



P.O. Box 2600
Valley Forge, PA 19482-2600

Via Electronic Submission

February 3, 2020

Vanessa A. Countryman
Secretary
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090

Attention: Procedural Requirements and Resubmission Thresholds Under Exchange Act Rule 14a-8 (File No. S7-23-19)

Dear Ms. Countryman:

The Vanguard Group, Inc. (Vanguard)¹ supports the Securities and Exchange Commission's (Commission) consideration of the procedural requirements that a shareholder must satisfy to include a proposal in a company's proxy statement under Rule 14a-8 of the Securities Exchange Act.² The proposed amendments generally modernize and improve Rule 14a-8's current framework by increasing the likelihood that the shareholder proposals included in company proxies will focus on long-term corporate value. We offer a recommendation that would further align Rule 14a-8 with shareholder value and provide access to company proxies in a manner that benefits all shareholders.³

We welcome the Commission's review of Rule 14a-8 and whether the \$2,000 and one-year holding period thresholds that were established more than two decades ago remain appropriate today. We share the Commission's concern that the current thresholds make Rule 14a-8 susceptible to overuse by shareholders with a short-term investment interest in a company, which can lead to the inclusion of proposals that have no realistic prospect of success and that may impose unnecessary costs on companies and their other

¹ Vanguard is one of the world's leading investment management companies, offering a diverse selection of low-cost investment products—including mutual funds and exchange-traded funds—advice and related services. As of December 31, 2019, we managed approximately \$6.2 trillion in assets globally on behalf of more than 30 million investors.

² *Procedural Requirements and Resubmission Thresholds Under Exchange Act Rule 14a-8*, 84 Fed. Reg. 66458 (December 4, 2019), available at <https://www.govinfo.gov/content/pkg/FR-2019-12-04/pdf/2019-24476.pdf> (Proposal).

³ Vanguard previously submitted recommendations addressing topics discussed at the SEC's November 2018 roundtable on the proxy process. See Letter from Anne Robinson, Managing Director and General Counsel, Vanguard, to Ms. Vanessa Countryman, Acting Secretary, SEC, dated September 20, 2019, available at www.sec.gov/comments/4-725/4725-6168191-192387.pdf.

shareholders. Accordingly, we agree that the Commission should modernize Rule 14a-8 to make the shareholder proposal process more effective and less costly.

A large and growing body of knowledge points to the positive relationship between good governance and good outcomes for shareholders. We believe that all shareholders deserve certain rights as owners of public companies. As an investment adviser with over four decades of experience investing in companies on behalf of our clients, we believe that all company shareholders, regardless of the amount or the duration of their investment, deserve to have a voice commensurate with their economic ownership.⁴

In the decade following the global financial crisis, there has been a sea change in governance practices across most developed markets. At the heart of this change has been better communication between investors and company boards—supporting the implementation of better governance structures, encouraging greater boardroom diversity, and informing improved alignment between executive incentives and long-term performance, to name a few examples.⁵ Shareholder proposals have contributed to these improvements. However, when it comes to shareholder proposals, the interest of each individual shareholder needs to be balanced against the interests of the collective group of shareholders because such proposals can impose significant costs on an issuer and, therefore, all of its shareholders. Accordingly, we believe it is appropriate to impose a modest, but meaningful, holding period on shareholders that seek to use a company's proxy for their proposal.

Specifically, we recommend that the Commission amend Rule 14a-8 to require a three-year holding period for all shareholders that seek to access a company's proxy. A three-year holding period would demonstrate a serious commitment to a company's long-term success and should discourage proposals focused on short-term changes, which we believe would promote better outcomes for all shareholders.⁶ A three-year holding period also could incent a shareholder to engage in responsible, constructive engagement with a company and its other shareholders prior to submitting a proposal. Moreover, as the Commission recognizes, lengthening the Rule 14a-8 holding period increases the likelihood that the shareholder would continue to hold its position after the proposal is voted on, and pay its share of costs associated with implementing the proposal.⁷ Companies should have a commensurate responsibility to thoughtfully engage with their

⁴ We believe that, over time, shareholders' voting rights should be aligned with their economic ownership. See *Vanguard Funds: Summary of the Proxy Voting Policy for U.S. Portfolio Companies*, available at <https://about.vanguard.com/investment-stewardship/portfolio-company-resources/2020-proxy-voting-summary.pdf>.

⁵ See *What We Do. How We Do It. Why It Matters*. (April 2019), available at https://about.vanguard.com/investment-stewardship/perspectives-and-commentary/what_how_why.pdf.

⁶ Vanguard's core purpose is to take a stand for all investors, to treat them fairly, and to give them the best chance for investment success. See also *2019 Investment Stewardship Annual Report* (Aug. 30, 2019) available at <https://about.vanguard.com/investment-stewardship/perspectives-and-commentary/2019-investment-stewardship-annual-report.pdf>.

⁷ See Proposal at 66463.

long-term shareholders who may seek change; it is this two-way communication that we believe will support better governance and investor outcomes over the long term.⁸

While not included in the current proposal, we would like to share our concern about a recent announcement on the staff review process for disputed shareholder proposals.⁹ Historically, staff from the Division of Corporation Finance would provide a written statement of its position in response to company requests to exclude a shareholder proposal on one or more of the bases provided in Rule 14a-8(i). In September, however, the Division of Corporation Finance announced that starting with the 2019-2020 shareholder proposal season, its staff “may respond orally instead of in writing to some no-action requests.”¹⁰ The staff’s involvement brings more certainty and consistency to the shareholder proposal process and we believe that the changes described in the September announcement will reduce certainty for companies and shareholder proponents. We respectfully request that the staff reinstate its practice of providing written responses to companies that seek guidance on exclusion requests.

* * * * *

⁸ We recognize the Commission considered adjusting for inflation the dollar ownership thresholds in Rule 14a-8 and while we welcome this consideration, we believe a longer holding period requirement would better balance a shareholder’s access to a company proxy with the interests of other shareholders. We agree with the Proposal that “[i]n many cases, the length of time owning the company’s securities may be a more meaningful indicator that a shareholder has a sufficient interest that warrants use of the company’s proxy statement.” Proposal at 66463.

⁹ SEC Division of Corporation Finance, *Announcement Regarding Rule 14a-8 No-Action Requests* (September 6, 2019), available at <https://www.sec.gov/corpfin/announcement/announcement-rule-14a-8-no-action-requests>.

¹⁰ *See id.*

Vanguard appreciates the opportunity to comment on the proposed revisions to Rule 14a-8 and we look forward to engaging with the Commission on these proposals. If you have any questions or would like to discuss our views further, please contact Glenn Booraem at glenn_booraem@vanguard.com or 610-669-1907 or Laura Merianos at laura_j_merianos@vanguard.com or 610-669-2627.

Sincerely,

/s/ Anne Robinson

Anne Robinson
Managing Director and General Counsel
The Vanguard Group, Inc.

cc: The Honorable Jay Clayton
Chairman
Securities and Exchange Commission

The Honorable Robert J. Jackson, Jr.
Commissioner
Securities and Exchange Commission

The Honorable Hester M. Peirce
Commissioner
Securities and Exchange Commission

The Honorable Elad L. Roisman
Commissioner
Securities and Exchange Commission

The Honorable Allison Herren Lee
Commissioner
Securities and Exchange Commission

Dalia O. Blass
Director
Division of Investment Management
Securities and Exchange Commission

William Hinman
Director
Division of Corporation Finance
Securities and Exchange Commission