the Company may exclude the Proposal under Rule 14a-8(i)(10). Based on the information you have presented, it appears that the Company has already substantially implemented the Proposal. Accordingly, we will not recommend enforcement action to the Commission if the Company omits the Proposal from its proxy materials in reliance on Rule 14a-8(i)(10). In reaching this position, we have not found it necessary to address the alternative bases for omission upon which the Company relies.

Copies of all of the correspondence on which this response is based will be made available on our website at <https://www.sec.gov/corpfin/2022-2023-shareholder-proposals-no-action>.

Sincerely,

Rule 14a-8 Review Team

cc: John Chevedden

Simpson Thacher & Bartlett LLP

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E-mail Address
jericson@stblaw.com

VIA E-MAIL

January 31, 2023

Re: Best Buy Co., Inc. – 2023 Annual Meeting of Shareholders, Omission of Shareholder Proposal Submitted by John Chevedden; Securities Exchange Act of 1934, Section 14(a); Rule 14a-8

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

Ladies and Gentlemen:

We are filing this letter on behalf of Best Buy Co., Inc., a Minnesota corporation (“Best Buy” or the “Company”), in accordance with Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended, with respect to the shareholder proposal and supporting statement (together, the “Shareholder Proposal”) submitted by Mr. John Chevedden (the “Proponent”) in a letter dated December 28, 2022 for inclusion in the proxy materials to be distributed by Best Buy in connection with its 2023 annual meeting of shareholders (the “2023 Proxy Materials”). A copy of the Shareholder Proposal and related correspondence is attached as Exhibit A. For the reasons stated below, we respectfully request that the Staff (the “Staff”) of the Division of Corporation Finance of the Securities and Exchange Commission (the “Commission”) not recommend any enforcement action against Best Buy if Best Buy omits the Shareholder Proposal in its entirety from the Proxy Materials.

As discussed in more detail in Section I below, the Staff recently permitted the Company to exclude a nearly identical proposal (the “Prior Proposal”) from inclusion in the proxy materials to be distributed by Best Buy in connection with its 2022 annual meeting of shareholders. See *Best Buy Co., Inc.* (avail. Apr. 22, 2022) (“Best Buy 2022 Letter”).

Best Buy intends to file the definitive proxy statement for its 2023 annual meeting of shareholders (the “Annual Meeting”) more than 80 days after the date of this letter. In accordance with Staff Legal Bulletin No. 14D (November 7, 2008) (“SLB 14D”), this letter is being submitted by email to shareholderproposals@sec.gov in lieu of providing six additional copies of this letter pursuant to Rule 14a-8(j), and the undersigned has included his name and telephone number both in this letter and in the cover email accompanying this letter. In addition, pursuant to Rule 14a-8(j), a copy of this letter is also being sent simultaneously by email to the Proponent as notice of Best Buy’s intent to omit the Shareholder Proposal from the 2023 Proxy Materials.

Rule 14a-8(k) and SLB 14D provide that a shareholder proponent is required to send to the company a copy of any correspondence that the proponent elects to submit to the Commission or the Staff. Accordingly, we hereby inform the Proponent that if the Proponent elects to submit additional correspondence to the Commission or the Staff relating to the Shareholder Proposal, the Proponent must concurrently furnish a copy of that correspondence to Best Buy. Similarly, the Company will promptly forward to the Proponent any response received from the Staff or Commission related to this request that the Staff or Commission transmits only to Best Buy.

I. The Shareholder Proposal

The Shareholder Proposal states:

Shareholders ask our Board of Directors to take the steps necessary to permit removal of directors by a majority vote of shareholders or directors with or without cause to the fullest extent possible.

The Shareholder Proposal and the Prior Proposal, which the Staff recently permitted the Company to exclude, are nearly identical. Below is a comparison of the language of the Shareholder Proposal to the language of the Prior Proposal. Deletions from the Shareholder Proposal are shown in red strike-through text and additions to the Shareholder Proposal are shown in blue underlined text, for illustrative purposes only.

Proposal 4 – Shareholder Right to Remove Directors without Cause

Shareholders ask our Board of Directors to take the steps necessary to permit removal of directors by a majority vote of shareholders or directors with or without cause to the fullest extent possible.

Our present rule can give job security to a director who clearly needs to be removed but the director insists with finding fault with ~~the~~credible evidence.

Our present rule can give job security to a director credibly accused of fraud or domestic violence with overwhelming evidence.

Please vote yes:

Shareholder Right to Remove Directors without Cause – Proposal 4

A copy of the full text of the Shareholder Proposal and related correspondence, including the Proponent’s supporting statement, is attached to this letter as Exhibit A.

II. Bases for Exclusion

The Company hereby respectfully requests that the Staff concur in its view that the Shareholder Proposal may be properly excluded from the 2023 Proxy Materials pursuant to the following provisions of Rule 14a-8:

- Rule 14a-8(i)(10) because the Company has substantially implemented the Shareholder Proposal;
- Rule 14a-8(i)(3) and Rule 14a-9 because the Shareholder Proposal is vague and indefinite, rendering the Shareholder Proposal in violation of the proxy rules; and
- Rule 14a-8(b) and Rule 14a-8(f)(1) because the Proponent failed to provide the requisite proof of continuous share ownership in response to the Company’s proper request for such information.

III. Analysis

A. The Shareholder Proposal may be excluded under Rule 14a-8(i)(10) because the Company has substantially implemented the Shareholder Proposal.

1. Background

Rule 14a-8(i)(10) permits a company to exclude a shareholder proposal from its proxy materials if the company has substantially implemented the proposal. Interpreting the predecessor to Rule 14a-8(i)(10), the Commission stated that the rule was “designed to avoid the possibility of shareholders having to consider matters which have already been favorably acted upon by the management . . .” SEC Release No. 34-12598 (July 7, 1976). Originally, the Staff narrowly interpreted this predecessor rule and granted no-action relief only when proposals were “fully effected” by the company. *See* Exchange Act Release No. 19135 (Oct. 14, 1982). By 1983, the Commission recognized that the “previous formalistic application of [the Rule] defeated its purpose” because proponents were successfully convincing the Staff to deny no-action relief by submitting proposals that differed from existing company policy by only a few

words. See SEC Release No. 34-20091 (Aug. 16, 1983). Therefore, in 1983, the Commission adopted a revision to the rule to permit the omission of proposals that had been “substantially implemented,” which, as a standard, does not require implementation in full or exactly as presented by the proponent. See SEC Release No. 34-40018 (May 21, 1998, n. 30 and accompanying text); SEC Release No. 34-20091 (Aug. 16, 1983).

The Staff has stated that, in determining whether a shareholder proposal has been substantially implemented, it will consider whether a company’s particular policies, practices and procedures “compare favorably with the guidelines of the proposal.” See *The Goldman Sachs Group, Inc.* (avail. Feb. 12, 2014); *Medtronic, Inc.* (avail. June 13, 2013) (“*Medtronic*”); and *Texaco, Inc.* (avail. Mar. 28, 1991). In other words, substantial implementation under Rule 14a-8(i)(10) requires a company’s actions to have satisfactorily addressed both the proposal’s underlying concerns and its essential objective. See, e.g., *Exelon Corp.* (avail. Feb. 26, 2010) (“*Exelon*”); *Anheuser-Busch Companies, Inc.* (avail. Jan. 17, 2007); *ConAgra Foods, Inc.* (avail. July 3, 2006); *Johnson & Johnson* (avail. Feb. 17, 2006); *The Talbots Inc.* (avail. Apr. 5, 2002); and *Masco Corp.* (avail. Mar. 29, 1999). When a company can demonstrate that it already has taken actions to address the underlying concerns and essential objectives of a shareholder proposal, the Staff has consistently concurred that the proposal has been “substantially implemented” and may be excluded. See, e.g., *IDACORP, Inc.* (avail. Apr. 1, 2022); *Best Buy 2022 Letter*; *Starbucks Corporation* (avail. Jan. 19, 2022); *Devon Energy Corp.* (avail. Apr. 1, 2020); *The Brink’s Company* (avail. Feb. 5, 2015); *Visa, Inc.* (avail. Nov. 14, 2014); *Exelon*; and *Exxon Mobil Corp.* (avail. Mar. 23, 2009).

A company need not take the exact action requested, and the company may exercise discretion in implementation without losing the right to exclude the proposal. See *Goldman Sachs*; and *Medtronic*. The Staff has provided no-action relief under Rule 14a-8(i)(10) when a company has satisfied the “essential objective” of the proposal, even if the company (i) did not take the exact action requested by the proponent, (ii) did not implement the proposal in every detail, or (iii) exercised discretion in determining how to implement the proposal. See, e.g., *Walgreen Co.* (avail. Sept. 26, 2013) (allowing exclusion of a shareholder proposal requesting an amendment to the company’s organizational documents that would eliminate all supermajority vote requirements, where such company eliminated all but one such requirement for which the requisite shareholder approval was not obtained). In these cases, the Staff has concurred with the company’s determination that the proposal was substantially implemented in accordance with Rule 14a-8(i)(10) when the company had taken actions that included modifications from what was directly contemplated by the proposal, including in circumstances when the company had policies and procedures in place relating to the subject matter of the proposal, or the company had otherwise implemented the essential objective of the proposal. See, e.g., *Medtronic*. Accordingly, even if a company has not implemented every detail of a proposal, the proposal still may be excluded provided that the company has “substantially implemented” it.

2. *The Existing Amended and Restated By-Laws of the Company Substantially Implements the Shareholder Proposal*

Best Buy's Amended and Restated By-Laws (the "By-Laws"), effective June 12, 2018, provide for director removal procedures in accordance with Minnesota law. In relevant part, Article III, Section 5 of the By-Laws provides that "[a] director may be removed from office, (a) for cause, by the affirmative vote of a majority of the remaining directors, or the affirmative vote of the holders of a majority of the voting stock in attendance at a duly convened meeting of the shareholders; or (b) as otherwise permitted by Chapter 302A [of the Minnesota Statutes]."

With respect to removal of directors by shareholders, the referenced Chapter 302A of the Minnesota Statutes ("Chapter 302A") provides in relevant part that except for corporations with cumulative voting, "any one or all of the directors may be removed at any time, *with or without cause*, by the affirmative vote of the holders of a majority of the voting power of all shares entitled to vote at an election of directors; provided that, if a director has been elected solely by the holders of a class or series of shares, as stated in the articles or bylaws, then that director may be removed only by the affirmative vote of the holders of a majority of the voting power of all shares of that class or series entitled to vote at an election of that director." MINN. STAT. § 302A.223, subd. 3 (emphasis added). For convenience, Section 223 of Chapter 302A is attached as Exhibit B. Because Best Buy does not have any separate class or series of shares outstanding with the right to elect a director, the foregoing proviso does not apply, and a director may be removed by the affirmative vote of the holders of a majority of the Company's common stock. In addition, although Chapter 302A provides an exception for corporations with cumulative voting, this exception is not relevant to the Company, as Article VII of Best Buy's Amended and Restated Articles of Incorporation provides that no shareholder is entitled to any cumulative voting rights.

With respect to removal of directors by directors, the By-Laws expressly provide that a director may be removed for cause by the affirmative vote of the remaining directors. In addition, Chapter 302A provides that a "director may be removed at any time, *with or without cause*, if (a) the director was named by the board to fill a vacancy; (b) the shareholders have not elected directors in the interval between the time of the appointment to fill a vacancy and the time of the removal; and (c) a majority of the remaining directors present affirmatively vote to remove the director." MINN. STAT. § 302A.223, subd. 2 (emphasis added). Article III, Section 6 of the By-Laws of the Company provides that a vacancy on the board of directors may be filled by the affirmative of a majority of the remaining directors. Once a vacancy has been filled in this manner, that director may be removed with or without cause either (1) by the remaining directors under the circumstances described above or (2) by the shareholders as described in the preceding paragraph.

After a director has been elected by the shareholders (whether or not the director was initially appointed by a majority of the remaining directors to fill a vacancy), the director may be removed at any time by the shareholders in accordance with Minnesota law and consistent with

the Shareholder Proposal. Although the By-Laws do not permit a director who has been elected by the shareholders to be removed without cause by the remaining directors, the Company believes that permitting removal by the remaining directors without cause under those circumstances would detract from the authority of the Company's shareholders to elect directors and remove them with or without cause and would be inconsistent with the intent of the Shareholder Proposal.

In summary, by referencing Chapter 302A in the By-Laws, Best Buy already allows for director removal by the affirmative vote of a majority of shareholders with or without cause. Similarly, the Company allows director removal by affirmative vote of a majority of directors with cause, and also provides for director removal without cause when the shareholders have yet to vote on that director. The Shareholder Proposal calls for the Board to take steps necessary to permit removal of directors by a majority vote of shareholders or directors with or without cause to the fullest extent possible, but the Board need not take any action to permit such removal because the By-Laws, as written, already specifically and directly address the underlying concern and essential objectives of the Shareholder Proposal. Inclusion of the Shareholder Proposal in the 2023 Proxy Materials would thus be superfluous. Accordingly, the Shareholder Proposal has been substantially implemented by the Company and may be excluded from the Company's 2023 Proxy. *See Best Buy 2022 Letter* (concurring in exclusion of nearly identical proposal).

3. *The Staff has permitted the exclusion of a nearly identical proposal from the Company's past proxy statement on the basis of Rule 14a-8(i)(10)*

The Staff permitted the Company to exclude a nearly identical proposal from its proxy materials for its 2022 annual meeting of shareholders, which was submitted by the same Proponent or his associate. *See Best Buy 2022 Letter*. The only difference between the first—and most substantive—paragraphs of the Shareholder Proposal and the Prior Proposal is the addition of the underlined language to the first paragraph of the Shareholder Proposal: “Shareholders ask our Board of Directors to take the steps necessary to permit removal of directors by a majority vote of shareholders or directors with or without cause to the fullest extent possible.” This additional language does not materially change the substance of the Shareholder Proposal as compared to the Prior Proposal because the essential objective of the proposal to permit removal of directors by a majority vote of shareholders or directors with or without cause is unchanged. Otherwise, as set forth in the marked version of the Shareholder Proposal in Section I hereto, the remainder of the Shareholder Proposal is substantially similar to the proposal set forth in the *Best Buy 2022 Letter*; the only differences are minor wording or typographical changes, and the modified language in the instant Proposal does not materially change the substance of the shareholder proposal. Accordingly, the Company believes that the same rationale that underpinned the Staff's concurrence related to the *Best Buy 2022 Letter* should apply here and that the Shareholder Proposal may be excluded from the 2023 Proxy Materials.

B. *The Shareholder Proposal may be excluded under Rule 14a-8(i)(3) because it is vague and indefinite, rendering it in violation of the proxy rules.*

1. Background

Rule 14a-8(i)(3) provides that a shareholder proposal may be excluded from a registrant's proxy materials "[i]f the proposal or supporting statement is contrary to any of the Commission's proxy rules, including Rule 14a-9, which prohibits materially false or misleading statements in proxy soliciting materials." As described below, exclusion of the Shareholder Proposal is warranted because the inclusion of the proposed resolution contained in the Shareholder Proposal in the Company's forthcoming Proxy Materials would result in the Company's filing a proxy statement with misleading statements.

The Commission has explained that exclusion of a proposal may be appropriate where "the resolution contained in the proposal is so inherently vague or indefinite that neither the stockholders 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." Staff Legal Bulletin No. 14B (Sept. 15, 2004); *see also Walt Disney Co.* (avail. Jan. 19, 2022) (concurring in the exclusion of a proposal, as vague and indefinite, that requested prohibition of communications from management of "politically charged biases" or "political polemics" within the company); *Cisco Systems, Inc.* (avail. Oct. 7, 2016) (concurring in the exclusion of a proposal, as vague and indefinite, that requested that the board of directors not take any action whose primary purpose was to prevent the effectiveness of a shareholder vote without a compelling justification); and *Alaska Air Group, Inc.* (avail. Mar. 10, 2016) (concurring in the exclusion of a proposal, as vague and indefinite, that requested amendments to governing documents to require that management strictly honor alleged shareholders' rights in communications to its shareholders). The Staff has concurred in a registrant's exclusion on vague and indefinite grounds of a proposal requesting that the board of directors "implement a policy of improved corporate governance," where the registrant and its shareholders might interpret the proposed resolution differently such that actions taken by the registrant could significantly differ from the action intended by the shareholders voting on the proposal. *See, e.g., Puget Energy Inc.* (avail. Mar. 7, 2002) (citing, among others, *Occidental Petroleum Corp.* (Apr. 4, 1990)). The Staff has also concurred in the exclusion of a shareholder proposal that sought to "improve guiding principles of executive compensation," noting that such proposal "lack[ed] sufficient description about the changes, actions or ideas for the Company and its shareholders to consider that would potentially improve [such] guiding principles." *Apple Inc.* (avail. Dec. 6, 2019). Additionally, courts have ruled on cases involving vague proposals, finding that "shareholders are entitled to know precisely the breadth of the proposal on which they are asked to vote" and that a proposal may be excluded when "it [would be] impossible for the board of directors or the stockholders at large to comprehend precisely what the proposal would entail." *New York City Employees' Retirement System v. Brunswick Corp.*, 789 F. Supp. 144, 146 (S.D.N.Y. 1992); *Dyer v. SEC*, 287 F.2d 773, 781 (8th Cir. 1961).

2. *The Shareholder Proposal is vague and indefinite so as to be misleading*

As with the proposals in the precedents cited above, and as discussed further below, the Shareholder Proposal is so vague and indefinite that neither Best Buy nor its shareholders would know with any reasonable certainty exactly what actions or measures the Shareholder Proposal requires. The Shareholder Proposal asks Best Buy's Board of Directors to "take the steps necessary to permit removal of directors by a majority vote of shareholders or directors with or without cause to the fullest extent possible." The Shareholder Proposal states the Company's "present rule can give job security to a director who clearly needs to be removed but the director insists with finding fault with credible evidence" and that the Company's "present rule can give job security to a director credibly accused of fraud or domestic violence with overwhelming evidence." These statements are false and misleading because a Company director may always be removed by shareholders pursuant to the terms of the Company's governing documents, with or without cause, as explained in Section II.A. of this letter. A director may also be removed for cause by the affirmative vote of a majority of the remaining directors, and the applicable provisions of the By-Laws do not condition this ability on an evaluation of credible evidence by the director in question. Indeed, there is no guarantee of "job security" for any director, particularly one who would engage in such activity. When viewed in the context of the director removal rights that shareholders already possess, the Shareholder Proposal creates the false impression that shareholders are at the mercy of a director who may question the evidence for his or her removal when, in fact, no evidence is even required for the shareholders to remove a director from office.

In light of the foregoing, Best Buy would face substantial uncertainty in implementing the Shareholder Proposal if it were adopted, and it is highly unlikely that Best Buy would be able to implement the Shareholder Proposal in a manner consistent with the understanding of each shareholder, or even a majority of the shareholders, who voted for it. For the foregoing reasons, the Shareholder Proposal is misleading because it is vague and indefinite and, therefore, violates Rule 14a-9.

C. *The Shareholder Proposal may be excluded pursuant to Rule 14a-8(f)(1) because the Proponent failed to satisfy the eligibility requirements of Rule 14a-8(b).*

1. *Background*

The Proponent initially submitted a proposal relating to a different subject matter (namely, a director resignation policy) to Best Buy on November 13, 2022 (the "Moot Proposal"). In response to a deficiency notice (the "First Deficiency Notice") related to the Moot Proposal circulated to the Proponent by Best Buy on November 18, 2022, the Proponent submitted a proof of ownership letter disclosing adequate proof of ownership of the Company's securities as of the date the Moot Proposal was submitted to the Company. See Exhibit D.

Thereafter, the instant Proposal was submitted to Best Buy on December 28, 2022 (the “Submission Date”). The Proponent indicated in the cover letter to the Shareholder Proposal that it “intend[s] to continue holding the required amount of Company shares through the date of the Company’s 2023 Annual Meeting of Shareholders as is/will be documented in my ownership proof.” As indicated, the Proponent’s submission did not provide verification of the Proponent’s ownership of the requisite number of Best Buy shares from the record holder of those shares. In addition, Best Buy reviewed its stock records, which did not indicate that the Proponent was the record owner of any shares of Best Buy as of the Submission Date.

Accordingly, on December 30, 2022 and in compliance with Rule 14a-8(f), Best Buy notified the Proponent of the Shareholder Proposal’s procedural deficiencies (the “Second Deficiency Notice,” attached hereto as Exhibit C). In the Second Deficiency Notice, Best Buy reiterated the ownership verification requirements of Rule 14a-8(b) and the manner in which the Proponent could cure the procedural deficiencies. Specifically, the Second Deficiency Notice requested that the Proponent submit sufficient proof of its ownership of the requisite number of Company shares from the record holder of those shares or, alternatively, prove ownership if the Proponent filed a Schedule 13D, Schedule 13G, Form 3, Form 4 and/or Form 5, *as of the Submission Date* (the prior proof of ownership letter included the Proponent’s proof of ownership as of the date of submission for the Moot Proposal). The Second Deficiency Notice also indicated that Rule 14a-8(f) requires that the Proponent’s response be postmarked or transmitted electronically no later than 14 calendar days from the date the Proponent received the Second Deficiency Notice. Finally, Best Buy asked the Proponent to confirm which submission—the one containing the Moot Proposal or the one containing the Shareholder Proposal—was operative in light of Rule 14a-8(c).

The Second Deficiency Notice also included a courtesy copy of Rule 14a-8. *See Exhibit C*. In response to the Second Deficiency Notice, the Proponent confirmed that the Shareholder Proposal is operative (as opposed to the Moot Proposal) and resubmitted proof of ownership as of November 17, 2022—a date that precedes the Submission Date.

2. The Shareholder Proposal failed to satisfy the eligibility requirements

Best Buy may exclude the Shareholder Proposal under Rule 14a-8(f)(1) because the Proponent failed to substantiate its eligibility to submit the Shareholder Proposal under Rule 14a-8(b) as of the Submission Date. Rule 14a-8(b)(1) provides, in relevant part, that “[t]o be eligible to submit a proposal, [a proponent] must satisfy the following requirements: (i) the proponent must have continuously held . . . (A) [a]t least \$2,000 in market value of the company’s securities entitled to vote on the proposal for at least three years; or (B) [a]t least \$15,000 in market value of the company’s securities entitled to vote on the proposal for at least two years; or (C) [a]t least \$25,000 in market value of the company’s securities entitled to vote on the proposal for at least one year”

Rule 14a-8(b)(2)(ii) further specifies that when the proponent is not the registered holder and submits a written statement from the “record” holder of the securities, such statement must verify that the proponent held the requisite value of securities “at the time [the proponent] submitted [his or her] proposal.” Rule 14a-8(f) provides that a company may exclude a shareholder proposal if the proponent fails to provide evidence of eligibility under Rule 14a-8, including the beneficial ownership requirements of Rule 14a-8(b); *provided* that the company timely notifies the proponent of the problem and the proponent fails adequately to correct the deficiency within the required period.

As noted above, the Proponent submitted the Shareholder Proposal to Best Buy on December 28, 2022. The Proponent did not include with its letter documentary evidence of its ownership of Best Buy shares as of the Submission Date, December 28, 2022. Upon reviewing its stock records, which did not indicate that the Proponent is a record owner of Best Buy shares, the Company promptly and timely sought verification of share ownership from the Proponent as set forth above. Because the Proponent did not respond within the period set forth in Rule 14a-8(f), the Shareholder Proposal may be excluded from the 2023 Proxy Materials. On numerous occasions, the Staff has granted no-action relief based on a proponent’s failure to provide satisfactory evidence of eligibility under Rule 14a-8(b) and Rule 14a-8(f)(1). *See, e.g., AbbVie Inc.* (avail. Feb. 24, 2022) (concurring with the exclusion of a shareholder proposal under Rule 14a-8(f) where the proponent “failed to comply in numerous respects with Rule 14a-8(b),” including failure to show proof of ownership of the requisite number of shares); *General Electric Co.* (avail. Mar. 1, 2019) (concurring with the exclusion of a shareholder proposal under Rule 14a-8(b) and Rule 14a-8(f) and noting that “the Proponent appears not to have responded to the Company’s request for documentary support indicating that the Proponent has satisfied the minimum ownership requirement for the one-year period required by rule 14a-8(b)”; *Exxon Mobil Corp.* (avail. Feb. 13, 2017) (concurring with the exclusion of a shareholder proposal under Rule 14a-8(b) and Rule 14a-8(f) and noting that “the proponent appears to have failed to supply, within 14 days of receipt of ExxonMobil’s request, documentary support sufficiently evidencing that she satisfied the minimum ownership requirement for the one-year period required by rule 14a-8(b)”; *Cisco Systems, Inc.* (avail. July 11, 2011); *I.D. Systems, Inc.* (avail. Mar. 31, 2011); *Amazon.com, Inc.* (avail. Mar. 29, 2011) (“Amazon”); and *Yahoo! Inc.* (avail. Mar. 24, 2011). Moreover, the Staff has concurred in the exclusion of a shareholder proposal based on a proponent’s failure to provide *any* evidence of eligibility to submit the shareholder proposal. *See, e.g., salesforce.com, inc.* (avail. Feb. 14, 2017) (“salesforce.com”) (concurring with the exclusion of a proposal where the proponent failed to provide any response to a deficiency notice sent by the company); *Amazon* (same); *General Electric Co.* (avail. Dec. 28, 2010) (“General Electric”) (same); *General Motors Corp.* (avail. Feb. 19, 2008) (“General Motors”) (same).

As in *salesforce.com*, *Amazon*, *General Electric* and *General Motors*, the Proponent failed to provide *any* documentary evidence of ownership of Company shares as of the date of submission of the Shareholder Proposal, both with the Shareholder Proposal itself and in

response to Best Buy's timely Second Deficiency Notice, and has therefore not demonstrated eligibility under Rule 14a-8 to submit the Shareholder Proposal. Accordingly, we ask that the Staff concur that Best Buy may exclude the Shareholder Proposal under Rule 14a-8(b) and Rule 14a-8(f)(1).

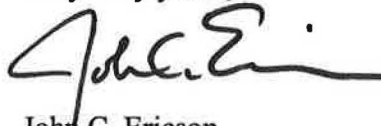
IV. Conclusion

On behalf of the Company and based upon the foregoing analysis, we respectfully request that the Staff concur that it will take no action if the Company excludes the Shareholder Proposal from its 2023 Proxy Materials.

If the Staff disagrees with the Company's conclusions regarding omission of the Shareholder Proposal, or if any additional submissions are desired in support of the Company's position, we would appreciate an opportunity to speak with you by telephone prior to the issuance of the Staff's Rule 14a-8(j) response.

If you have any questions regarding this request, or need any additional information, please do not hesitate to contact the undersigned at (212) 455-3520 or jericson@stblaw.com.

Very truly yours,



John C. Ericson

Enclosures

cc: Todd G. Hartman, Best Buy Co., Inc.
John Chevedden

Exhibit A

Copy of the Shareholder Proposal and Related Correspondence

From: John Chevedden <[REDACTED]>
Sent: Wednesday, December 28, 2022 7:49 PM
To: Hartman, Todd <[REDACTED]>; Olson, Hannah <[REDACTED]>; Crist, Jodie <[REDACTED]>; Johnson, Paige <[REDACTED]>; Eric Halverson <[REDACTED]>; moneytalk <[REDACTED]>
Subject: [CAUTION! EXTERNAL] Rule 14a-8 Proposal (BBY) REVISED

• **This message is from an external sender and could be a phish.** •

Slow down, read carefully and look for signs that it may be a phish. If you think it's malicious, click the report phish button or forward this email to [REDACTED].

Rule 14a-8 Proposal (BBY) REVISED

Dear Mr. Hartman,
Please see the attached rule 14a-8 proposal.
John Chevedden



Mr. Todd Hartman
Corporate Secretary
Best Buy Co., Inc. (BBY)
7601 Penn Avenue South
Richfield, Minnesota 55423

Revised December 28, 2022

Dear Mr. Hartman,

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 holding the 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.

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

November 12, 2022
Date

cc: Hannah Olson
"Crist, Jodie"

[BBY – Rule 14a-8 Proposal, December 5, 2022| Revised December 28, 2022]

[This line and any line above it is not for publication.]

Proposal 4 –Shareholder Right to Remove Directors without Cause

Shareholders ask our Board of Directors to take the steps necessary to permit removal of directors by a majority vote of shareholders or directors with or without cause to the fullest extent possible.

Our present rule can give job security to a director who clearly needs to be removed but the director insists with finding fault with credible evidence.

Our present rule can give job security to a director credibly accused of fraud or domestic violence with overwhelming evidence.

Please vote yes:

Shareholder Right to Remove Directors without Cause – 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**.



FOR

**Shareholder
Rights**

Exhibit B

Chapter 302A.223 of the Minnesota Statutes

Subdivision 1. Modification.

The provisions of this section apply unless modified by the articles, the bylaws, or an agreement described in section 302A.457.

Subd. 2. Removal by directors.

A director may be removed at any time, with or without cause, if:

- (a) the director was named by the board to fill a vacancy;
- (b) the shareholders have not elected directors in the interval between the time of the appointment to fill a vacancy and the time of the removal; and
- (c) a majority of the remaining directors present affirmatively vote to remove the director.

Subd. 3. Removal by shareholders.

Except as provided in subdivision 4, any one or all of the directors may be removed at any time, with or without cause, by the affirmative vote of the holders of a majority of the voting power of all shares entitled to vote at an election of directors; provided that, if a director has been elected solely by the holders of a class or series of shares, as stated in the articles or bylaws, then that director may be removed only by the affirmative vote of the holders of a majority of the voting power of all shares of that class or series entitled to vote at an election of that director.

Subd. 4. Exception for corporations with cumulative voting.

In a corporation having cumulative voting, unless the entire board is removed simultaneously, a director is not removed from the board if there are cast against removal of the director the votes of a proportion of the voting power sufficient to elect the director at an election of the entire board under cumulative voting.

Subd. 5. Election of replacements.

New directors may be elected at a meeting at which directors are removed. If the corporation allows cumulative voting and a shareholder notifies the presiding officer at any time prior to the election of new directors of intent to cumulate the votes of the shareholder, the presiding officer shall announce before the election that cumulative voting is in effect, and shareholders shall cumulate their votes as provided in section 302A.215, subdivision 1, clause (b).

Exhibit C


Copy of Second Deficiency Notice and Related Correspondence

From: Olson, Hannah <[REDACTED]>
Sent: Friday, December 30, 2022 5:03 PM
To: John Chevedden
Cc: Hartman, Todd; Crist, Jodie; Johnson, Paige; Rizzo, Marina
Subject: RE: [CAUTION! EXTERNAL] Rule 14a-8 Proposal (BBY) REVISED
Attachments: 2022.12.30 Notice Letter Chevedden (Second Submission)v2.pdf

Mr. Chevedden,

Please find our response attached.

[Hannah G. Olson](#) | Senior Corporate Counsel, Corporate & Securities
[REDACTED] | [REDACTED]

BEST BUY  Let's talk about what's possible.
Be human. Make it real. Think about tomorrow.

From: John Chevedden <[REDACTED]>
Sent: Wednesday, December 28, 2022 7:47 PM
To: Hartman, Todd <[REDACTED]>; Olson, Hannah <[REDACTED]>; Crist, Jodie <[REDACTED]>; Johnson, Paige <[REDACTED]>; Eric Halverson <[REDACTED]>; moneytalk <[REDACTED]>
Subject: [CAUTION! EXTERNAL] Rule 14a-8 Proposal (BBY) REVISED

• **This message is from an external sender and could be a phish.** •

Slow down, read carefully and look for signs that it may be a phish. If you think it's malicious, click the report phish button or forward this email to [REDACTED].

Rule 14a-8 Proposal (BBY) REVISED

Dear Mr. Hartman,
Please see the attached rule 14a-8 proposal.
John Chevedden



Mr. John Chevedden
[REDACTED]
[REDACTED]

Via email to [REDACTED]

RE: Second Shareholder Proposal to Best Buy Co., Inc. for 2023 Annual Meeting

December 30, 2022

Dear Mr. Chevedden:

I am writing on behalf of Best Buy Co., Inc. (the "Company") in response to the correspondence from you, dated December 28, 2022, which was received by the Company on December 28, 2022, and contained a shareholder proposal entitled "Shareholder Right to Remove Directors Without Cause" (the "Second Proposal"). You noted that this submission was a revision to the proposal you sent on November 12, 2022, which was received by the Company on November 13, 2022, and contained a shareholder proposal entitled, "Improve Directors Elected by Majority Vote" (the "First Proposal"). The correspondence states that the Second Proposal is submitted for inclusion in the Company's upcoming proxy statement and consideration at the Company's next Regular Meeting of Shareholders.

Please note that the Second Proposal (i.e., the one entitled "Shareholder Right to Remove Directors Without Cause") is nearly identical to the proposal you submitted to the Company on December 5, 2021, which was excluded from last year's proxy statement upon the concurrence of the Securities and Exchange Commission (the "SEC"), Division of Corporation Finance, under Rule 14a-8(i)(10).¹

Invalid Number of Proposals

Rule 14a-8(c) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), provides that "[e]ach person may submit no more than one proposal, directly or indirectly, to a company for a particular shareholders' meeting." Please advise per the "Response Timing and Contact Information" section below as to which proposal—the First Proposal or the Second Proposal—is operative.

Proof of Ownership

Rule 14a-8(b) under the Exchange Act provides that a shareholder proponent must submit sufficient proof that the shareholder proponent has 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, immediately preceding and including the date the proposal was submitted to the Company.

¹ Please refer to the SEC's response letter, dated April 22, 2022: <https://www.sec.gov/divisions/corpfin/cf-noaction/14a-8/2022/cheveddenbestbuy042222-14a8.pdf>.



The Company's records showing registered holders of the Company's Common Stock do not include you as a "record" holder.

Although we previously received proof of ownership for the First Proposal, the Company hereby requests that you re-submit sufficient proof of continuous ownership of the Company's Common Stock, as required under Rule 14a-8(b), for the proposal submitted on December 28, 2022. The Rule explains the forms in which proof of ownership may be provided:

(i) 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 through the date of the shareholders' meeting for which the proposal is submitted; or

(ii) The second way to prove ownership applies only if you have filed a Schedule 13D, Schedule 13G, Form 3, Form 4 and/or Form 5, or amendments to those documents or updated forms, reflecting your ownership of the shares as of or before the date on which the one-year eligibility period begins. If you have filed one of these documents with the SEC, you may demonstrate your eligibility by submitting to the company:

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

(B) Your written statement that you continuously held the required number of shares for the respective time period as of the date of the statement; and

(C) Your written statement that you intend to continue ownership of the shares through the date of the company's annual or special meeting.

To the extent that you obtain a proof of ownership letter from the "record" holder of your securities, such letter must verify continuous ownership of the requisite amount of securities for the relevant time period depending on your level of ownership, preceding and including the date the proposal was submitted to the Company, in order to cure this defect. Please note further that the Division of Corporation Finance of the Securities and Exchange Commission takes the position that, for purposes of Rule 14a-8(b)(2)(i), only securities intermediaries that are participants in The Depository Trust Company ("DTC"), or affiliates of DTC participants, are considered "record" holders of securities that are deposited at DTC. Accordingly, to the extent that shares of the Company held by you are deposited at and held through DTC, the proof of ownership letter that is obtained and provided must be from a DTC participant or an affiliate of a DTC participant in order to satisfy the proof of ownership requirements set forth in Rule 14a-8.



Written Statement Regarding Availability to Meet

In addition, Rule 14a-8(b)(1)(iii) under the Exchange Act provides that a shareholder proponent must provide the company with a written statement that he or she is able to meet with the company in person or via teleconference no less than 10 calendar days, nor more than 30 calendar days, after submission of the shareholder proposal. To be compliant, 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, identifying times that are within the regular business hours of the Company's principal executive offices. Pursuant to the Rule, if these hours are not disclosed in the company's proxy statement for the prior year's annual meeting, the proponent 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 it is your intention to revoke submission of the proposal entitled "Improve Directors Elected by Majority Vote" and submit the proposal entitled "Shareholder Right to Remove Directors Without Cause", the Company hereby requests that you submit proof of ownership and a written statement noting your availability to meet with us and times within regular business hours that you are available on or prior to January 27, 2023, 30 calendar days from submission of the Second Proposal.

Response Timing and Contact Information

Pursuant to Staff Legal Bulletin No. 14L, please reply to this e-mail to acknowledge receipt. With respect to the deficiencies identified herein, Rule 14a-8(f) requires that your response to this notification be postmarked or transmitted electronically, no later than 14 calendar days from the date you receive this notification. Please address any response to me at the address or facsimile number provided below.

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

[REDACTED]

Sincerely,

Hannah G. Olson
Senior Corporate Counsel & Assistant Secretary
Best Buy Co., Inc.

Cc: Todd Hartman, General Counsel & Secretary
Jodie Crist, Deputy General Counsel



§ 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](#).

From: John Chevedden <[REDACTED]>
Sent: Sunday, January 1, 2023 10:48 PM
To: Olson, Hannah; Hartman, Todd; Crist, Jodie
Subject: [CAUTION! EXTERNAL] (BBY)
Attachments: Scan2023-01-01_194731.pdf

• **This message is from an external sender and could be a phish.** •

Slow down, read carefully and look for signs that it may be a phish. If you think it's malicious, click the report phish button or forward this email to [REDACTED].

Dear Ms. Olson,
The revision is the one proposal for 2023.

Available for an off the record telephone meeting:

Jan 9 11:30 am PT
Jan 10 11:30 am PT

Please advise before the weekend.

John Chevedden
[REDACTED]

Exhibit D

Copy of Communication Between Best Buy and the Proponent

From: John Chevedden <[REDACTED]>
Sent: Sunday, November 13, 2022 2:41:11 PM
To: Hartman, Todd <[REDACTED]>; Olson, Hannah <[REDACTED]>; Crist, Jodie <[REDACTED]>
Subject: [CAUTION! EXTERNAL] Rule 14a-8 Proposal (BBY)

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Slow down, read carefully and look for signs that it may be a phish. If you think it's malicious, click the report phish button or forward this email to [REDACTED].

Rule 14a-8 Proposal (BBY)

Dear Mr. Hartman,

Please see the attached rule 14a-8 proposal.

Please confirm that this is the correct email address for rule 14a-8 proposals.

John Chevedden



Mr. Todd Hartman
Corporate Secretary
Best Buy Co., Inc. (BBY)
7601 Penn Avenue South
Richfield, Minnesota 55423

Dear Mr. Hartman,

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 holding the 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.

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

November 12, 2022
Date

cc: Hannah Olson <>
"Crist, Jodie" <>

[BBY: Rule 14a-8 Proposal, November 12, 2022]
[This line and any line above it – *Not* for publication.]
Proposal 4 – Improve Directors Elected by Majority Vote

Whereas: Our directors are only required to tender their resignation for consideration by the Board if they are rejected by a majority of votes cast for his or her election.

Whereas: Under the current rules a director can be rejected by a majority of shareholders year after year and still remain on the Board. All that need to happen is for the Board to not accept the director's resignation after being rejected by a majority of shares year after year.

Resolved: To allow an orderly transition a director who does not receive a majority vote shall only serve for 180-days or less after failure to receive a majority vote.

There should be no opposition to this proposal to avoid holdover Directors from the Best Buy Board since Board members were nowhere close to being rejected by a majority of shareholders in 2022.

Please vote yes:

Improve Directors Elected by Majority Vote – Proposal 4

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

Notes:

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

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

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

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

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

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

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

Please acknowledge this proposal promptly by email [REDACTED].

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

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



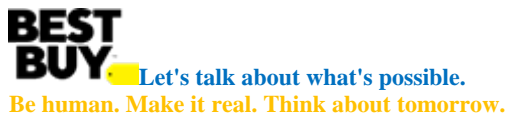
From: Olson, Hannah <[REDACTED]>
Sent: Friday, November 18, 2022 5:40 PM
To: John Chevedden
Cc: Hartman, Todd; Crist, Jodie
Subject: RE: [CAUTION! EXTERNAL] Rule 14a-8 Proposal (BBY)
Attachments: 2022.11.18 Notice Letter_Chevedden.pdf

Mr. Chevedden,

We confirm receipt of your proposal and are providing the attached notice for your review and response. Please confirm receipt of this message.

Regards,
Hannah

[Hannah G. Olson](#) | Senior Corporate Counsel, Corporate & Securities
[REDACTED]



From: John Chevedden <[REDACTED]>
Sent: Sunday, November 13, 2022 4:41 PM
To: Hartman, Todd <[REDACTED]>; Olson, Hannah <[REDACTED]>; Crist, Jodie <[REDACTED]>
Subject: [CAUTION! EXTERNAL] Rule 14a-8 Proposal (BBY)

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Rule 14a-8 Proposal (BBY)

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



Mr. John Chevedden
[REDACTED]

Via email to [REDACTED]

RE: Shareholder Proposal to Best Buy Co., Inc. for 2023 Annual Meeting

November 18, 2022

Dear Mr. Chevedden:

I am writing on behalf of Best Buy Co., Inc. (the "Company") in response to the correspondence from you, dated November 12, 2022, which was received by the Company on November 13, 2022, and contained a shareholder proposal entitled, "Improve Directors Elected by Majority Vote." The correspondence states that the proposal is submitted for inclusion in the Company's upcoming proxy statement and consideration at the Company's next Regular Meeting of Shareholders.

Proof of Ownership

Rule 14a-8(b) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), provides that a shareholder proponent must submit sufficient proof that the shareholder proponent has 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, immediately preceding and including the date the proposal was submitted to the Company.

The Company's records showing registered holders of the Company's Common Stock do not include you as a "record" holder.

The Company hereby requests that you submit sufficient proof of ownership of the Company's Common Stock, as required under Rule 14a-8(b). The Rule explains the forms in which proof of ownership may be provided:

(i) 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 through the date of the shareholders' meeting for which the proposal is submitted; or

(ii) The second way to prove ownership applies only if you have filed a Schedule 13D, Schedule 13G, Form 3, Form 4 and/or Form 5, or amendments to those documents or updated forms, reflecting your ownership of the shares as of or before the date on which the one-year eligibility period begins. If you



have filed one of these documents with the SEC, you may demonstrate your eligibility by submitting to the company:

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

(B) Your written statement that you continuously held the required number of shares for the respective time period as of the date of the statement; and

(C) Your written statement that you intend to continue ownership of the shares through the date of the company's annual or special meeting.

To the extent that you obtain a proof of ownership letter from the "record" holder of your securities, such letter must verify continuous ownership of the requisite amount of securities for the relevant time period depending on your level of ownership, preceding and including the date the proposal was submitted to the Company, in order to cure this defect. Please note further that the Division of Corporation Finance of the Securities and Exchange Commission takes the position that, for purposes of Rule 14a-8(b)(2)(i), only securities intermediaries that are participants in The Depository Trust Company ("DTC"), or affiliates of DTC participants, are considered "record" holders of securities that are deposited at DTC. Accordingly, to the extent that shares of the Company held by you are deposited at and held through DTC, the proof of ownership letter that is obtained and provided must be from a DTC participant or an affiliate of a DTC participant in order to satisfy the proof of ownership requirements set forth in Rule 14a-8.

Written Statement Regarding Availability to Meet

In addition, Rule 14a-8(b)(1)(iii) under the Exchange Act provides that a shareholder proponent must provide the company with a written statement that he or she is able to meet with the company in person or via teleconference no less than 10 calendar days, nor more than 30 calendar days, after submission of the shareholder proposal. To be compliant, 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, identifying times that are within the regular business hours of the Company's principal executive offices. Pursuant to the Rule, if these hours are not disclosed in the company's proxy statement for the prior year's annual meeting, the proponent 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.

The Company hereby requests that you submit proof of ownership and a written statement noting your availability to meet with us and times within regular business hours that you are available on or prior to December 12th, 2022, 30 calendar days from submission of your proposal.

Response Timing and Contact Information

Pursuant to Staff Legal Bulletin No. 14L, please reply to this e-mail to acknowledge receipt. With respect to the deficiencies identified herein, Rule 14a-8(f) requires that your response to this notification be postmarked



or transmitted electronically, no later than 14 calendar days from the date you receive this notification. Please address any response to me at [REDACTED].

Sincerely,

Hannah G. Olson
Senior Corporate Counsel & Assistant Secretary
Best Buy Co., Inc.

Cc: Todd Hartman, General Counsel & Secretary
Jodie Crist, Deputy General Counsel



§ 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](#).

From: John Chevedden <[REDACTED]>
Sent: Friday, November 18, 2022 10:28 PM
To: Olson, Hannah; Hartman, Todd; Crist, Jodie
Subject: [CAUTION! EXTERNAL] Rule 14a-8 Broker Letter (BBY)
Attachments: 18112022_3.pdf

• **This message is from an external sender and could be a phish.** •

Slow down, read carefully and look for signs that it may be a phish. If you think it's malicious, click the report phish button or forward this email to [REDACTED].

Rule 14a-8 Broker Letter (BBY)



JOHN R CHEVEDDEN

November 17, 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 16, 2022 Mr. Chevedden has continuously owned no fewer than the shares quantities of the securities shown on the below table since at least October 20, 2019:

Security	Number of Shares
[Redacted]	

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

I hope you find this information helpful. If you have any questions regarding this issue or general inquiries regarding the account, please contact John Chevedden directly. 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 [Redacted] for assistance.

Sincerely,



Operations Specialist

Our File: [Redacted]

From: John Chevedden <[REDACTED]>
Sent: Friday, November 18, 2022 10:32 PM
To: Olson, Hannah; Hartman, Todd; Crist, Jodie
Subject: [CAUTION! EXTERNAL] (BBY))

• This message is from an external sender and could be a phish. •

Slow down, read carefully and look for signs that it may be a phish. If you think it's malicious, click the report phish button or forward this email to [REDACTED].

(BBY))

Available for an off the record telephone meeting:

Nov 28 2:30 pm PT

Nov 29 2:30 pm PT

I have no need for a meeting.

John Chevedden
[REDACTED]

JOHN CHEVEDDEN

January 31, 2023

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

1 Rule 14a-8 Proposal
Best Buy Co., Inc. (BBY)
Shareholder Right to Remove Directors without Cause
John Chevedden

Ladies and Gentlemen:

This is a counterpoint to the January 31, 2023 no-action request.

Management contradicts itself. Management claims it has implemented a proposal that it does not understand. Thus the 2 management claims cancel each other out.

“To the fullest extent possible” in the resolved statement means a request to close any gap in the current governing documents compared to the proposal.

There is a gap per page 5 of last year’s no action request (February 4, 2022) per the attachment.

Management provided no precedent of a proposal, submitted in one month and revised in the following month, triggering a requirement for 2 broker letters.

Sincerely,


John Chevedden

cc: Todd Hartman

[BBY – Rule 14a-8 Proposal, December 5, 2022| Revised December 28, 2022]

[This line and any line above it is not for publication.]

Proposal 4 –Shareholder Right to Remove Directors without Cause

Shareholders ask our Board of Directors to take the steps necessary to permit removal of directors by a majority vote of shareholders or directors with or without cause to the fullest extent possible.

Our present rule can give job security to a director who clearly needs to be removed but the director insists with finding fault with credible evidence.

Our present rule can give job security to a director credibly accused of fraud or domestic violence with overwhelming evidence.

Please vote yes:

Shareholder Right to Remove Directors without Cause – Proposal 4

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

After a director has been elected by the shareholders (whether or not the director was initially appointed by a majority of the remaining directors to fill a vacancy), the director may be removed at any time by the shareholders in accordance with Minnesota law and consistent with the Shareholder Proposal. Although the By-Laws do not permit a director who has been elected by the shareholders to be removed without cause by the remaining directors, the Company believes that permitting removal by the remaining directors without cause under those circumstances would detract from the authority of the Company's shareholders to elect directors and remove them with or without cause and would be inconsistent with the intent of the Shareholder Proposal.

Not supported

Not supported

Not supported

JOHN CHEVEDDEN

February 5, 2023

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

2 Rule 14a-8 Proposal
Best Buy Co., Inc. (BBY)
Shareholder Right to Remove Directors without Cause
John Chevedden

Ladies and Gentlemen:

This is a counterpoint to the January 31, 2023 no-action request.

“To the fullest extent possible” in the resolved statement means a request to close any gap in the current governing documents compared to the proposal.

There is a gap per page 5 of last year’s no action request (February 4, 2022) per the attachment.

It can be a benefit to shareholders to give the Board the ability to remove a director elected by shareholders if there is significant, but not overwhelming evidence that the director is no longer qualified.

Sincerely,



John Chevedden

cc: Todd Hartman

[BBY – Rule 14a-8 Proposal, December 5, 2022] Revised December 28, 2022]

[This line and any line above it is not for publication.]

Proposal 4 –Shareholder Right to Remove Directors without Cause

Shareholders ask our Board of Directors to take the steps necessary to permit removal of directors by a majority vote of shareholders or directors with or without cause to the fullest extent possible.

Our present rule can give job security to a director who clearly needs to be removed but the director insists with finding fault with credible evidence.

Our present rule can give job security to a director credibly accused of fraud or domestic violence with overwhelming evidence.

Please vote yes:

Shareholder Right to Remove Directors without Cause – Proposal 4

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

After a director has been elected by the shareholders (whether or not the director was initially appointed by a majority of the remaining directors to fill a vacancy), the director may be removed at any time by the shareholders in accordance with Minnesota law and consistent with the Shareholder Proposal. Although the By-Laws do not permit a director who has been elected by the shareholders to be removed without cause by the remaining directors, the Company believes that permitting removal by the remaining directors without cause under those circumstances would detract from the authority of the Company's shareholders to elect directors and remove them with or without cause and would be inconsistent with the intent of the Shareholder Proposal.

Not supported

Not supported

Not supported

Simpson Thacher & Bartlett LLP

425 LEXINGTON AVENUE
NEW YORK, NY 10017-3954

TELEPHONE: +1-212-455-2000
FACSIMILE: +1-212-455-2502

Direct Dial Number
+1 (212) 455-3520

E-mail Address
jericson@stblaw.com

VIA E-MAIL

February 10, 2023

Re: **Best Buy Co., Inc. – 2023 Annual Meeting of Shareholders, Omission of Shareholder Proposal Submitted by John Chevedden; Securities Exchange Act of 1934, Section 14(a); Rule 14a-8**

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

Ladies and Gentlemen:

We are filing this letter on behalf of Best Buy Co., Inc., a Minnesota corporation (“Best Buy” or the “Company”), with respect to the shareholder proposal and supporting statement (together, the “Shareholder Proposal”) submitted by Mr. John Chevedden (the “Proponent”) in a letter dated December 28, 2022 for inclusion in the proxy statement and form of proxy to be distributed by the Company in connection with its 2023 Annual Meeting of Shareholders (the “2023 Proxy Materials”). The Shareholder Proposal requested that the Board of Directors of the Company (the “Board”) “take the steps necessary to permit removal of directors by a majority vote of shareholders or directors with or without cause to the fullest extent possible.”

On January 31, 2023, we submitted a letter (the “No Action Request”) to the Staff (the “Staff”) of the Division of Corporation Finance of the Securities and Exchange Commission (the “Commission”) requesting that the Staff not recommend any enforcement action against the Company if it omits the Shareholder Proposal in its entirety from the 2023 Proxy Materials. The No Action Request indicated the Company’s belief that the Shareholder Proposal could be excluded from the 2023 Proxy Materials in reliance on:

- Rule 14a-8(i)(10) because the Company has substantially implemented the Shareholder Proposal;

- Rule 14a-8(b) and Rule 14a-8(f)(1) because the Proponent failed to provide the requisite proof of continuous share ownership in response to the Company's proper request for such information; and
- Rule 14a-8(i)(3) and Rule 14a-9 because the Shareholder Proposal is vague and indefinite, rendering the Shareholder Proposal in violation of the proxy rules.

On January 31, 2023, the Proponent submitted a letter to the Staff responding to the No Action Request (the "Proponent's Response Letter"). The Proponent's Response Letter and accompanying correspondence from the Proponent is attached as Exhibit A hereto.

The Company wishes to respond to certain of the assertions made in the Proponent's Response Letter and reiterate and expand upon some of the reasons that the Company believes that it may omit the Shareholder Proposal in its entirety from the 2023 Proxy Materials pursuant to the rules set forth above.

Pursuant to Rule 14a-8(j) under the Exchange Act, we are simultaneously providing the Proponent with a copy of this submission. The Company will promptly forward to the Proponent any response received from the Staff to this request that the Staff transmits by email or fax only to the Company.

I. The Company has substantially implemented the Shareholder Proposal and the inclusion of the clause "to the fullest extent possible" in the Shareholder Proposal does not cast doubt upon this conclusion

As noted in the No Action Request, Rule 14a-8(i)(10) permits a company to exclude a shareholder proposal from its proxy materials if the company has substantially implemented the proposal. When a company can demonstrate that it already has taken actions to address the underlying concerns and essential objectives of a shareholder proposal, the Staff has consistently concurred that the proposal has been "substantially implemented" and may be excluded. First, Best Buy's Amended and Restated By-Laws (the "By-Laws") provide for the shareholder protection being sought, *i.e.*, the removal of directors by shareholders at any time with or without cause. Second, the No Action Request explains that the By-Laws, through their reference to Chapter 302A of the Minnesota Statutes, also provide that a director may be removed with or without cause by a majority of the remaining directors if that director was named by the board of directors to fill a vacancy and the shareholders have not elected directors between the time of that appointment and the removal of the director. That is, during any period between the appointment of a director to fill a vacancy and an election of directors by the shareholders, the remaining directors can remove a director for any reason, whether for misconduct or otherwise.

This enables the remaining directors to remove a director when it is in the interest of the Company not to wait until a shareholder meeting to do so. In any other circumstance, shareholders can simply remove a director, with or without cause, including pursuant to a special meeting of shareholders called in accordance with the By-Laws. To the extent the Shareholder Proposal seeks to empower shareholders to remove directors with or without cause, the By-Laws already grant shareholders that power, and the Shareholder Proposal is excludable under Rule 14a-8(i)(10) because it has been substantially implemented.

The Proponent's Response Letter argues that because the By-Laws do not permit the remaining directors to remove a director in every circumstance (*i.e.*, when that director has been elected by the shareholders), there is a "gap" between the Company's organizational documents and the Shareholder Proposal to permit removal of directors by a majority of shareholders or directors with or without cause "to the fullest extent possible." However, by increasing the power of the remaining directors to remove a director, the Shareholder Proposal potentially diminishes the authority of shareholders to determine the composition of the Board, even though the Shareholder Proposal requests that shareholders also have the authority to remove directors "to the fullest extent possible." It is unclear how the Shareholder Proposal is to be implemented without fundamentally altering the rights of shareholders to elect and remove directors. On its face, the Shareholder Proposal would appear to enable the remaining directors to remove a director, for no reason at all, promptly after the shareholders have elected that director. In its extreme, this aspect of the Shareholder Proposal appears to interfere with the Shareholder Proposal's request that shareholders themselves have the power to remove directors. Ironically, the Shareholder Proposal is entitled "Shareholder Right to Remove Directors without Cause," a right that the Company's shareholders already enjoy, while the Proponent seeks to further empower directors, potentially at the expense of shareholders themselves.

As the Proponent knows, the Staff determined on April 22, 2022 to concur in the omission of the very similar proposal submitted by the Proponent for the Company's 2022 Annual Meeting of Shareholders on the grounds that the Company's policies, procedures and practices had substantially implemented the proposal. The Shareholder Proposal seeks to escape a similar conclusion by adding the phrase "to the fullest extent possible," but as described in the No Action Request, it has been the Staff's longstanding policy that a company need not take the exact action requested and may exercise discretion in implementation without losing the right to exclude the proposal. If it were possible to avoid a conclusion that a shareholder proposal had been substantially implemented simply by adding the phrase "to the fullest extent possible," then Rule 14a-8(i)(10) would be rendered meaningless, sweeping away years of no action precedent. The addition of the clause "to the fullest extent possible" to the Shareholder Proposal, therefore, should not tip the scale in favor of reconsidering this position.

II. The Proponent failed to provide requisite proof of continuous share ownership, in direct contravention of Rule 14a-8(b)

As noted in the No Action Request, Best Buy may exclude the Shareholder Proposal under Rule 14a-8(f)(1) because the Proponent failed to substantiate its eligibility to submit the Shareholder Proposal under Rule 14a-8(b) *at the time the Shareholder Proposal was submitted* (the “Submission Date”). The Proponent initially submitted a proposal relating to an entirely different subject matter (namely, a director resignation policy) to Best Buy on November 13, 2022 (the “Moot Proposal”) and submitted an adequate proof of ownership letter for the Moot Proposal as of November 17, 2022. Despite being notified by the Company that the Shareholder Proposal was deficient for failure to provide proof of ownership as of the Submission Date, the Proponent re-submitted the same proof of ownership letter for the Shareholder Proposal (i.e., proof of ownership as of November 17, 2022 for a proposal submitted on December 28, 2022).

This is not a matter of precedent, as the Proponent posited in his Response Letter. Rather, the Proponent did not follow the clear procedural guidelines provided for in Rule 14a-8(b)(2)(ii)(A), which provides that to the extent a proponent proves his or her ownership of a registrant’s securities by submitting a written statement from the “record” holder of his or her securities – as was the case here – the letter must verify that, “*at the time [the proponent] submitted [his or her] proposal*, [the proponent] continuously held at least \$2,000, \$15,000 or \$25,000 in market value” for the applicable time period (emphasis added). It is unambiguous in Rule 14a-8(b) that the requirements for proof of ownership must be satisfied through the date that a shareholder proposal is submitted. Because no proof of ownership was provided as of the Submission Date, the Proponent could have sold his Company shares between November 17 and December 28, 2022 and the Company would not know if the Proponent held shares for the month that elapsed between submission of the Moot Proposal and the superseding Shareholder Proposal. The Proponent failed to provide adequate proof ownership of Company shares as of the Submission Date, both when submitting the Shareholder Proposal itself and in response to Best Buy’s timely deficiency notice, and has therefore not demonstrated eligibility under Rule 14a-8 to submit the Shareholder Proposal. Accordingly, we ask that the Staff concur that Best Buy may exclude the Shareholder Proposal under Rule 14a-8(b) and Rule 14a-8(f)(1).

III. The Shareholder Proposal is vague and indefinite and may be excluded under Rule 14a-8(i)(3) and Rule 14a-9

The Proponent’s Response Letter conflates the arguments made in the No Action Request as contradicting each other by alleging that Best Buy “claims it has implemented a proposal that it does not understand.” There are two components to the Shareholder Proposal. The first sentence of the proposal contains what is effectively the resolution, *i.e.*, that shareholders request that the Board “permit removal of directors by a majority vote of shareholders or directors with

or without cause to the fullest extent possible.” In contrast, the second and third sentences of the Shareholder Proposal are effectively the supporting statement. It is not inconsistent to maintain that Best Buy has substantially implemented the proposed resolution of the Shareholder Proposal contained in its first sentence while remaining perplexed by the Proponent’s supporting statement in the second and third sentences. The Company understands that the Minnesota Statutes are clear when read in concert with Best Buy’s By-Laws.

The Shareholder Proposal is fundamentally misleading in suggesting that the Company’s By-Laws “can give job security to a director who clearly needs to be removed but the director insists with finding fault with credible evidence” and “can give job security to a director credibly accused of fraud or domestic violence with overwhelming evidence.” It is the references to “job security” that are misleading because Company directors may always be removed by shareholders, with or without cause, pursuant to the terms of the Company’s governing documents and Minnesota law. As the No Action Request explains, the Shareholder Proposal creates the misleading impression that director removal is contingent upon the presentation of evidence and the weight of that evidence. On the contrary, all Company directors are subject to removal by shareholders with or without cause (*i.e.*, even for no reason at all). If the shareholders wish to remove a director for any reason, the director cannot block that removal by “finding fault with credible evidence.”

The Company’s present organizational documents do not in fact provide for absolute “job security” for directors. The Shareholder Proposal suggests, without any basis, that the removal of a director requires a weighing of evidence that can entrench a director that has been accused of crimes or immoral behavior. The Shareholder Proposal is vague and misleading and may be excluded under Rule 14a-8(i)(3) and Rule 14a-9.

IV. Conclusion

For the reasons discussed above, the Company respectfully reiterates its request that the Staff express its intention not to recommend enforcement action if the Shareholder Proposal is excluded from the Company’s 2023 Proxy Materials in reliance on Rule 14a-8(i)(10), Rule 14a-8(b), Rule 14a-8(f)(1), Rule 14a-8(i)(3), and Rule 14a-9.

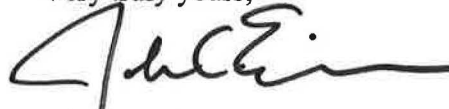
If the Staff disagrees with the Company’s conclusions regarding omission of the Shareholder Proposal, or if any additional submissions are desired in support of the Company’s position, we would appreciate an opportunity to speak with you by telephone prior to the issuance of the Staff’s Rule 14a-8(j) response.

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission

-6-

If you have any questions regarding this request, or need any additional information, please do not hesitate to contact the undersigned at (212) 455-3520 or jericson@stblaw.com.

Very truly yours,



John C. Ericson

Enclosures

cc: Todd G. Hartman, Best Buy Co., Inc.
John Chevedden

Exhibit A

Copy of Proponent's Response Letter and Accompanying Correspondence

From: John Chevedden <[REDACTED]>
Sent: Tuesday, January 31, 2023 3:15:21 PM
To: Office of Chief Counsel <[REDACTED]>
Cc: Hartman, Todd <[REDACTED]>
Subject: [CAUTION! EXTERNAL] # 1 Counterpoint to No Action Request `(BBY)

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Slow down, read carefully and look for signs that it may be a phish. If you think it's malicious, click the report phish button or forward this email to [REDACTED].

1 Counterpoint to No Action Request `(BBY)

Ladies and Gentlemen,
Please see the attached counterpoint to the no action request.

Sincerely,
John Chevedden

January 31, 2023

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

1 Rule 14a-8 Proposal
Best Buy Co., Inc. (BBY)
Shareholder Right to Remove Directors without Cause
John Chevedden

Ladies and Gentlemen:

This is a counterpoint to the January 31, 2023 no-action request.

Management contradicts itself. Management claims it has implemented a proposal that it does not understand. Thus the 2 management claims cancel each other out.

“To the fullest extent possible” in the resolved statement means a request to close any gap in the current governing documents compared to the proposal.

There is a gap per page 5 of last year’s no action request (February 4, 2022) per the attachment.

Management provided no precedent of a proposal, submitted in one month and revised in the following month, triggering a requirement for 2 broker letters.

Sincerely,


John Chevedden

cc: Todd Hartman

[BBY – Rule 14a-8 Proposal, December 5, 2022| Revised December 28, 2022]

[This line and any line above it is not for publication.]

Proposal 4 –Shareholder Right to Remove Directors without Cause

Shareholders ask our Board of Directors to take the steps necessary to permit removal of directors by a majority vote of shareholders or directors with or without cause to the fullest extent possible.

Our present rule can give job security to a director who clearly needs to be removed but the director insists with finding fault with credible evidence.

Our present rule can give job security to a director credibly accused of fraud or domestic violence with overwhelming evidence.

Please vote yes:

Shareholder Right to Remove Directors without Cause – Proposal 4

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

After a director has been elected by the shareholders (whether or not the director was initially appointed by a majority of the remaining directors to fill a vacancy), the director may be removed at any time by the shareholders in accordance with Minnesota law and consistent with the Shareholder Proposal. Although the By-Laws do not permit a director who has been elected by the shareholders to be removed without cause by the remaining directors, the Company believes that permitting removal by the remaining directors without cause under those circumstances would detract from the authority of the Company's shareholders to elect directors and remove them with or without cause and would be inconsistent with the intent of the Shareholder Proposal.

Not supported

Not supported

Not supported

February 12, 2023

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

3 Rule 14a-8 Proposal
Best Buy Co., Inc. (BBY)
Shareholder Right to Remove Directors without Cause
John Chevedden

Ladies and Gentlemen:

This is a counterpoint to the January 31, 2023 no-action request.

“To the fullest extent possible” in the resolved statement means a request to close any gap in the current governing documents compared to the proposal.

There is a gap per page 5 of last year’s no action request (February 4, 2022) per the attachment.

It can be a benefit to shareholders to give the Board the ability to remove a director elected by shareholders if there is sudden evidence that the director is no longer qualified.

Management admits that there is gap between the proposal and the current rule at the company. Management laughably claims it is sticking up for shareholder rights in its misplaced zeal to not let shareholders have a say in regard to this proposal.

This management February 10, 2023 page 3 sentence admits that management knows what this rule 14a-8 proposal calls for and that the current company rules fall short of the proposal (emphasis added):

“However, by increasing the power of the remaining directors to remove a director, the Shareholder Proposal potentially diminishes the authority of shareholders to determine the composition of the Board, even though the Shareholder Proposal requests that shareholders also have the authority to remove directors ‘to the fullest extent possible.’ ”

This proposal is in the best interest of shareholders because when there is sudden evidence that a director is no longer qualified, the board can act much faster than shareholders to remove the director.

Management wants to establish a new precedent that when a proposal is timely revised that 2 broker letters would be required. In other words there would be a penalty for potentially improving a rule 14a-8 proposal. The proponent could have sold his shares even if he did not submit a revision. A revision does not cancel the proponent’s pledge to hold the stock until after the 2023 annual meeting.

Sincerely,


John Chevedden

cc: Todd Hartman

After a director has been elected by the shareholders (whether or not the director was initially appointed by a majority of the remaining directors to fill a vacancy), the director may be removed at any time by the shareholders in accordance with Minnesota law and consistent with the Shareholder Proposal. Although the By-Laws do not permit a director who has been elected by the shareholders to be removed without cause by the remaining directors, the Company believes that permitting removal by the remaining directors without cause under those circumstances would detract from the authority of the Company's shareholders to elect directors and remove them with or without cause and would be inconsistent with the intent of the Shareholder Proposal.

Not supported

Not supported

Not supported

Simpson Thacher & Bartlett LLP

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FACSIMILE: +1-212-455-2502

Direct Dial Number
+1 (212) 455-3520

E-mail Address
jericsn@stblaw.com

VIA E-MAIL

February 22, 2023

Re: **Best Buy Co., Inc. – 2023 Annual Meeting of Shareholders, Omission of Shareholder Proposal Submitted by John Chevedden; Securities Exchange Act of 1934, Section 14(a); Rule 14a-8**

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

Ladies and Gentlemen:

We are filing this letter on behalf of Best Buy Co., Inc., a Minnesota corporation (“Best Buy” or the “Company”), with respect to the shareholder proposal and supporting statement (together, the “Shareholder Proposal”) submitted by Mr. John Chevedden (the “Proponent”) in a letter dated December 28, 2022 for inclusion in the proxy statement and form of proxy to be distributed by the Company in connection with its 2023 Annual Meeting of Shareholders (the “2023 Proxy Materials”). The Shareholder Proposal requested that the Board of Directors of the Company (the “Board”) “take the steps necessary to permit removal of directors by a majority vote of shareholders or directors with or without cause to the fullest extent possible.”

On January 31, 2023, we submitted a letter (the “No Action Request”) to the Staff (the “Staff”) of the Division of Corporation Finance of the Securities and Exchange Commission (the “Commission”) requesting that the Staff not recommend any enforcement action against the Company if it omits the Shareholder Proposal in its entirety from the 2023 Proxy Materials. The No Action Request indicated the Company’s belief that the Shareholder Proposal could be excluded from the 2023 Proxy Materials in reliance on:

- Rule 14a-8(i)(10) because the Company has substantially implemented the Shareholder Proposal;

- Rule 14a-8(b) and Rule 14a-8(f)(1) because the Proponent failed to provide the requisite proof of continuous share ownership in response to the Company's proper request for such information; and
- Rule 14a-8(i)(3) and Rule 14a-9 because the Shareholder Proposal is vague and indefinite, rendering the Shareholder Proposal in violation of the proxy rules.

On January 31, 2023, the Proponent submitted a letter to the Staff responding to the No Action Request (the "Proponent's Response Letter"). The Proponent's Response Letter and accompanying correspondence from the Proponent is attached as Exhibit A hereto. On February 10, 2023, Best Buy submitted a letter to the Staff responding to the Proponent's Response Letter (the "Company's Response Letter"). The Company's Response Letter is attached as Exhibit B hereto. On February 12, 2023, the Proponent submitted a letter to the Staff responding to the Company's Response Letter (the "Proponent's Second Response Letter"). The Proponent's Second Response Letter and accompanying correspondence from the Proponent is attached as Exhibit C hereto.

The Company wishes to respond to certain of the assertions made in the Proponent's Second Response Letter and expand upon some of the reasons that the Company believes that it may omit the Shareholder Proposal in its entirety from the 2023 Proxy Materials pursuant to the rules set forth above.

Pursuant to Rule 14a-8(j) under the Exchange Act, we are simultaneously providing the Proponent with a copy of this submission. The Company will promptly forward to the Proponent any response received from the Staff to this request that the Staff transmits by email or fax only to the Company.

I. The Shareholder Proposal was the second proposal submitted by the Proponent and should be excluded for failure to provide requisite proof of continuous share ownership, in direct contravention of Rule 14a-8(b)

As discussed in the No Action Request and the Company's Response Letter, Best Buy may exclude the Shareholder Proposal under Rule 14a-8(f)(1) because the Proponent failed to substantiate its eligibility to submit the Shareholder Proposal under Rule 14a-8(b) *at the time the Shareholder Proposal was submitted* (the "Submission Date"). The Proponent's Second Response Letter argues that the Shareholder Proposal was a revised version of the initial proposal submitted to Best Buy on November 13, 2022 (the "Moot Proposal"), when in fact the Shareholder Proposal and the Moot Proposal were separate proposals relating to entirely different subject matters. The Moot Proposal pertained to a director resignation policy, whereas

the Shareholder Proposal relates to the removal of directors. In compliance with Rule 14a-8(f), on December 30, 2022, Best Buy notified the Proponent of the Shareholder Proposal's procedural deficiencies (the "Second Deficiency Notice," attached hereto as Exhibit D). In the Second Deficiency Notice in the section titled "Invalid Number of Proposals," the Company asked the Proponent, in light of Rule 14a-8(c), to "[p]lease advise ... as to which proposal—the First Proposal or the Second Proposal—is operative." In the Second Deficiency Notice, the Company further clarified that "[a]lthough we previously received proof of ownership for the First Proposal, the Company hereby requests that you re-submit sufficient proof of continuous ownership of the Company's Common Stock, as required under Rule 14a-8(b), for the proposal submitted on December 28, 2022." In response to the Second Deficiency Notice, the Proponent confirmed that the Shareholder Proposal is operative (as opposed to the Moot Proposal), stating that "[t]he revision is the one proposal for 2023." See Exhibit D.

Although the Proponent refers to the Shareholder Proposal as "[t]he revision," nothing about the Shareholder Proposal is merely "revised" from the Moot Proposal; rather, they are completely distinct proposals pertaining to different areas of corporate governance. If the Shareholder Proposal were simply a revised version of the Moot Proposal, Best Buy would not have needed guidance from the Proponent as to which proposal was operative—it would have been clear that the second proposal was a corrected or amended version of the Moot Proposal. However, in the instant case, the Moot Proposal was an entirely different proposal regarding a director resignation policy. The Proponent did not "improv[e]" the Moot Proposal, as alleged in the Proponent's Second Response Letter but rather submitted a new proposal with a new premise (*i.e.*, removal of directors). As noted in the Company's Response Letter, because no proof of ownership was provided as of the Submission Date, the Proponent could have circumvented the requirements of Rule 14a-8(b)(2)(ii)(A) by selling his Company shares between November 17 and December 28, 2022 and the Company would not know if the Proponent held shares for the month that elapsed between submission of the Moot Proposal and the superseding Shareholder Proposal. The Proponent submitted two separate proposals with entirely different subject matters and failed to submit requisite proof of continuous share ownership as of the Submission Date for the second proposal, the Shareholder Proposal, in direct contravention of Rule 14a-8(b).

II. The Company has substantially implemented the Shareholder Proposal, and it may be excluded under Rule 14a-8(i)(10)

As discussed in the No Action Request and the Company's Response Letter, Best Buy's Amended and Restated By-Laws (the "By-Laws") substantially implement the Shareholder Proposal, and the Shareholder Proposal may be excluded from the Company's 2023 Proxy Materials under Rule 14a-8(i)(10). As set forth in the No Action Request and the Company's Response Letter, the By-Laws, through their reference to Chapter 302A of the Minnesota Statutes, already allow for director removal by the affirmative vote of a majority of shareholders

with or without cause. Similarly, the By-Laws provide for director removal by the affirmative vote of a majority of directors with cause, and also provide for director removal without cause when the shareholders have yet to vote on a director. In the Proponent's Second Response Letter, the Proponent states that "[t]he proposal is in the best interest of shareholders because when there is sudden evidence that a director is no longer qualified, the board can act much faster than shareholders to remove the director." The By-Laws, however, already allow for director removal by affirmative vote of a majority of directors with cause in such a situation where there is evidence to remove a director. The By-Laws only limit remaining directors from removing a director *without cause* where that director has been elected by the shareholders, who always have the authority to remove directors with or without cause.

As the Proponent knows, the Staff determined on April 22, 2022 to concur in the omission of the very similar proposal submitted by the Proponent for the Company's 2022 Annual Meeting of Shareholders on the grounds that the Company's policies, procedures and practices had substantially implemented the proposal, and the Company continues to believe that the same rationale applies to this immaterially revised proposal.

III. Conclusion

For the reasons discussed above and in the No Action Request and the Company's Response Letter, the Company respectfully reiterates its request that the Staff express its intention not to recommend enforcement action if the Shareholder Proposal is excluded from the Company's 2023 Proxy Materials in reliance on Rule 14a-8(i)(10), Rule 14a-8(b), Rule 14a-8(f)(1), Rule 14a-8(i)(3) and Rule 14a-9.

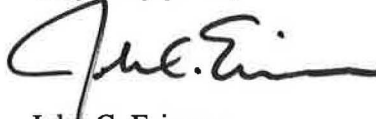
If the Staff disagrees with the Company's conclusions regarding omission of the Shareholder Proposal, or if any additional submissions are desired in support of the Company's position, we would appreciate an opportunity to speak with you by telephone prior to the issuance of the Staff's Rule 14a-8(j) response.

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission

-5-

If you have any questions regarding this request, or need any additional information, please do not hesitate to contact the undersigned at (212) 455-3520 or jericson@stblaw.com.

Very truly yours,



John C. Ericson

Enclosures

cc: Todd G. Hartman, Best Buy Co., Inc.
John Chevedden

Exhibit A

Copy of Proponent's Response Letter and Accompanying Correspondence

From: John Chevedden <[REDACTED]>
Sent: Tuesday, January 31, 2023 3:15:21 PM
To: Office of Chief Counsel <[REDACTED]>
Cc: Hartman, Todd <[REDACTED]>
Subject: [CAUTION! EXTERNAL] # 1 Counterpoint to No Action Request `(BBY)

 **This message is from an external sender and could be a phish.** 

Slow down, read carefully and look for signs that it may be a phish. If you think it's malicious, click the report phish button or forward this email to [REDACTED].

1 Counterpoint to No Action Request `(BBY)

Ladies and Gentlemen,
Please see the attached counterpoint to the no action request.

Sincerely,
John Chevedden

January 31, 2023

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

1 Rule 14a-8 Proposal
Best Buy Co., Inc. (BBY)
Shareholder Right to Remove Directors without Cause
John Chevedden

Ladies and Gentlemen:

This is a counterpoint to the January 31, 2023 no-action request.

Management contradicts itself. Management claims it has implemented a proposal that it does not understand. Thus the 2 management claims cancel each other out.

“To the fullest extent possible” in the resolved statement means a request to close any gap in the current governing documents compared to the proposal.

There is a gap per page 5 of last year’s no action request (February 4, 2022) per the attachment.

Management provided no precedent of a proposal, submitted in one month and revised in the following month, triggering a requirement for 2 broker letters.

Sincerely,


John Chevedden

cc: Todd Hartman

[BBY – Rule 14a-8 Proposal, December 5, 2022| Revised December 28, 2022]

[This line and any line above it is not for publication.]

Proposal 4 –Shareholder Right to Remove Directors without Cause

Shareholders ask our Board of Directors to take the steps necessary to permit removal of directors by a majority vote of shareholders or directors with or without cause to the fullest extent possible.

Our present rule can give job security to a director who clearly needs to be removed but the director insists with finding fault with credible evidence.

Our present rule can give job security to a director credibly accused of fraud or domestic violence with overwhelming evidence.

Please vote yes:

Shareholder Right to Remove Directors without Cause – Proposal 4

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

After a director has been elected by the shareholders (whether or not the director was initially appointed by a majority of the remaining directors to fill a vacancy), the director may be removed at any time by the shareholders in accordance with Minnesota law and consistent with the Shareholder Proposal. Although the By-Laws do not permit a director who has been elected by the shareholders to be removed without cause by the remaining directors, the Company believes that permitting removal by the remaining directors without cause under those circumstances would detract from the authority of the Company's shareholders to elect directors and remove them with or without cause and would be inconsistent with the intent of the Shareholder Proposal.

Not supported

Not supported

Not supported

Exhibit B

Copy of the Company's Response Letter

Simpson Thacher & Bartlett LLP

425 LEXINGTON AVENUE
NEW YORK, NY 10017-3954

TELEPHONE: [REDACTED]

FACSIMILE: [REDACTED]

Direct Dial Number
[REDACTED]

E-mail Address
[REDACTED]

VIA E-MAIL

February 10, 2023

Re: **Best Buy Co., Inc. – 2023 Annual Meeting of Shareholders, Omission of Shareholder Proposal Submitted by John Chevedden; Securities Exchange Act of 1934, Section 14(a); Rule 14a-8**

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

Ladies and Gentlemen:

We are filing this letter on behalf of Best Buy Co., Inc., a Minnesota corporation (“Best Buy” or the “Company”), with respect to the shareholder proposal and supporting statement (together, the “Shareholder Proposal”) submitted by Mr. John Chevedden (the “Proponent”) in a letter dated December 28, 2022 for inclusion in the proxy statement and form of proxy to be distributed by the Company in connection with its 2023 Annual Meeting of Shareholders (the “2023 Proxy Materials”). The Shareholder Proposal requested that the Board of Directors of the Company (the “Board”) “take the steps necessary to permit removal of directors by a majority vote of shareholders or directors with or without cause to the fullest extent possible.”

On January 31, 2023, we submitted a letter (the “No Action Request”) to the Staff (the “Staff”) of the Division of Corporation Finance of the Securities and Exchange Commission (the “Commission”) requesting that the Staff not recommend any enforcement action against the Company if it omits the Shareholder Proposal in its entirety from the 2023 Proxy Materials. The No Action Request indicated the Company’s belief that the Shareholder Proposal could be excluded from the 2023 Proxy Materials in reliance on:

- Rule 14a-8(i)(10) because the Company has substantially implemented the Shareholder Proposal;

- Rule 14a-8(b) and Rule 14a-8(f)(1) because the Proponent failed to provide the requisite proof of continuous share ownership in response to the Company's proper request for such information; and
- Rule 14a-8(i)(3) and Rule 14a-9 because the Shareholder Proposal is vague and indefinite, rendering the Shareholder Proposal in violation of the proxy rules.

On January 31, 2023, the Proponent submitted a letter to the Staff responding to the No Action Request (the "Proponent's Response Letter"). The Proponent's Response Letter and accompanying correspondence from the Proponent is attached as Exhibit A hereto.

The Company wishes to respond to certain of the assertions made in the Proponent's Response Letter and reiterate and expand upon some of the reasons that the Company believes that it may omit the Shareholder Proposal in its entirety from the 2023 Proxy Materials pursuant to the rules set forth above.

Pursuant to Rule 14a-8(j) under the Exchange Act, we are simultaneously providing the Proponent with a copy of this submission. The Company will promptly forward to the Proponent any response received from the Staff to this request that the Staff transmits by email or fax only to the Company.

I. The Company has substantially implemented the Shareholder Proposal and the inclusion of the clause "to the fullest extent possible" in the Shareholder Proposal does not cast doubt upon this conclusion

As noted in the No Action Request, Rule 14a-8(i)(10) permits a company to exclude a shareholder proposal from its proxy materials if the company has substantially implemented the proposal. When a company can demonstrate that it already has taken actions to address the underlying concerns and essential objectives of a shareholder proposal, the Staff has consistently concurred that the proposal has been "substantially implemented" and may be excluded. First, Best Buy's Amended and Restated By-Laws (the "By-Laws") provide for the shareholder protection being sought, *i.e.*, the removal of directors by shareholders at any time with or without cause. Second, the No Action Request explains that the By-Laws, through their reference to Chapter 302A of the Minnesota Statutes, also provide that a director may be removed with or without cause by a majority of the remaining directors if that director was named by the board of directors to fill a vacancy and the shareholders have not elected directors between the time of that appointment and the removal of the director. That is, during any period between the appointment of a director to fill a vacancy and an election of directors by the shareholders, the remaining directors can remove a director for any reason, whether for misconduct or otherwise.

This enables the remaining directors to remove a director when it is in the interest of the Company not to wait until a shareholder meeting to do so. In any other circumstance, shareholders can simply remove a director, with or without cause, including pursuant to a special meeting of shareholders called in accordance with the By-Laws. To the extent the Shareholder Proposal seeks to empower shareholders to remove directors with or without cause, the By-Laws already grant shareholders that power, and the Shareholder Proposal is excludable under Rule 14a-8(i)(10) because it has been substantially implemented.

The Proponent's Response Letter argues that because the By-Laws do not permit the remaining directors to remove a director in every circumstance (*i.e.*, when that director has been elected by the shareholders), there is a "gap" between the Company's organizational documents and the Shareholder Proposal to permit removal of directors by a majority of shareholders or directors with or without cause "to the fullest extent possible." However, by increasing the power of the remaining directors to remove a director, the Shareholder Proposal potentially diminishes the authority of shareholders to determine the composition of the Board, even though the Shareholder Proposal requests that shareholders also have the authority to remove directors "to the fullest extent possible." It is unclear how the Shareholder Proposal is to be implemented without fundamentally altering the rights of shareholders to elect and remove directors. On its face, the Shareholder Proposal would appear to enable the remaining directors to remove a director, for no reason at all, promptly after the shareholders have elected that director. In its extreme, this aspect of the Shareholder Proposal appears to interfere with the Shareholder Proposal's request that shareholders themselves have the power to remove directors. Ironically, the Shareholder Proposal is entitled "Shareholder Right to Remove Directors without Cause," a right that the Company's shareholders already enjoy, while the Proponent seeks to further empower directors, potentially at the expense of shareholders themselves.

As the Proponent knows, the Staff determined on April 22, 2022 to concur in the omission of the very similar proposal submitted by the Proponent for the Company's 2022 Annual Meeting of Shareholders on the grounds that the Company's policies, procedures and practices had substantially implemented the proposal. The Shareholder Proposal seeks to escape a similar conclusion by adding the phrase "to the fullest extent possible," but as described in the No Action Request, it has been the Staff's longstanding policy that a company need not take the exact action requested and may exercise discretion in implementation without losing the right to exclude the proposal. If it were possible to avoid a conclusion that a shareholder proposal had been substantially implemented simply by adding the phrase "to the fullest extent possible," then Rule 14a-8(i)(10) would be rendered meaningless, sweeping away years of no action precedent. The addition of the clause "to the fullest extent possible" to the Shareholder Proposal, therefore, should not tip the scale in favor of reconsidering this position.

II. The Proponent failed to provide requisite proof of continuous share ownership, in direct contravention of Rule 14a-8(b)

As noted in the No Action Request, Best Buy may exclude the Shareholder Proposal under Rule 14a-8(f)(1) because the Proponent failed to substantiate its eligibility to submit the Shareholder Proposal under Rule 14a-8(b) *at the time the Shareholder Proposal was submitted* (the “Submission Date”). The Proponent initially submitted a proposal relating to an entirely different subject matter (namely, a director resignation policy) to Best Buy on November 13, 2022 (the “Moot Proposal”) and submitted an adequate proof of ownership letter for the Moot Proposal as of November 17, 2022. Despite being notified by the Company that the Shareholder Proposal was deficient for failure to provide proof of ownership as of the Submission Date, the Proponent re-submitted the same proof of ownership letter for the Shareholder Proposal (i.e., proof of ownership as of November 17, 2022 for a proposal submitted on December 28, 2022).

This is not a matter of precedent, as the Proponent posited in his Response Letter. Rather, the Proponent did not follow the clear procedural guidelines provided for in Rule 14a-8(b)(2)(ii)(A), which provides that to the extent a proponent proves his or her ownership of a registrant’s securities by submitting a written statement from the “record” holder of his or her securities – as was the case here – the letter must verify that, “*at the time [the proponent] submitted [his or her] proposal*, [the proponent] continuously held at least \$2,000, \$15,000 or \$25,000 in market value” for the applicable time period (emphasis added). It is unambiguous in Rule 14a-8(b) that the requirements for proof of ownership must be satisfied through the date that a shareholder proposal is submitted. Because no proof of ownership was provided as of the Submission Date, the Proponent could have sold his Company shares between November 17 and December 28, 2022 and the Company would not know if the Proponent held shares for the month that elapsed between submission of the Moot Proposal and the superseding Shareholder Proposal. The Proponent failed to provide adequate proof ownership of Company shares as of the Submission Date, both when submitting the Shareholder Proposal itself and in response to Best Buy’s timely deficiency notice, and has therefore not demonstrated eligibility under Rule 14a-8 to submit the Shareholder Proposal. Accordingly, we ask that the Staff concur that Best Buy may exclude the Shareholder Proposal under Rule 14a-8(b) and Rule 14a-8(f)(1).

III. The Shareholder Proposal is vague and indefinite and may be excluded under Rule 14a-8(i)(3) and Rule 14a-9

The Proponent’s Response Letter conflates the arguments made in the No Action Request as contradicting each other by alleging that Best Buy “claims it has implemented a proposal that it does not understand.” There are two components to the Shareholder Proposal. The first sentence of the proposal contains what is effectively the resolution, *i.e.*, that shareholders request that the Board “permit removal of directors by a majority vote of shareholders or directors with

or without cause to the fullest extent possible.” In contrast, the second and third sentences of the Shareholder Proposal are effectively the supporting statement. It is not inconsistent to maintain that Best Buy has substantially implemented the proposed resolution of the Shareholder Proposal contained in its first sentence while remaining perplexed by the Proponent’s supporting statement in the second and third sentences. The Company understands that the Minnesota Statutes are clear when read in concert with Best Buy’s By-Laws.

The Shareholder Proposal is fundamentally misleading in suggesting that the Company’s By-Laws “can give job security to a director who clearly needs to be removed but the director insists with finding fault with credible evidence” and “can give job security to a director credibly accused of fraud or domestic violence with overwhelming evidence.” It is the references to “job security” that are misleading because Company directors may always be removed by shareholders, with or without cause, pursuant to the terms of the Company’s governing documents and Minnesota law. As the No Action Request explains, the Shareholder Proposal creates the misleading impression that director removal is contingent upon the presentation of evidence and the weight of that evidence. On the contrary, all Company directors are subject to removal by shareholders with or without cause (*i.e.*, even for no reason at all). If the shareholders wish to remove a director for any reason, the director cannot block that removal by “finding fault with credible evidence.”

The Company’s present organizational documents do not in fact provide for absolute “job security” for directors. The Shareholder Proposal suggests, without any basis, that the removal of a director requires a weighing of evidence that can entrench a director that has been accused of crimes or immoral behavior. The Shareholder Proposal is vague and misleading and may be excluded under Rule 14a-8(i)(3) and Rule 14a-9.

IV. Conclusion

For the reasons discussed above, the Company respectfully reiterates its request that the Staff express its intention not to recommend enforcement action if the Shareholder Proposal is excluded from the Company’s 2023 Proxy Materials in reliance on Rule 14a-8(i)(10), Rule 14a-8(b), Rule 14a-8(f)(1), Rule 14a-8(i)(3), and Rule 14a-9.

If the Staff disagrees with the Company’s conclusions regarding omission of the Shareholder Proposal, or if any additional submissions are desired in support of the Company’s position, we would appreciate an opportunity to speak with you by telephone prior to the issuance of the Staff’s Rule 14a-8(j) response.

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission

-6-

If you have any questions regarding this request, or need any additional information, please do not hesitate to contact the undersigned at [REDACTED] or [REDACTED].

Very truly yours,

[REDACTED]

John C. Ericson

Enclosures

cc: Todd G. Hartman, Best Buy Co., Inc.
John Chevedden

Exhibit A

Copy of Proponent's Response Letter and Accompanying Correspondence

From: John Chevedden <[REDACTED]>
Sent: Tuesday, January 31, 2023 3:15:21 PM
To: Office of Chief Counsel <[REDACTED]>
Cc: Hartman, Todd <[REDACTED]>
Subject: [CAUTION! EXTERNAL] # 1 Counterpoint to No Action Request `(BBY)

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Slow down, read carefully and look for signs that it may be a phish. If you think it's malicious, click the report phish button or forward this email to [REDACTED].

1 Counterpoint to No Action Request `(BBY)

Ladies and Gentlemen,
Please see the attached counterpoint to the no action request.

Sincerely,
John Chevedden

JOHN CHEVEDDEN

January 31, 2023

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

1 Rule 14a-8 Proposal
Best Buy Co., Inc. (BBY)
Shareholder Right to Remove Directors without Cause
John Chevedden

Ladies and Gentlemen:

This is a counterpoint to the January 31, 2023 no-action request.

Management contradicts itself. Management claims it has implemented a proposal that it does not understand. Thus the 2 management claims cancel each other out.

“To the fullest extent possible” in the resolved statement means a request to close any gap in the current governing documents compared to the proposal.

There is a gap per page 5 of last year’s no action request (February 4, 2022) per the attachment.

Management provided no precedent of a proposal, submitted in one month and revised in the following month, triggering a requirement for 2 broker letters.

Sincerely,


John Chevedden

cc: Todd Hartman

[BBY – Rule 14a-8 Proposal, December 5, 2022| Revised December 28, 2022]

[This line and any line above it is not for publication.]

Proposal 4 –Shareholder Right to Remove Directors without Cause

Shareholders ask our Board of Directors to take the steps necessary to permit removal of directors by a majority vote of shareholders or directors with or without cause to the fullest extent possible.

Our present rule can give job security to a director who clearly needs to be removed but the director insists with finding fault with credible evidence.

Our present rule can give job security to a director credibly accused of fraud or domestic violence with overwhelming evidence.

Please vote yes:

Shareholder Right to Remove Directors without Cause – Proposal 4

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

After a director has been elected by the shareholders (whether or not the director was initially appointed by a majority of the remaining directors to fill a vacancy), the director may be removed at any time by the shareholders in accordance with Minnesota law and consistent with the Shareholder Proposal. Although the By-Laws do not permit a director who has been elected by the shareholders to be removed without cause by the remaining directors, the Company believes that permitting removal by the remaining directors without cause under those circumstances would detract from the authority of the Company's shareholders to elect directors and remove them with or without cause and would be inconsistent with the intent of the Shareholder Proposal.

Not supported

Not supported

Not supported

Exhibit C

Copy of Proponent's Second Response Letter and Accompanying Correspondence

From: John Chevedden <[REDACTED]>
Sent: Sunday, February 12, 2023 8:22 PM
To: Office of Chief Counsel <[REDACTED]>
Cc: Hartman, Todd <[REDACTED]>
Subject: [CAUTION! EXTERNAL] # 3 Counterpoint to No Action Request `(BBY)

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3 Counterpoint to No Action Request `(BBY)

Ladies and Gentlemen,
Please see the attached counterpoint to the no action request

Sincerely,
John Chevedden

February 12, 2023

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

3 Rule 14a-8 Proposal
Best Buy Co., Inc. (BBY)
Shareholder Right to Remove Directors without Cause
John Chevedden

Ladies and Gentlemen:

This is a counterpoint to the January 31, 2023 no-action request.

“To the fullest extent possible” in the resolved statement means a request to close any gap in the current governing documents compared to the proposal.

There is a gap per page 5 of last year’s no action request (February 4, 2022) per the attachment.

It can be a benefit to shareholders to give the Board the ability to remove a director elected by shareholders if there is sudden evidence that the director is no longer qualified.

Management admits that there is gap between the proposal and the current rule at the company. Management laughably claims it is sticking up for shareholder rights in its misplaced zeal to not let shareholders have a say in regard to this proposal.

This management February 10, 2023 page 3 sentence admits that management knows what this rule 14a-8 proposal calls for and that the current company rules fall short of the proposal (emphasis added):

“However, by increasing the power of the remaining directors to remove a director, the Shareholder Proposal potentially diminishes the authority of shareholders to determine the composition of the Board, even though the Shareholder Proposal requests that shareholders also have the authority to remove directors ‘to the fullest extent possible.’ ”

This proposal is in the best interest of shareholders because when there is sudden evidence that a director is no longer qualified, the board can act much faster than shareholders to remove the director.

Management wants to establish a new precedent that when a proposal is timely revised that 2 broker letters would be required. In other words there would be a penalty for potentially improving a rule 14a-8 proposal. The proponent could have sold his shares even if he did not submit a revision. A revision does not cancel the proponent’s pledge to hold the stock until after the 2023 annual meeting.

Sincerely,

[REDACTED]
John Chevedden

cc: Todd Hartman

After a director has been elected by the shareholders (whether or not the director was initially appointed by a majority of the remaining directors to fill a vacancy), the director may be removed at any time by the shareholders in accordance with Minnesota law and consistent with the Shareholder Proposal. Although the By-Laws do not permit a director who has been elected by the shareholders to be removed without cause by the remaining directors, the Company believes that permitting removal by the remaining directors without cause under those circumstances would detract from the authority of the Company's shareholders to elect directors and remove them with or without cause and would be inconsistent with the intent of the Shareholder Proposal.

Not supported

Not supported

Not supported

Exhibit D


Copy of Second Deficiency Notice and Related Correspondence

From: Olson, Hannah <[REDACTED]>
Sent: Friday, December 30, 2022 5:03 PM
To: John Chevedden
Cc: Hartman, Todd; Crist, Jodie; Johnson, Paige; Rizzo, Marina
Subject: RE: [CAUTION! EXTERNAL] Rule 14a-8 Proposal (BBY) REVISIED
Attachments: 2022.12.30 Notice Letter Chevedden (Second Submission)v2.pdf

Mr. Chevedden,

Please find our response attached.

[Hannah G. Olson](#) | Senior Corporate Counsel, Corporate & Securities
[REDACTED] | [REDACTED]

BEST BUY  Let's talk about what's possible.
Be human. Make it real. Think about tomorrow.

From: John Chevedden <[REDACTED]>
Sent: Wednesday, December 28, 2022 7:47 PM
To: Hartman, Todd <[REDACTED]>; Olson, Hannah <[REDACTED]>; Crist, Jodie <[REDACTED]>; Johnson, Paige <[REDACTED]>; Eric Halverson <[REDACTED]>; moneytalk <[REDACTED]>
Subject: [CAUTION! EXTERNAL] Rule 14a-8 Proposal (BBY) REVISIED

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Slow down, read carefully and look for signs that it may be a phish. If you think it's malicious, click the report phish button or forward this email to [REDACTED].

Rule 14a-8 Proposal (BBY) REVISIED

Dear Mr. Hartman,
Please see the attached rule 14a-8 proposal.
John Chevedden



Mr. John Chevedden
[REDACTED]
[REDACTED]

Via email to [REDACTED]

RE: Second Shareholder Proposal to Best Buy Co., Inc. for 2023 Annual Meeting

December 30, 2022

Dear Mr. Chevedden:

I am writing on behalf of Best Buy Co., Inc. (the “Company”) in response to the correspondence from you, dated December 28, 2022, which was received by the Company on December 28, 2022, and contained a shareholder proposal entitled “Shareholder Right to Remove Directors Without Cause” (the “Second Proposal”). You noted that this submission was a revision to the proposal you sent on November 12, 2022, which was received by the Company on November 13, 2022, and contained a shareholder proposal entitled, “Improve Directors Elected by Majority Vote” (the “First Proposal”). The correspondence states that the Second Proposal is submitted for inclusion in the Company’s upcoming proxy statement and consideration at the Company’s next Regular Meeting of Shareholders.

Please note that the Second Proposal (i.e., the one entitled “Shareholder Right to Remove Directors Without Cause”) is nearly identical to the proposal you submitted to the Company on December 5, 2021, which was excluded from last year’s proxy statement upon the concurrence of the Securities and Exchange Commission (the “SEC”), Division of Corporation Finance, under Rule 14a-8(i)(10).¹

Invalid Number of Proposals

Rule 14a-8(c) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), provides that “[e]ach person may submit no more than one proposal, directly or indirectly, to a company for a particular shareholders’ meeting.” Please advise per the “Response Timing and Contact Information” section below as to which proposal—the First Proposal or the Second Proposal—is operative.

Proof of Ownership

Rule 14a-8(b) under the Exchange Act provides that a shareholder proponent must submit sufficient proof that the shareholder proponent has 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, immediately preceding and including the date the proposal was submitted to the Company.

¹ Please refer to the SEC’s response letter, dated April 22, 2022: <https://www.sec.gov/divisions/corpfin/cf-noaction/14a-8/2022/cheveddenbestbuy042222-14a8.pdf>.



The Company's records showing registered holders of the Company's Common Stock do not include you as a "record" holder.

Although we previously received proof of ownership for the First Proposal, the Company hereby requests that you re-submit sufficient proof of continuous ownership of the Company's Common Stock, as required under Rule 14a-8(b), for the proposal submitted on December 28, 2022. The Rule explains the forms in which proof of ownership may be provided:

(i) 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 through the date of the shareholders' meeting for which the proposal is submitted; or

(ii) The second way to prove ownership applies only if you have filed a Schedule 13D, Schedule 13G, Form 3, Form 4 and/or Form 5, or amendments to those documents or updated forms, reflecting your ownership of the shares as of or before the date on which the one-year eligibility period begins. If you have filed one of these documents with the SEC, you may demonstrate your eligibility by submitting to the company:

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

(B) Your written statement that you continuously held the required number of shares for the respective time period as of the date of the statement; and

(C) Your written statement that you intend to continue ownership of the shares through the date of the company's annual or special meeting.

To the extent that you obtain a proof of ownership letter from the "record" holder of your securities, such letter must verify continuous ownership of the requisite amount of securities for the relevant time period depending on your level of ownership, preceding and including the date the proposal was submitted to the Company, in order to cure this defect. Please note further that the Division of Corporation Finance of the Securities and Exchange Commission takes the position that, for purposes of Rule 14a-8(b)(2)(i), only securities intermediaries that are participants in The Depository Trust Company ("DTC"), or affiliates of DTC participants, are considered "record" holders of securities that are deposited at DTC. Accordingly, to the extent that shares of the Company held by you are deposited at and held through DTC, the proof of ownership letter that is obtained and provided must be from a DTC participant or an affiliate of a DTC participant in order to satisfy the proof of ownership requirements set forth in Rule 14a-8.



Written Statement Regarding Availability to Meet

In addition, Rule 14a-8(b)(1)(iii) under the Exchange Act provides that a shareholder proponent must provide the company with a written statement that he or she is able to meet with the company in person or via teleconference no less than 10 calendar days, nor more than 30 calendar days, after submission of the shareholder proposal. To be compliant, 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, identifying times that are within the regular business hours of the Company's principal executive offices. Pursuant to the Rule, if these hours are not disclosed in the company's proxy statement for the prior year's annual meeting, the proponent 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 it is your intention to revoke submission of the proposal entitled "Improve Directors Elected by Majority Vote" and submit the proposal entitled "Shareholder Right to Remove Directors Without Cause", the Company hereby requests that you submit proof of ownership and a written statement noting your availability to meet with us and times within regular business hours that you are available on or prior to January 27, 2023, 30 calendar days from submission of the Second Proposal.

Response Timing and Contact Information

Pursuant to Staff Legal Bulletin No. 14L, please reply to this e-mail to acknowledge receipt. With respect to the deficiencies identified herein, Rule 14a-8(f) requires that your response to this notification be postmarked or transmitted electronically, no later than 14 calendar days from the date you receive this notification. Please address any response to me at the address or facsimile number provided below.

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

[REDACTED]

Sincerely,

Hannah G. Olson
Senior Corporate Counsel & Assistant Secretary
Best Buy Co., Inc.

Cc: Todd Hartman, General Counsel & Secretary
Jodie Crist, Deputy General Counsel



§ 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](#).

From: John Chevedden <[REDACTED]>
Sent: Sunday, January 1, 2023 10:48 PM
To: Olson, Hannah; Hartman, Todd; Crist, Jodie
Subject: [CAUTION! EXTERNAL] (BBY)
Attachments: Scan2023-01-01_194731.pdf

• **This message is from an external sender and could be a phish.** •

Slow down, read carefully and look for signs that it may be a phish. If you think it's malicious, click the report phish button or forward this email to [REDACTED].

Dear Ms. Olson,
The revision is the one proposal for 2023.

Available for an off the record telephone meeting:

Jan 9 11:30 am PT
Jan 10 11:30 am PT

Please advise before the weekend.

John Chevedden
[REDACTED]

JOHN CHEVEDDEN

February 26, 2023

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

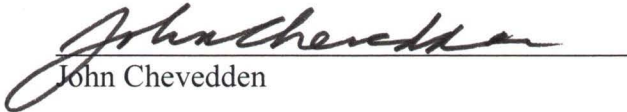
4 Rule 14a-8 Proposal
Best Buy Co., Inc. (BBY)
Shareholder Right to Remove Directors without Cause
John Chevedden

Ladies and Gentlemen:

This is a counterpoint to the January 31, 2023 no-action request.

Page 4 of the management February 22, 2023 letter claims in error that if the directors can remove a director for cause this implements proposal that requests that the directors have the power to remove a director without cause.

Sincerely,


John Chevedden

cc: Todd Hartman