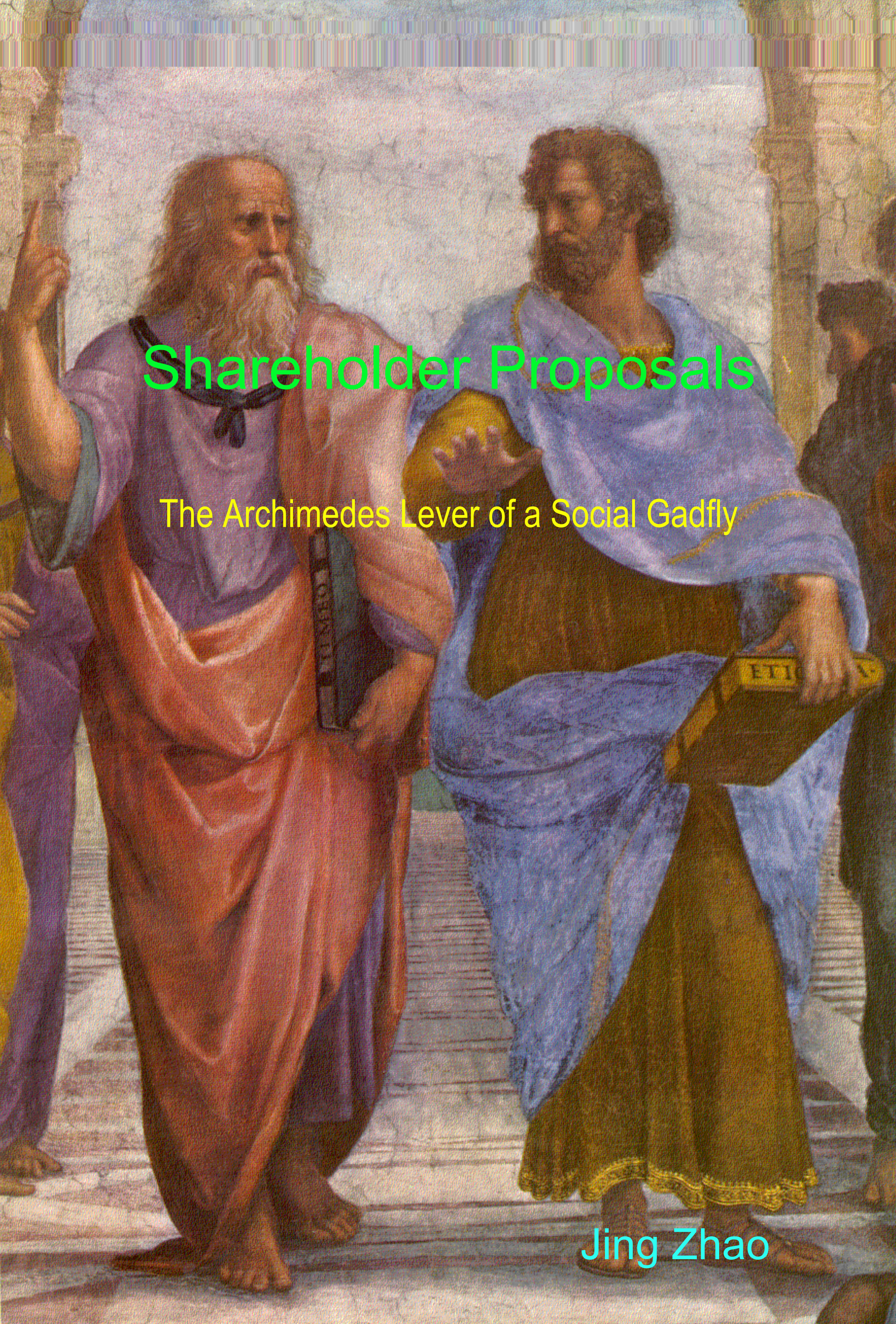

Shareholder Proposals

The Archimedes Lever of a Social Gadfly

Jing Zhao

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Jing Zhao

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Preface

I have edited and published _Corporate Governance Accountability and Social Responsibility_ (Fourth edition January 1, 2020, ISBN: 978-0-557-05663-7), mainly in Chinese, to introduce my work focusing on shareholder proposals. This English edition is mainly to collect raw materials of my proposals being voted and related reports without further commentaries and analysis. It does not include many proposals being either excluded or withdrawn and much more communications (including court materials) with related parties. I also did not collect vast volumes of general reports about my proposals (such as about my proposal to 2018 Tesla meeting by all named media) or specialist reports such as “Shareholder Challenges Apple Pay Practice” by Joseph E. Bachelder III, published in New York Law Journal.

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Human Rights Impacts of Google Business in China

Whereas, mindful of the misuse of information technology by the Government of China to monitor electronic communications, to restrict Internet access and use, and to arrest and severely punish Internet users in China for expressing and exercising their free speech and free association rights, and

Whereas, recognizing the special responsibilities and obligations that these major abuses of human rights place on Google doing business in China in ways that could contribute to these abuses, and,

Whereas, taking into account the fact that U.S. laws prohibit the involvement and support of U.S. companies in major human rights abuses taking place in foreign nations, and specifically prohibit actions by U.S. companies that contribute to major human rights abuses by law enforcement authorities in China,

Therefore, be it resolved, that the following human rights principles should be formally adopted by Google to guide its actions relating to its operations affecting China:

1. No information technology products or technologies will be sold, and no assistance will be provided to law enforcement authorities in China, that

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1 https://www.sec.gov/Archives/edgar/data/1288776/000119312510070028/ddef14a.htm, http://cpri.tripod.com/cpr2010/Google_Zhao_20100225.pdf Google Statement Opposing Against Zhao's Proposal.

could contribute to human rights abuses in that country. Specifically, no user information will be provided, and no technological assistance will be made available, that would place individuals at risk of persecution based on their access or use of the Internet or electronic communications for free speech and free association purposes.

2. Censorship of access or use of the Internet will not be used as a method of restricting assistance to Chinese law enforcement authorities engaged in Internet or electronic surveillance that adversely affects the human rights of users. Every effort will be made to assist users to have access to encryption and other protective technologies and approaches, so that their access and use of the Internet will not be restricted, before resorting to censorship as a means for preventing unlawful surveillance and repression by Chinese law enforcement authorities. Google will provide financial and technological support to efforts aimed at developing and making more accessible to users in China more advanced technologies that would allow them to evade unlawful surveillance of their Internet use by Chinese authorities.

3. Google will establish a Human Rights Committee with the responsibility to review and approve all policies and actions taken by the Company that might affect human rights observance in countries where it does business, or where its products and technologies are being used. This Committee will include high level officials of Google, and respected outside human rights experts who are in a position to help Google understand the human rights impacts of their activities abroad, and frame approaches that will assure that Google does not contribute to human rights abuses by foreign governments.

[2.1]Cisco 2010 Meeting Proposal Number 6[2]

Restricting Sales to China and other Repressive Governments for Law Enforcement Purposes

Whereas, there have been a number of Congressional hearings raising questions about the appropriateness of marketing, sales and exports by Cisco Systems to Chinese law enforcement agencies in violation of U.S. export control laws, specifically the Tiananmen Square provisions of the Export Administration Act that prohibit all sales and exports to China connected to law enforcement purposes on an outright basis, including hearings of the Senate Judiciary Committee on May 20, 2008 and March 2, 2010 that focused on Cisco's sales to China.

Whereas, the Bureau of Industry and Security of the U.S. Department of Commerce has issued detailed instructions to U.S. companies doing business with China and other repressive governments on how to assure compliance with U.S. export control laws (see BIS Compliance Guidelines issued in February 2010), and, as testimony before the Senate Judiciary Committee hearings on March 2, 2010 indicated, Cisco Systems does not appear to be in compliance with the reasonable and lawful business practices set out in these Guidelines with respect to its sales and exports to Chinese law enforcement agencies.

[2] https://d1lge852tjjqow.cloudfront.net/CIK-0000858877/b0a6f395-19c0-4292-8fac-13d6989a626c.pdf, http://cpri.tripod.com/cpr2010//ciscoproxy.pdf

Whereas, Cisco Systems and its shareholders have been and will continue to be subjected to substantial risks and injuries, including financial loses, as a result of the potential criminal and civil sanctions imposed for violations of export control laws, and the substantial negative publicity that the Congressional hearings and other adverse findings regarding Cisco's export activities to China and other repressive governments may generate.

Whereas, it is essential for Cisco to establish the policies and mechanisms that would enable the company to properly and effectively monitor potential adverse or illegal elements of proposed sales and exports before they take place, and to fully and effectively comply with the Compliance Guidelines issued by the Bureau of Industry and Security and with the reasonable and lawful business practices standards that they incorporate.

The following resolution is hereby proposed:

Cisco should adopt and implement a policy to NOT market, sell or export any products or technologies to law enforcement agencies in China, or to any other entity in China where the end users or end uses of its products could in any way be connected with the monitoring of Internet use or electronic communications in China, such a policy to be accompanied by adoption of a comprehensive oversight and compliance system, consistent with the good business practice standards set out in the Bureau of Industry and Security Compliance Guidelines, to monitor, identify and evaluate potential negative human rights impacts of all of its marketing activities and sales to China and to other highly repressive governments, and to provide for the disclosure to the public of full information relating to Cisco's sales of products to China and to other repressive governments, including a description of each of the products and technologies sold, and the entities purchasing or identified as end users of each of these products.

[2.2] Cisco 2014 Meeting Proposal Number 5[3]

Establishing a Public Policy Committee

Resolved: shareholders recommend that Cisco Systems, Inc. (the Company) establish a Public Policy Committee to assist the Board of Directors in overseeing the Company's policies and practice that relate to public policy including human rights, corporate social responsibility, vendor chain management, charitable giving, political activities and expenditures, government relations activities, international relations, and other public issues that may affect the Company's operations, performance or reputation, and shareholders' value.

Supporting Statement

The Company has five standing committees: the Audit Committee, the Compensation Committee, the Nomination and Governance Committee, the Acquisition Committee, and the Finance Committee. "The Nomination and Governance Committee is responsible for overseeing, reviewing and making periodic recommendations concerning Cisco's corporate governance policies, and for recommending to the full Board of Directors candidates for election to the Board of Directors." Actually, this committee is responsible for director nomination only. No word of "public policy" is mentioned in this committee's work description (2013 Notice of Annual Meeting p.12-13). The Company has no committee to deal with the increasingly complicated public policy issues. In the dynamic Pacific Asia region where the Company has heavy business, the Japanese government has utilized the Tiananmen

[3] http://cpri.tripod.com/cpr2014/proposal_to_Cisco_2014.pdf

Tragedy of China in 1989 to abandon its own peace constitution, which is the cornerstone of Asia's peace after WWII, towards rearmament, militarization and fascism to mislead the U.S. under the U.S.-Japan Security Treaties to crash with the rising power of a nationalistic China. Although the Japanese government signed the G-7 Summit declaration in 1989 to protect Chinese students, I, as a graduate student in Osaka University organizing Chinese democratic and human rights activities in Japan, was persecuted because I refused to collaborate with the Japanese government to betray my fellow Chinese students (refer to Japan's second largest newspaper Asahi's interviews with me on February 10, 1990, October 20, 1992 and June 8, 2009, and my article "The Betrayal of Democracy: Tiananmen's Shadow over Japan," Spain: Historia Actual Online. ISSN 1696-2060. 2004. Issue 4 Vol. 2). Without a public policy committee, it is very difficult for the Company to legitimately and ethically deal with today's complicated international affairs affecting our business. For this reason, and partly to respond to my proposal, Microsoft established such a committee in 2012.

[3]News Corp. 2010 Meeting Proposal Number 4[4]

Human Rights Committee

Whereas, mindful of the misuse of media and information by the Chinese government to monitor media, to restrict and manipulate information, and to arrest and severely punish Chinese people for expressing and exercising their free speech and free association rights (for example, I was born in Beijing and graduated from Tsinghua University; I was deprived of Chinese citizenship in 1996 without any document because I refused to publish a "self-criticism" at People's Daily),

Whereas, recognizing the responsibilities and obligations that these major abuses of human rights place on News Corporation doing business in China in ways that could contribute to these abuses, and,

Whereas, taking into account the fact that U.S. laws prohibit the involvement and support of U.S. companies in major human rights abuses taking place in foreign nations (specifically in China),

Therefore, be it resolved, that the following proposal be adopted by News Corporation:

News Corporation will establish a Human Rights Committee with the responsibility to review and approve all policies and actions taken by the Company that might affect human rights observance in countries where it does business, or where its products and technologies are being used. This Committee will include high-level officials of News Corporation and

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[4] http://cpri.tripod.com/cpr2010/2010proposal4.pdf

respected outside human rights experts who are in a position to help News Corporation understand the human rights impacts of their activities abroad (especially in China), and frame approaches that will assure that News Corporation does not contribute to human rights abuses by foreign governments.

[4]Chevron 2010 Meeting Proposal Item 9[5]

Human Rights Committee of Chevron Business

Whereas, mindful of the severe abuses of basic human rights by the Government of China to punish its people for expressing and exercising the free speech and free association rights (for example, I myself, born in Beijing and graduated from Tsinghua University in Beijing, was deprived of my Chinese citizenship in 1996 without any document), and

Whereas, taking into account the fact that U.S. laws prohibit the involvement of U.S. companies in major human rights abuses taking place in foreign nations, including China,

Therefore, be it resolved, that shareholders request that Chevron establish a Human Rights Committee with the responsibility to review and approve all policies and actions taken by the Company that might affect human rights observance in countries where it does business, or where its products and technologies are being sold or used. This Committee will follow the Universal Declaration of Human Rights and will include high-level officials of Chevron, and respected outside human rights experts (especially with knowledge of China's human rights situation) to help Chevron understand the human rights impacts of Chevron business abroad.

[5] https://chevroncorp.gcs-web.com/static-files/a1ec2dbc-ce00-4dcc-8074-699011bea233 and http://cpri.tripod.com/cpr2010//chevronproxy.pdf

[5.1]Yahoo 2011 Meeting Proposal Number 5[6]

Human Rights Impacts of Yahoo Business

Whereas, mindful of the misuse of information technology by the Chinese government and other repressive regimes in the world to monitor electronic communications, to restrict

Internet access and use, and to arrest and severely punish Internet users in China and other countries for expressing and exercising their free speech and free association rights, and

Whereas, recognizing the special responsibilities and obligations that these major abuses of human rights place on Yahoo doing business in China and other repressive countries in ways that have contributed to these abuses, and,

Whereas, taking into account the fact that U.S. laws prohibit the involvement and support of U.S. companies in major human rights abuses taking place in foreign nations, and, especially,

Whereas, concerning that Yahoo's management has not improved human rights policy despite Yahoo's public image being severely damaged and Yahoo being financially punished (for example, on May 3rd 2010 the World Press Freedom Day, human rights activists rallied in front of Yahoo HQs to protest Yahoo again, -- report from Radio Freedom Asia

http://www.rfa.org/mandarin/yataibaodao/sf-05042010103545.html; Yahoo Human Rights Fund has been politically abused),

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[6] http://cpri.tripod.com/cpr2011/YHOO_2011_Proxy_Statement.pdf

Therefore, be it resolved, that the following human rights principles be formally adopted by Yahoo to guide its business relating to its business in China and other repressive countries:

No information technology products or technologies will be sold, and no assistance will be provided to authorities in China and other repressive countries that could contribute to human rights abuses. No user information will be provided, and no technological assistance will be made available, that would place individuals at risk of persecution based on their access or use of the Internet or electronic communications for free speech and free association purposes. Yahoo will support the efforts to assist users to have access to encryption and other protective technologies and approaches, so that their access and use of the Internet will not be restricted by the Chinese and other repressive authorities. Yahoo will establish a Human Rights Committee with the responsibility to review and approve all policies and actions that might affect human rights observance in countries where it does business, and to supervise the abused Yahoo Human Rights Fund.

[5.2]Shareholder proposals companies don't want you to see by Julianne Pepitone, April 25, 2011[7]

NEW YORK (CNNMoney) -- Once a year, public companies have to throw open their boardroom doors and meet with their investors. Those annual meetings give small stockholders a chance to bend the ear of corporate bigwigs, and put their own proposals up for a shareholder vote.

But this year, investors in dozens of major companies won't be voting on more than 150 proposals that shareholders tried to put on their ballots. For the past few months, companies have been flooding the U.S. Securities and Exchange Commission with petitions to kill off hundreds of proposals.

"Some of the proposals are pretty off-the-wall," says Ted Allen, governance counsel for shareholder advisory firm ISS Governance. "Others are legitimate. But companies don't want 20 shareholder requests cluttering up their proxies."

It's an annual rite of spring for companies with activist shareholders. Confronted with proposals they don't want on their ballots, they petition the SEC for what's called a "no action" letter -- a written affirmation that the regulatory agency won't take enforcement action if the proposal never sees the light of day.

The SEC employs about 20 staffers who wade through hundreds of these no-action requests per year. The agency grants companies many of their requests,

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7 https://money.cnn.com/2011/04/25/technology/shareholder_proposals_you_dont_see/index.htm

Allen says, because the shareholder proposals "relate to a company's ordinary business." That is, companies don't have to put up for a vote shareholders' suggestions about their day-to-day workings.

"GE used to get proposals about canceling 'The Rachel Maddow Show,'" Allen says. "That's a clear-cut example of the type of thing the SEC doesn't let shareholders get their hands in."

Only a few major companies receive double-digit shareholder proposals annually: Bank of America (BAC, Fortune 500), Exxon-Mobil (XOM, Fortune 500) and Wal-Mart (WMT, Fortune 500), to name a few.

But tech companies are consistently targets.

"Telecoms get a lot of proposals because of their history of unionized employees," Allen says. "And Net neutrality proposals have been big recently, though companies have usually been able to classify that as 'day-to-day business' or 'not a top policy priority.'"

Most companies end up letting their shareholders vote on just two or three issues. A few topics frequently make it through the gauntlet to land on ballots. One of the most common proposals suggests giving shareholders the power to call special meetings. Other frequent propositions call for giving shareholders the ability to remove directors, or elect new ones, without waiting for a special meeting.

But most petitions die quietly, before shareholders ever get a peek at them. Here's a look at some of the more noteworthy proposals tech companies have tried to quash this year.

Nuns, the Beastie Boys and AT&T: The Benedictine Sisters of Mount St. Scholastica filed a shareholder proposal in November asking AT&T (T, Fortune 500) to "publicly commit to operate its wireless broadband network consistent with Internet network neutrality principles."

It turns out that the St. Scholastica Monastery in Kansas owns more than $7,400 worth of AT&T stock. Other Catholic monasteries around the country joined the cause, filing their own requests.

A few individuals also petitioned AT&T, including "Mike D" of Beastie Boys fame. AT&T did not respond to a request for comment.

Jonas Kron, a vice president at Trillium Asset Management, served as the contact person for the proposal.

So why do nuns care about such a geeky issue?

"Net neutrality can greatly affect underserved communities that have limited access to the Internet. We need to alleviate those social inequalities," Kron said, noting that the U.S. Conference of Catholic Bishops has published an open letter supporting Net neutrality.

Unfortunately for the nuns and Mike D, the SEC granted a no-action letter on the basis that net neutrality is not "a significant policy issue." Kron called the decision "shocking" and said the group "vigorously disagrees."

Down with Yahoo China: In January, a Yahoo (YHOO, Fortune 500) investor named Jing Zhao proposed that the company adopt a code of human rights principles.

His "Human Rights Impacts of Yahoo Business" would mandate that "no information technology products or technologies will be sold, and no assistance will be provided to authorities in China and other repressive countries."

Zhao, who was born in China, told CNNMoney that he has had "major concerns about U.S. business' dealings" with the nation for years. He has attended the annual Yahoo shareholder meeting annually since 2005, and he's made similar human rights proposals to Yahoo every year.

In response, Yahoo requested to block the proposal from its proxy based on several exceptions. But this time, the SEC replied that it was "unable to concur" -- which means the proposal should appear in the proxy statement Yahoo will send to shareholders in advance of its annual meeting.

"I was really shocked," Zhao said. "It's a wonderful year for me."

He also said that a Yahoo rep contacted him recently to apologize for trying to fight the proposal. Yahoo declined to comment.

Church against gender identity discrimination: The Unitarian Universalist Association of Congregations asked Verizon (VZ, Fortune 500) in November to "amend its written equal employment opportunity policy to explicitly prohibit discrimination based on gender identity or expression."

The UUA, which calls itself "a faith community of more than 1,000 self-governing congregations," noted in its proposal that nearly 70% of Fortune 100 companies have policies prohibiting gender identity discrimination. It also pointed out that a similar policy suggestion filed at last year's annual meeting drew support from those casting the votes for 34% of Verizon's outstanding shares.

Tim Brennan, the UUA's treasurer and chief financial officer, said that "affirming the value of all people" is a major part of the group's religious views. The UUA has successfully petitioned Home Depot, Dr. Pepper and Traveler's Insurance to change their human rights policies.

But the SEC nixed UUA's proposal on a technicality: The group failed to provide proof of its eligible shareholder status within a required 14-day window. Verizon declined to comment.

Brennan is undeterred. "I'm planning to write to a bunch of their executives and ask if they'll talk to me about it," he said. "I'm open to any dialogue, and we're not giving up."

[5.3]Yahoo 2013 Meeting Proposal Number 4[8]

Social Responsibility Report

Whereas, extensive information has come to light since 2005 in media coverage, Congress hearings, and court proceedings concerning our company's policy and practice of social responsibility, including human rights violations;

Whereas, these concerns have placed our company to be subjected to legal actions and financial penalties, have affected our company's governance and performance (seven CEOs since 2007, stock values down near half from 2007), and have placed the reputation, assets and business of our company at risk (for example, the independent think tank US-Japan-China Comparative Policy Research Institute issued Corporate Social Responsibility Index at http://cpri.tripod.com/cpr2012/csri.pdf ranking our company "F" – the lowest among 33 surveyed large international companies);

Whereas, our company's core display and digital media business deal with social issues widely, deeply, daily and globally, and most socially responsible large international companies issue Corporate Social Responsibility report annually;

Therefore, be it resolved that our company should review, study and publish an annul Corporate Social Responsibility (focusing on human rights) report from 2013.

[8] 190,160,392 shares (32%) voted for the proposal.

[5.4]Yahoo-Altaba 2017 Meeting Proposal Number 7[9]

Yahoo Human Rights Fund's Transparency

Resolved: shareholders request that our company prepare a report of our company's human rights policy and practice, especially related to the Yahoo Human Rights Fund (YHRF), to disclose: 1. The claimed purpose and advertisement of the YHRF, including those were reported to the Congress, the SEC, shareholders and the general public. 2. Why and how the YHRF was handed to one person Harry Wu without any accountability? 3. How much of the YHRF has been used for the claimed purpose?

How much of the YHRF was abused against the Chinese human rights community? 4. How many complaints, including law suits, have been submitted against the YHRF and Harry Wu in related to the abuse of the YHRF? 5. Recommendations to the board of directors to take necessary actions to remedy victims of our company and the YHRF to improve our company's human rights policy and practices.

Supporting Statement

"Whoever wants to hold back relevant material information should show cause why it should not be revealed." (Irving S. Shapiro, former Chairman of E.I. DuPont de Nemours & Company) As shareholders, we encourage transparency and accountability in the use of our corporate fund, especially since the YHRF has long been abused enormously. For example, 1) "the Statement by Seven Former Chinese Political Prisoners Regarding the Death

[9] http://cpri.tripod.com/cpr2017/altaba2017.pdf

of Harry Wu and the Abuses of the Yahoo Human Rights Fund" (April 28, 2016

https://chinachange.org/2016/04/28/statement-by-seven-former-chinese-political-prisoners-regarding-the

-death-of-harry-wu-and-the-abuses-of-the-yahoo-human-rights-fund/) stated that "of the approximately $14-15 million of the YHRF that has been spent from 2008 to 2015, only about $700,000 was used to provide humanitarian aid to Chinese dissidents." 2) New York Times article "Champion of Human

Rights in China Leaves a Tarnished Legacy" (August 13, 2016

http://www.nytimes.com/2016/08/14/us/champion-of-human-rights-in-china-leaves-a-tarnished-legacy.html) reported Harry Wu "spending more than $13 million of the Yahoo money to operate his own foundation"; "In some years, financial disclosure forms show that the foundation spent less than 2 percent of annual disbursements on direct assistance to Chinese dissidents or their families; in recent years, such grants all but dried up." 3) More information of the YHRF abuses since 2007, including my proposal "HUMAN RIGHTS IMPACTS OF YAHOO BUSINESS" at 2011 shareholders meeting requesting that "Yahoo will review, report to shareholders and improve all policies and actions (including supervising the abused Yahoo Human Rights Fund) that might affect human rights observance in countries where it does business", can be found from the links at "Corporate Social Responsibility & Governance Accountability Review" (http://cpri.tripod.com/cpr2017/csrgar6.pdf) which rated our company the lowest rating "F".

The report shall be presented to the board of directors and be posted on our company’s website within three months of the shareholders meeting.

[6] Verizon 2017 Meeting Proposal Number 6[10]

Human Rights Committee

Resolved: Shareholders recommend that Verizon Communications Inc. (Verizon) establish a Human Rights Committee to review, assess, disclose, and make recommendations to enhance Verizon's corporate policy and practice on human rights. The board of directors is recommended, in its discretion and consistent with applicable laws to: (1) adopt Verizon Human Rights Principles, (2) designate the members of the committee, including outside relevant human rights experts as advisors, (3) provide the committee with sufficient funds for operating expenses, (4) adopt a charter to specify the powers of the committee, (5) empower the committee to solicit public input and to issue periodic reports to shareholders and the public on the committee's activities, findings and recommendations, and (6) adopt any other measures.

Supporting Statement

Verizon has to seriously deal with international human rights issues since Yahoo has become part of Verizon. Yahoo failed because of its disastrous unethical human rights practice. US-Japan-China Comparative Policy Research Institute's Corporate Social Responsibility Review http://cpri.tripod.com/cpr2016/csrr5.pdf rated Yahoo the lowest "F" with detailed documents since 2007, including some recently published coverage regarding the Yahoo Human Rights Fund (YHRF) and Yahoo's agent Harry Wu:

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[10] http://cpri.tripod.com/cpr2017/proxy-vz.pdf

1) The Statement by Seven Former Chinese Political Prisoners Regarding the Death of Harry Wu and the Abuses of the Yahoo Human Rights Fund https://chinachange.org/2016/04/28/statement-by-seven-former-chinese-political-prisoners-regarding-the-death-of-harry-wu-and-the-abuses-of-the-yahoo-human-rights-fund/ (April 28, 2016): "of the approximately $14-15 million of the YHRF that has been spent from 2008 to 2015, only about $700,000 was used to provide humanitarian aid to Chinese dissidents."

2) The Complicated and Contradictory Legacy of Harry Wu https://foreignpolicy.com/2016/05/25/the-complicated-and-contradictory-life-of-harry-wu-china-yahoo/ (Foreign Policy Report May 25, 2016): "he was ready to break rules or even laws."

3) Gadflies at the Gate: Why Do Individual Investors Sponsor Shareholder Resolutions? http://www.gsb.stanford.edu/faculty-research/publications/gadflies-gate-why-do-individual-investors-sponsor-shareholder (Stanford Business School, August 2016) introduced my proposal at the 2011 Yahoo shareholders meeting: "Finally, one investor succeeded in compelling Yahoo to include his proposal on human rights violations following five years of rejection." My proposal mentioned: "Yahoo Human Rights Fund has been politically abused."

4) Champion of Human Rights in China Leaves a Tarnished Legacy http://www.nytimes.com/2016/08/14/us/champion-of-human-rights-in-china-leaves-a-tarnished-legacy.html (New York Times August 13, 2016): "He……spending more than $13 million of the Yahoo money to operate his own foundation." "In some years, financial disclosure forms show that the foundation spent less than 2 percent of annual disbursements on direct

assistance to Chinese dissidents or their families; in recent years, such grants all but dried up.”

[7]Oracle 2013 Proposal Number 5[11]

Human Rights Committee

Be it resolved, that the following proposal be adopted by Oracle shareholders:

Oracle will establish a Human Rights Committee, including independent relevant human rights experts, to review, assess, disclose, and make recommendations to enhance the company's policy and practice on human rights. Among others, the Human Rights Committee will solicit public input and to issue periodic reports to shareholders and the public, on the committee's activities, findings and recommendations, and adopt any other measures consistent with applicable principles and laws.

Supporting Statement

From the Chinese Tiananmen tragedy in 1989 to the recent "Arab Spring" movement, human rights issues have become the most important international concerns for every corporation doing business globally. Especially, the human rights concern of international companies doing business in repressive countries is from the core issue of legitimacy. As the world's largest provider of enterprise software and a leading provider of computer products and services (including cloud computing, which involves many human rights issues such as privacy, freedom of express), our company also has extensive business in repressive countries including China, where people's basic human rights are severely violated (for example, I was deprived of my citizenship without any written document because I

[11] http://cpri.tripod.com/cpr2013/oracle-proxy.pdf

organized human rights activities in Japan during the 1989 Tiananmen Massacre).

On the other hand, our company has neither a human rights policy nor an organization/mechanism to deal with human rights issues. For example, our 2010 Corporate Citizenship Report http://www.oracle.com/us/corporate/citizenship/corporate-citizenship-report-2010-1566826.pdf admits nowhere to report human rights concerns in our company (page 119 on GRI G3 reporting guidelines). No wander the independent think tank US-Japan-China Comparative Policy Research Institute ranks our company "C-" in Corporate Social Responsibility Index.

[8]H-P 2013 Meeting Proposal Number 6[12]

Human Rights Committee

Be it resolved, that the following proposal be adopted by Hewlett-Packard Company (HP) shareholders:

HP will establish a Human Rights Committee to review, assess, disclose, and make recommendations to enhance the company's corporate policy and practice on human rights. The HP board of directors is authorized to: (1) adopt HP Human Rights Principles, (2) designate the members of the committee, including outside human rights experts, (3) provide the committee with sufficient funds for operating expenses, (4) adopt a charter to specify the powers of the committee, (5) empower the committee to solicit public input and to issue periodic reports to shareholders and the public, on the committee's activities, findings and recommendations, and (6) adopt any other measures consistent with applicable principles and laws.

Supporting Statement

From the heroic Chinese democratic movement tragedy in 1989 to the historical "Arab Spring" movement, human rights issues have become the most important international concerns for every corporation doing business globally. Human rights violations also occurred by giant corporations in advanced democratic society. HP currently has five committees: Technology Committee, Audit Committee, HR and Compensation Committee, Finance and Investment Committee, and Nominating and Governance Committee.

[12] http://cpri.tripod.com/cpr2013//HP_proxy.pdf

Although human rights issues arise from all aspects in these existing committees, none of them mentions "human rights." Only the Nominating and Governance Committee indicates that "The Committee may identify, evaluate and monitor the social, political and environmental trends, issues, concerns, legislative proposals and regulatory developments, domestic and foreign, which could significantly affect the public affairs of HP." This is not sufficient, nor effective, to deal with the increasingly unavoidable complex business/trade issues of human rights concerns world-wide on an ongoing basis. Adoption of this resolution to establish a new Human Rights Committee would help build up our company's leadership position to expand our business world-wide.

[9]Goldman Sachs 2013 Meeting Proposal Number 5[13]

Human Rights Committee

Be it resolved, that the following proposal be adopted by Goldman Sachs Group shareholders:

Goldman Sachs Group will establish a Human Rights Committee to review, assess, disclose, and make recommendations to enhance the company's corporate policy and practice on human rights. The board of directors is authorized to: (1) adopt Goldman Sachs Human Rights Principles, (2) designate the members of the committee, including outside relevant human rights experts, (3) provide the committee with sufficient funds for operating expenses, (4) adopt a charter to specify the powers of the committee, (5) empower the committee to solicit public input and to issue periodic reports to shareholders and the public, on the committee's activities, findings and recommendations, and (6) adopt any other measures consistent with applicable principles and laws.

Supporting Statement

From the Chinese Tiananmen tragedy in 1989 to the "Arab Spring" movement today, human rights issues have become the most important international concerns for every corporation doing business globally. Human rights violations also occurred by big corporations in advanced democratic society. For example, News Corp. opposed my human rights proposal at the 2010 shareholders meeting before its scandals were exposed to the public.

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[13] http://cpri.tripod.com/cpr2013/2013-proxy-statement-pdf.pdf

The human rights concern of international companies doing business in repressive countries is from the core issue of legitimacy. Goldman Sachs Statement on Human Rights only applies to countries where "national governments bear the primary responsibility for ensuring human rights". However, since human rights concerns mainly happen in countries where governments do not "bear the primary responsibility for ensuring human rights," our company needs to establish a human rights committee for our business in countries where the governments are not democratically elected or the authorities are not accountable to or responsible for their people.

In regard to China, our CEO and Audit Committee Chair listed their positions at Tsinghua University (where I was a Nuclear Physics student against the US and the Soviet Union in 1980-85) as a qualification for re-election. The book "On the Brink: inside the race to stop the collapse of the global financial system" by our former CEO Henry Paulson said, "from having virtually no presence there at all in 1992, we went to having perhaps 1,500 people in the country when I left Goldman in 2006. In that time I made about 70 trips to China." "I had been invited to an upcoming lunch on April 20 at the White House in honor of Chinese president Hu Jintao." "I flew to Washington for the Hu Jintao lunch, and I met beforehand with Zhou Xiaochuan, the Chinese central bank governor." "In my concluding meeting with President Hu Jintao... Hu and I then adjourned to a private meeting." These strongly demonstrate our business in China, where people's basic human rights are severely violated (for example, I was deprived of my citizenship without any written document, because I organized human rights activities in Japan during the 1989 Tiananmen Massacre).

[10] NetApp 2014 Meeting Proposal Number 6[14]

Establishing a Public Policy Committee

Resolved: shareholders recommend that NetApp, Inc. (the Company) establish a Public Policy Committee to assist the Board of Directors in overseeing the Company's policies and practice that relate to public policy including human rights, corporate social responsibility, vendor chain management, charitable giving, political activities and expenditures, government relations activities, international relations, and other public issues that may affect the Company's operations, performance or reputation, and shareholders' value.

Supporting Statement

The Company currently has four committees: Corporate Governance and Nominating Committee mainly to "assist with director nominations" (2013 Notice of Annual Meeting p.12), Compensation Committee, Audit Committee, and Strategy Committee which "assists the Board in fulfilling its responsibilities relating to the development, articulation, and execution of the Company's long-term strategic plan, and the review, evaluation, and approval of certain strategic transactions" (2013 Notice of Annual Meeting p.14). There is no committee to deal with the increasingly complicated public policy issues. For example, in the dynamic Pacific Asia region where the Company has heavy business, the Japanese government has utilized the Tiananmen Tragedy of China in 1989 to abandon its own peace constitution, which is the cornerstone of Asia's peace after WWII, towards rearmament,

[14] http://cpri.tripod.com/cpr2014/proxy-notice.pdf

militarization and fascism to mislead the U.S. under the U.S.-Japan Security Treaties to crash with the rising power of a nationalistic China. Although the Japanese government signed the G-7 Summit declaration in 1989 to protect Chinese students, I, as a graduate student in Osaka University organizing Chinese democratic and human rights activities in Japan, was persecuted because I refused to collaborate with the Japanese government to betray my fellow Chinese students (refer to Japan's second largest newspaper Asahi's interviews with me on February 10, 1990, October 20, 1992 and June 8, 2009, and my article "The Betrayal of Democracy: Tiananmen's Shadow over Japan," Historia Actual Online. ISSN 1696-2060. 2004. Issue 4 Volume 2). On the other hand, the public is concerned of recent media coverage of many U.S. companies bribing Chinese high officials to obtain business deals in China. Without a public policy committee, it is very difficult for the Company to legitimately and ethically deal with today's complicated international affairs affecting our business. For this reason, and partly to respond to my proposal, Microsoft established such a committee in 2012. Let's follow the industrial leader to establish a Public Policy Committee too.

[11.1]Sohu 2014 Meeting Proposal Number 4[15]

Independent Board Chairman

Resolved: Shareholders request that our board of directors adopt a policy that the chairman of our board of directors shall be an independent director. An independent director is a director who has not served as an executive officer of our company.

Supporting Statement:

When our CEO is our board chairman, our board cannot monitor our CEO's performance, especially under China's business condition lacking of check and balance, and our CEO is also the founder of our company. As shown from the "Three Representatives" policy of Jiang Zemin (who came to power from the Tiananmen Tragedy in 1989 without legitimacy), China's social order and economic situation are very tense because China does not have an independent Chairman of Congress to monitor the chief executive power. An independent chairman is the prevailing practice in the international market, such as in the United Kingdom. In the United States, many companies also began to have Independent Chairman or Independent Lead Director for the main purpose to monitor CEO's performance.

This proposal should also be evaluated in the context of our company's overall corporate governance. For example, the independent think tank US-Japan-China Comparative Policy Research Institute rated our company "D: concerned, need improvement." See http://cpri.tripod.com/cpr2013/csri.pdf

[15] http://cpri.tripod.com/cpr2014/sohuproxy2014-proposal4.pdf

(this site is not blocked in China, so our board members in China can read it too.)

[11.2] Sohu 2015 Meeting Proposal Number 4[16]

Declassification of the Board of Directors

RESOLVED: shareholders of Sohu.com Inc. recommend the Board of Directors take all necessary steps (other than any steps that must be taken by shareholders) to eliminate the classification of the Board of Directors and to elect all directors on an annual basis after the annual meeting in 2015. Implementation of this proposal should not prevent any director elected prior to and at the annual meeting held in 2015 from completing the term for which such director was elected.

SUPPORTING STATEMENT

Our Board is divided into two classes. This caused many corporate governance problems. For example, only one (out of six) directors attended our last annual meeting of shareholders, mainly because four directors' term expires at the 2015 annual meeting. Since 83.3% directors did not attend annul meeting of shareholders, shareholders wonder how many meetings the Board ever held annually? The Board has continuously refused or is unable to communicate with shareholders on any issue to improve corporate governance.

According to the Harvard Law School Shareholder Rights Project (http://srp.law.harvard.edu/Template-Proposal.pdf), declassification of the board would enable shareholders to register their views on the performance of all directors at each annual meeting. Having directors stand for elections

[16] http://cpri.tripod.com/cpr2015/form8k.pdf 63% voted for this proposal.

annually makes directors accountable to shareholders, and could thereby contribute to improving performance and increasing company's value. Over the past decade many S&P 500 companies have declassified their board of directors; the number of S&P 500 companies with classified boards declined by more than 50%; and the average percentage of votes cast in favor of shareholder proposals to declassify the boards of S&P 500 companies during the period January 2010 - June 2011 exceeded 75%. The significant shareholder support for proposals to declassify boards is consistent with empirical studies reporting that classified boards could be associated with lower company valuation and worse corporate decision making.

This proposal is the same as the shareholder proposal advised by the above Harvard Project to Best Buy Co., Inc. in 2012. Best Buy's Board moved from a neutral position to a recommendation that the shareholders approve the proposal recommending declassification of the Board and reissued their statement: "The Board supports the Proposal as an additional demonstration of its commitment to strong corporate governance practices. It believes that all directors – with no exceptions – should be subject to approval by the shareholders on an annual basis." More than 98% voted for the proposal.

Especially concerning that our company operates out of the United States, please vote for this proposal to make our directors accountable to shareholders.

[12]Symantec 2015 Meeting Proposal Number 4[17]

International Policy Committee

Resolved: shareholders recommend that Symantec Corporation (the Company) establish an International Policy Committee with outside independent experts to oversee the Company's policies and practice regarding environment, human rights, social responsibility, regulations, and other international issues that may affect the Company's operations, performance, reputation, and shareholders' value.

Supporting Statement

According to the Company Annual Report 2014, "Symantec operates one of the largest global threat-intelligence network, and provides leading security, backup and availability solutions." (p.4) "[W]e employed more than 20,800 people worldwide, approximately 44% of whom reside in the U.S." (p.10) The Company operates "in more than 50 countries" (p.4) and the international net revenue has been 52% for three years 2012-14 (p.41). However, none of the three primary committees (Audit, Compensation, and Nomination & Governance) or other committees (if the Company has) has the capability and function to deal with the increasing complicated international issues regarding environment, human rights, social responsibility, and regulations, which are also related the legitimacy of the Company's operation worldwide.

[17] http://cpri.tripod.com/cpr2015/symc2015.pdf

Especially in the dynamic Asia Pacific region, where the Company leased 1,986 square foot out of total 3,871 square foot worldwide (ibid. p. 26), the Company's core business has great opportunities as well as challenges. The Chinese government has increased regulatory pressures to foreign ICT companies. The Japanese government has utilized the 1989 Tiananmen Tragedy to abandon its peace constitution, towards rearmament and militarization to mislead the U.S. under the U.S.-Japan Security Treaties to crash with the rising power of a nationalistic China.

Partly to respond to my proposals (which I withdraw), Microsoft established a similar policy committee in 2012. It is time for the Company to establish an international policy committee to deal with today's complicated international affairs affecting our business.

[13]IBM 2015 Meeting Proposal Number 7[18]

Establishing a Public Policy Committee

Resolved: shareholders recommend that International Business Machines Corporation (IBM) establish a Public Policy Committee to assist the Board of Directors in overseeing IBM's policies and practice that relate to public issues including human rights, corporate social responsibility, supplier chain management, charitable giving, political activities and expenditures, government regulations, and especially international relations that may affect IBM's operations, performance, reputation, and shareholders' value.

Supporting Statement

IBM currently has four board committees: Audit Committee, Directors and Corporate Governance Committee, Executive Compensation and Management Resources Committee, and Executive Committee, but without a committee to legitimately and ethically deal with public issues, especially international affairs, affecting our business. According to our 2013 annual report, IBM has 32% ($31,628m/$97,800m) revenue in Europe/Middle East/Africa, 23% ($22,923/$97,800m) revenue in Pacific Asia; "Within the BRIC countries of Brazil, Russia, India and China, ... The company continues to see good opportunity in all regions over the long term and is continuing to invest in these key markets." (p.40); "During 2013, performance in China was impacted by the process surrounding the implementation of a broad governmental economic reform plan."(p.41). IBM is truly a leading international business corporation in the world.

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[18] http://cpri.tripod.com/cpr2015/IBM-2015-Proxy-Statement.pdf

The globalization has made the world increasingly connected and complicated. For example, the U.S.-Japan Joint Statement on April 25, 2014 includes such dangerous contents as: "These commitments extend to all the territories under the administration of Japan, including the Senkaku Islands." "The United States welcomes and supports Japan's consideration of the matter of exercising the right of collective self-defense." The Japanese government has misled the U.S. under the U.S.-Japan Security Treaties to crash with the rising power of a nationalistic China since Japan utilized China's 1989 Tiananmen Tragedy to abandon Japan's peace constitution (the cornerstone of Asia's peace after WWII) towards rearmament, militarization and fascism. Although the Japanese government signed the G-7 Summit declaration in 1989 to protect Chinese students, I, as a graduate student in Osaka University organizing Chinese democratic and human rights activities in Japan, was persecuted because I refused to collaborate with the Japanese government to betray my fellow Chinese students. Please refer to Japan's second largest newspaper Asahi's interviews with me on February 10, 1990, October 20, 1992 and June 8, 2009, and my article "The Betrayal of Democracy: Tiananmen's Shadow over Japan," Historia Actual Online, 2004, Issue 4 Volume 2.

Partly to respond to my proposals, Microsoft established such a public policy committee in 2012. It is also necessary for IBM to establish a Public Policy Committee.

[14]Facebook 2016 Meeting Proposal Number 12[19]

International Public Policy Committee

Resolved: stockholders recommend that facebook Inc. (our Company) establish an International Public Policy Committee of the Board of Directors to oversee our Company's policies and practice that relate to international public issues including human rights, corporate social responsibility, charitable giving, political activities and expenditures, and foreign governmental regulations that may affect our Company's operations, performance, and reputations worldwide.

Supporting Statement

Our Board of Directors has only two committees: Audit Committee, Compensation and Governance Committee (Notice of Annual Meeting of Stockholders 2015, p.14). There is not a committee to deal with international public issues affecting our business. According to our Company's Annual Report 2014, our Company had 890 million daily active users worldwide with only 157 million daily active users in the U.S. and Canada on December 31, 2014 (p.33). This data does not include China.

A Washington Post article "China's new terrorism law provokes anger in U.S., concern at home" (https://www.washingtonpost.com/world/asia_pacific/china-invokes-terrorism-as-it-readies-additional-harsh-measures/2015/03/04/1e078288-139c-497e-aa8a-e6d810a5a8a2_story.html) reported: "A new draft

[19] http://cpri.tripod.com/cpr2016/fbproxy2016.pdf

counterterrorism law here is provoking unusually strong condemnation, from multinational companies trying to do business in China to domestic dissidents trying to stay out of jail and from global human rights groups to foreign health workers." It is "invoking the dangers of violent extremism to justify and expand an already harsh crackdown on civil rights and to punish foreign information technology companies that refuse to play by its rules." "President Obama focused his ire on provisions in the law that would affect U.S. technology companies doing business here and force them to hand over the keys to their operating systems to Chinese surveillance." "In an interview with Reuters this week, Obama said he had raised his concerns with China's President Xi Jinping."

Concerning our Company's business in China, a New York Times article "Warm West Coast Reception for China's Web Czar (Chillier in Washington)" (http://bits.blogs.nytimes.com/2014/12/08/a-trip-to-california-for-chinas-internet-czar/) reported: "At least one thing caught the eye of China's Internet czar during his trip to the United States last week: a book written by and about the president of China on the desk of Mark Zuckerberg. Mr. Zuckerberg, the chief executive of Facebook, pointed to the book, *Xi Jinping: The Governance of China* last week while giving a tour of the company's office to Lu Wei, the de facto head of Internet policy in China."

Our Company Founder & CEO was proud on September 23, 2015 (https://www.facebook.com/zuck/posts/10102387539239021?fref=nf): "Today I met President Xi Jinping of China", "this was the first time I've ever spoken with a world leader entirely in a foreign language. I consider that a meaningful personal milestone." However, appeasing a foreign leader with a foreign language is very easy; speaking out a public policy to the Chinese government with principles is very difficult. See my human rights proposal to Google's shareholders meeting and Google's Board of Directors statement in 2010: http://cpri.tripod.com/cpr2010/google_proxy.pdf.

It is clear that our Company lacks, thus needs, a committee to deal with complicated international public policy issues.

[15]JPMorgan 2016 Meeting Proposal Number 9[20]

Executive Compensation Philosophy

Resolved: shareholders recommend that JPMorgan Chase & Co. (the Firm) adopt a balanced executive compensation philosophy with social factors to improve the Firm's ethical conduct and public reputation.

Supporting Statement

According to 2015 Proxy Statement, the Compensation & Management Development Committee ("CMDC") "assists the Board in its oversight of the Firm's compensation programs and reviews and approves the Firm's overall compensation philosophy and practices" (p.27). "The CMDC reviews and approves the Firm's compensation philosophy, which guides how the Firm's compensation plans and programs are designed for both the Operating Committee,…" "The CMDC uses a disciplined pay-for-performance framework to make executive compensation decisions commensurate with Firm, line of business, and individual performance, while considering other relevant factors, including market practices" (p.38). As a result, for example, such a philosophy, without consideration of social factors, guided the CMDC to award our CEO a total compensation $27,701,709 in 2014, a 135% jump from 2013 (p.58).

Meanwhile, "[t]wo fifths of the population of developed countries have gained little over recent decades" (OECD Says Rise in Inequality Is Hurting Growth, Wall Street Journal May 22-24, 2015). Professor Thomas Piketty

[20] http://cpri.tripod.com/cpr2016/proxy-statement2016.pdf

stated, “there is absolutely no doubt that the increase of inequality in the United States contributed to the nation’s financial instability.” (Capital in the Twenty-First Century. The Belknap Press of Harvard University Press, 2014. p.297) “Let me return now to the cause of rising inequality in the United States. The increase was largely the result of an unprecedented increase in wage inequality and in particular the emergence of extremely high remunerations at the summit of the wage hierarchy, particularly among top managers of large firms.”(p.298) “[T]he financial professions are about twice as common in the very high income groups as in the economy overall.” (p.303) “Because it is objectively difficult to measure individual contributions to a firm’s output, top managers found it relatively easy to persuade boards and stockholders that they were worth the money, especially since the members of compensation committees were often chosen in a rather incestuous manner.” (p.510)

According to Senator Bernie Sanders: “Wall Street cannot continue to be an island unto itself, gambling trillions in risky financial instruments while expecting the public to bail it out.” “The six largest financial institutions in this country today hold assets equal to about 60% of the nation’s gross domestic product. These six banks issue more than two-thirds of all credit cards and over 35 percent of all mortgages. They control 95 percent of all derivatives and hold more than 40 percent of all bank deposits in the United States.” “Our banking system must be part of the productive, job-creating productive economy.” “If a bank is too big to fail, it is too big to exist. These institutions have acquired too much economic and political power,

endangering our economy and our political process."
(https://berniesanders.com/issues/reforming-wall-street/)

For the purpose of this proposal, the Board or the CMDC has the flexibility to select social factors, such economic condition, unemployment and average income.

[16.1]Apple 2017 Meeting Proposal Number 8[21]

Executive Compensation Reform

Resolved: shareholders recommend that Apple Inc. engage multiple outside independent experts or resources from the general public to reform its executive compensation principles and practices.

Supporting Statement

According to Apple Notice of 2016 Annual Meeting of Shareholders, "Since 2014, the Compensation Committee has engaged the services of Pay Goverance LLC, …on matters for which the Compensation Committee is responsible." (p. 26). However, any single consulting firm cannot represent the general public, such as independent scholars, think tanks, unions and academic societies, to advise fair, just and ethical compensation principles. The failure of our executive compensation principles and practices is clearly shown in the same $1,000,000 salary, the same $20,000,105 stock award and the same $4,000,000 non-equity incentive plan compensation each in 2015 to our five of six named executive officers (p.35). What is use of the Compensation Committee when it could not differentiate the contribution of the tremendously different functions of the CFO, the Retail and Online Stores SVP, the Internet Software and Services SVP, the Hardware Engineering SVP and the Secretary of our company?

As Professor Thomas Piketty (Capital in the Twenty-First Century, trans. Arthur Goldhammer. Cambridge: The Belknap Press of Harvard University

[21] http://cpri.tripod.com/cpr2017//apple-proxy.pdf

Press, 2014) stated, “there is absolutely no doubt that the increase of inequality in the United States contributed to the nation’s financial instability.” (p.297) “Let me return now to the cause of rising inequality in the United States. The increase was largely the result of an unprecedented increase in wage inequality and in particular the emergence of extremely high remunerations at the summit of the wage hierarchy, particularly among top managers of large firms.” (p.298) “Because it is objectively difficult to measure individual contributions to a firm’s output, top managers found it relatively easy to persuade boards and stockholders that they were worth the money, especially since the members of compensation committees were often chosen in a rather incestuous manner.” (p.510)

For the purpose of this proposal, the Board and the Compensation Committee have the flexibility to select multiple independent experts or sources.

[16.2] Proposals on Gender Pay Gap, Compensation Principles Will Not Reach Apple Shareholders

John Filar Atwood, November 24, 2015[22]

Apple Inc. will not be including three shareholder proposals—two on reducing the gender pay gap and one on adopting new compensation principles—in the proxy materials for its upcoming shareholder meeting. The SEC confirmed that the proposal on compensation principles may be omitted by the company, and the two gender gap proposals have been withdrawn by the proponents.

Compensation principles. The proposal regarding new compensation principles was submitted by Jing Zhao, and called for Apple to reform its compensation committee to include outside independent experts from the general public to adopt new compensation principles responsive to America's general economy, such as unemployment, working hour and wage inequality. Zhao expressed concern at the high salaries earned by Apple managers, and cited articles suggesting that wage inequality was one of the sources of financial instability in the U.S.

He noted that Apple's chief financial officer was paid $68.5 million in 2012, its operations senior vice president was paid $68.7 million in 2012, and its retail and online stores senior vice president was paid $73.3 million in 2014. Zhao requested that these pay levels and his proposal be evaluated in the context of Apple's overall compensation policy, including the pay and

[22] https://jimhamiltonblog.blogspot.com/2015/11/proposals-on-gender-pay-gap.html

working conditions for supply-chain workers in China, where most of Apple's products are made.

Ordinary business exclusion. In its letter to the Commission, Apple argued that Zhao's proposal was excludable under Rule 14a-8(i)(7), which permits a company to omit proposals that relate to a company's ordinary business operations. The company pointed out that as noted in Staff Legal Bulletin No. 14A (July 12, 2002), the staff permits exclusion under Rule 14a-(8)(i)(7) of proposals that concern general employee compensation matters.

The Staff Legal Bulletin stated that the compensation of a company's general workforce is considered to be so fundamental to management's day-to-day operation of the company's business that it is not appropriate for shareholder oversight through the shareholder proposal process. These proposals are differentiated from proposals that relate solely to the compensation of senior executives and directors, which are often deemed to involve a significant policy issue.

Apple argued that Zhao's proposal is concerned with compensation principles that apply to all of its employees, not just Apple's senior executives and directors. The SEC staff concurred with Apple, and stated that the company may omit Zhao's proposal from its proxy materials on the grounds that it relates to compensation that may be paid to employees generally and is not limited to compensation that may be paid to senior executive officers and directors.

Gender gap proposals. The proposals on gender-based pay inequality were submitted by Pax World Mutual Funds and Arjuna Capital/Baldwin Brothers Inc. on behalf of Adam Seitchik. Specifically, the shareholders asked Apple to prepare a report by September 2016 on its policies and goals to reduce the gender pay gap. They said that in order for investors to assess Apple's strategy and performance, the report should include the percentage pay gap between male and female employees, policies to improve performance, and quantitative reduction targets.

In support, the shareholders said that despite evidence linking management diversity and financial performance and more robust decision-making, the technology industry still struggled to attract and retain women employees. At Apple, 31 percent of the company's U.S. employees are women, and they account for 28 percent of the company's leadership, according to the proponents.

The proponents cited a report which found that pay equity appears to be an important driver of gender diversity, and actively managing pay equity is associated with higher female representation at the professional through executive levels. The proponents argued that well-managed companies should understand the equity attributes of their pay at all levels of the corporation, by gender as well as other factors such as race, ethnicity, experience, background and discipline.

Ongoing dialogue. In Apple's letter to the SEC, it noted that after discussions with the company, both proponents agreed to withdraw their gender gap proposals. The proponents said that this was the result of a commitment by Apple to engage in an ongoing dialogue regarding gender pay equality with both shareholders.

[16.3]SEC Says Apple Must Allow Investors to Vote on Executive Pay Probe by Fortune[23]

Think Tim Cook is paid too much?

Apple investors may now have a chance to change that. In an Oct. 26 letter, The Securities and Exchange Commission said that Apple could not exclude a vote on whether the company should hire multiple outside experts to reform its executive compensation practices from its annual proxy. That proposal was submitted to Apple by an investor, Jing Zhao.

The SEC's decision comes at a time when more investors are seeking to better align their company's executive compensation to the firm's performance. For example, Shire CEO Flemming Ornskov saw 49% of his investors oppose his 422% pay raise in April to $21.6 million.

Similarly for Apple, back in 2013, nearly a third of Apple shareholders refused to support Cook's 51% pay raise, which seemed out of line with the company's poor performance at the time. Though Apple promised to tie the CEO's pay more closely to his performance, Cook still earned $30 million while the stock shed 5% for the 12 months ending in August thanks to an interesting compensation policy.

But that same complaint surge again during Apple's next annual meeting. Over the past 12 months, shares of Apple have fallen 8% amid weaknesses in iPhone sales and softer demand from the Chinese market. The S&P 500 has remained relatively flat in the same period.

[23] https://fortune.com/2016/11/01/sec-says-apple-must-allow-investors-to-vote-on-executive-pay-probe/

Zhao first submitted the proposal in a June 13 letter to Apple, arguing that while many executive positions fulfilled vastly different functions, each person's compensation was the same.

"What is use of the Compensation Committee when it could not differentiate the contribution of the tremendously different functions of the CFO, the Retail and Online Stores SVP, the Internet Software and Services SVP, the Hardware Engineering SVP and the Secretary of our company? " he wrote.

Zhao's reasons for submitting the proposal though are broader than Apple's performance.

"The American CEO is overpaid, and it has a negative effect on American financial stability," he told Fortune.

The investor, the president of a small think tank called Comparative Policy Research Institute, has long focused on corporate social responsibility. In his say-on-pay proposal to Apple, Zhao cited passages from Thomas Piketty's Capital in the Twenty-First Century.

"There is absolutely no doubt that the increase of inequality in the United States contributed to the nation's financial instability," Zhao quoted. "Because it is objectively difficult to measure individual contributions to a firm's output, top managers found it relatively easy to persuade boards and stockholders that they were worth the money, especially since the members of compensation committees were often chosen in a rather incestuous manner."

Apple initially tried to exclude the say-on-pay proposal from its annual proxy filing. In an Oct. 7 letter, it argued that the proposal to hire outside consultants was too vague, and failed to define “outside independent experts.” But the SEC disagreed.

Zhao has held at least 30 shares of Apple continuously from June 2014 until June 2016.

[16.4] Shareholder Proposals: Apple Must Include "Hire Multiple Comp Consultants" Proposal, November 8, 2016 [24]

Recently, Corp Fin posted this no-action response to Apple about "engage multiple outside independent experts or resources from the general public to reform its executive compensation principles and practices." The retail investor proponent – Jing Zhao – appears to have represented himself in rebutting the company's (i)(3), (i)(6) and (i)(7) arguments. Corp Fin's response to the ordinary business argument is that "the proposal focuses on senior executive compensation."

The proponent's supporting statement cites Professor Thomas Piketty of France, the darling of the income inequality movement. There likely will be more income inequality-oriented proposals in the coming years…

[24] https://www.thecorporatecounsel.net/blog/2016/11/shareholder-proposals-apple-must-include-hire-multiple-comp-consultants-proposal.html

[16.5] SEC Rules Apple Must Allow Shareholder Vote on Executive Pay Review; Similar Proposals More Likely

Center on Executive Compensation, November 5, 2016[25]

Apple investors will have the opportunity to vote on a shareholder proposal asking the company to "engage multiple outside independent experts or resources from the general public to reform its executive compensation principles and practices" at the company's 2017 annual meeting according to an October 26 No-Action letter issued by the Securities and Exchange Commission. The proposal was submitted by activist gadfly Jing Zhao who had some very broad and specific reasons for submitting the proposal. In suggesting that Apple hire outside experts to reform the company's pay program, Zhao notes that the company's current consultant "cannot represent the general public" to "advise fair, just and ethical compensation principles." Further, Zhao's explanation notes that the same salary, annual incentive and long-term incentive was awarded to five of six executives and calls into question the usefulness of the compensation committee if "it could not differentiate the contribution of the tremendously different functions of" each member of the executive team. Zhao also cites economist Thomas Piketty and income inequality as reasons for the proposal's importance. Apple attempted to exclude the proposal on the basis that it was vague, part of ordinary business, and that the board lacked the authority to implement the proposal. The SEC disagreed with Apple and the proposal will appear in the company's proxy statement.

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[25] https://execcomp.org/News/NewsStories/sec-rules-apple-must-allow-shareholder-vote-on-executive-pay-review-similar-proposals-more-likely

The SEC's decision potentially sets the stage for shareholder to essentially require companies to hire a different consultant for the purpose of reviewing and revising their executive compensation policies. The decision builds on the SEC's foray into traditional areas of corporate management. In 2015, the SEC deemed questions of corporate capital structure as being an acceptable subject for shareholder proposals when it permitted a proponent to submit a proposal which sought a preference of share buybacks over dividends when returning cash to shareholders. The SEC's decision also signals that it will continue the much more restrained views with regard to whether proposals can be excluded.

[16.6] Apple shareholder proposal for more executive compensation oversight coming to vote in 2017

Mike Wuerthele, November 02, 2016[26]

An Apple shareholder has filed a request that Apple implement independent oversight of executive compensation, and Apple's bid to deny the filing has failed, forcing the company to put the proposal to a shareholder vote.

Shareholder Jing Zhao declared to the U.S. Securities and Exchange Commission (SEC) on June 13 that Apple lacked "fair, just and ethical compensation principles" due to the company's lack of independent oversight by a single firm. Zhao quotes from Thomas Piketty's controversial "Capital in the Twenty-First Century" analysis and claims that compensation packages like Apple's, and other companies like it, have led to "rising inequality in the United States" from the selection of compensation committees in a "rather incestuous manner."

Apple attorney Gene Levoff countered the claims with the SEC in early October, saying that Apple's oversight was sufficient, the proposal as written was vague, and that Apple's evaluation team was allowed, and fully in compliance with NASDAQ rules.

After a response a week later by the original filer, the SEC has denied Apple's request to put aside the shareholder request, forcing the company to take the matter to a vote during the 2017 general shareholder's meeting, barring legal challenge.

[26] https://appleinsider.com/articles/16/11/02/apple-shareholder-proposal-for-more-executive-compensation-oversight-coming-to-vote-in-2017

Piketty's treatise, quoted heavily in the filing, decries concentrated wealth persisting even after industrialization contributed to rising worker wages, and quality of life, with only disruptive world wars and the great depression disrupting the pattern.

Zhao is the founder of the Comparative Policy Research Institute, a self-proclaimed "independent think tank focusing on comparative social, economical, political, and industrial policy issues" comprised mainly of Chinese researchers, scientists, economists, and engineers with experience in Japan that reside mainly in Silicon Valley. Zhao has personally owned at least 30 shares of Apple stock since June 2014, according to memorandum attached to the SEC filing, making him eligible to make these requests of the company.

Publications by Zhao's group include "Prison Memoirs of an Anarchist," "Memoirs of a Revolutionary," "The Anarchist Lesson from the Spanish Civil War," and the "Chinese Anarchist Archives."

Apple's path forward

The shareholder's request won't necessarily be welcomed by the voters with open arms, however. The same individual requested Google form a wide-reaching "human rights" committee including evaluation of the same matter in 2010, and filed the same request using much the same wording with Goldman Sachs in 2013 which also ended in defeat.

Additionally, Apple has a wide berth in how it may put the matter to a vote. The proposal does not specify who must comply with the proposal specifically, how abstention votes are counted, which class of shareholder may vote, nor does it put forth minimum parameters for compliance.

[16.7]Apple 2018 Meeting Proposal Number 6[27]

Human Rights Committee

Resolved: shareholders recommend that Apple Inc. establish a Human Rights Committee to review, assess, disclose, and make recommendations to enhance Apple's policy and practice on human rights. The board of directors is recommended, in its discretion and consistent with applicable laws to: (1) adopt Apple Human Rights Principles, (2) designate the members of the committee, including outside independent human rights experts as advisors, (3) provide the committee with sufficient funds for operating expenses, (4) adopt a charter to specify the functions of the committee, (5) empower the committee to solicit public input and to issue periodic reports to shareholders and the public on the committee's activities, findings and recommendations, and (6) adopt any other measures.

Supporting Statement

There have been too many negative reports on Apple's human rights policy and practice, mostly related to Apple's operation in China for many years. For example, recently, the New York Times reported "Apple Removes Apps From China Store That Help Internet Users Evade Censorship" on July 29, 2017; the Wall Street Journal reported "Get Used to Apple Bowing Down to Chinese Censors" on August 7, 2017. Furthermore, Apple is building its first China-based data center, and "the new agreement goes one step further with a Chinese partner responsible for running its data center, managing the sales of

[27] http://d18rn0p25nwr6d.cloudfront.net/CIK-0000320193/9fdaebbf-2536-416e-8672-9a4e807e4e5e.pdf, http://cpri.tripod.com/cpr2018//appleproxy.pdf

its services in the country and handling legal requests for data from the government." (New York Times, July 12, 2017)

On human rights policy and practice, we have the best case (see my proposal to Google 2010 shareholders meeting) and the worst case (see my proposals to Yahoo 2011 and 2013 shareholders meetings, to Verizon 2017 shareholders meeting and to Yahoo/Altaba 2017 shareholders meeting http://cpri.tripod.com/cpr2017/altaba-statement.pdf on the abuses of the so-called "Yahoo Human Rights Fund" against human rights) here in Silicon Valley. Apple should not fail as Yahoo.

[16.8] Apple Adds Human Rights Proposal to Proxy Following SEC Letter

Chris Nolter, January 4, 2018[28]

The iPhone maker had requested SEC clearance to skip the shareholder proposal at its annual meeting.

When Apple Inc. (AAPL) shareholders gather in the Steve Jobs Theater on Feb. 13 for the iPhone maker's annual meeting, they will cast votes on whether to establish a human rights committee on the company's board.

Shareholder Jing Zhao of Concord, Calif., who owns $2,000 worth of Apple stock, according to Apple's shareholder proxy, proposed setting a committee to establish human rights principles and report to the shareholders and the public.

"There have been too many negative reports on Apple's human rights policy and practice, mostly related to Apple's operation in China for many years," read a statement from Zhao, which Apple included in the proxy. The investor noted that he had made similar proposals to shareholders of Verizon Communications Inc. (VZ), former Yahoo! parent Altaba Inc. (AABA) and Goldman Sachs & Co. (GS).

[28] https://www.thestreet.com/markets/mergers-and-acquisitions/apple-adds-human-rights-proposal-to-proxy-14437739

Shares of Apple rose 1% to $174.07 on Wednesday, Jan. 3 and were up another 0.3% on Thursday afternoon. The stock is up about 50% in the last 52 weeks.

While Apple supplier Foxconn Technology Co. Ltd. has drawn scrutiny for working conditions, Zhao cites stories in the New York Times and Wall Street Journal about Apple's cooperation with Chinese government censors.

Apple asked the Securities and Exchange Commission for clearance to omit the proposal in a Nov. 20 email. The company said the proposal involved "ordinary business operations" that did not merit a vote at the annual meeting. The SEC denied the request on Dec. 21. Bloomberg wrote that Apple's request was the first by a company to block such a shareholder proposal.

UCLA School of Law professor Stephen Bainbridge suggested the SEC is wrong to require the inclusion of such proposals, writing that the motions force companies "to include statements adverse to its interests in its disclosure documents," in a blog post.

Apple argues that the committee is not necessary because of steps the company has already taken. The Audit Committee monitors business risks such as damage to its reputation. The company's "supplier responsibility team" works with partners to "make lasting change to improve lives worldwide," Apple added. The company publishes an annual report on working conditions, worker treatment and environmental effects of manufacturing.

"The proponent focuses on human rights in China, and in particular, access to the internet in China," Apple stated. "We do not have the option to ignore laws, either in China or in any other country where we provide products and services." If Beijing outlaws a virtual private network app, Apple says, it can not sell the app in China.

Chinese iPhone sales have declined in fiscal years 2016 and 2017, but have shown signs of a rebound. Apple's revenue in China grew by 12% in the fourth fiscal quarter, and UBS analyst Steven Milunovich called China a "swing factor" for Apple in fiscal year 2018.

"We increased market share for iPhone, Mac, and iPad during the quarter," Apple CEO Tim Cook said during a November earnings call. "We hit all-time revenue records for Services and for Mac for the PRC during the quarter."

Apple recommended that shareholders vote against the proposal, which requires a majority of shares voted at the meeting.

Editor's note: This article was originally published by The Deal, a sister publication of TheStreet that offers sophisticated insight and analysis on all types of deals, from inception to integration.

[16.9]Bay Area man takes on Apple with push for more human rights accountability by Mercury News[29]

Seung Lee, Bay Area News Group, December 29, 2017

Beijing, China – January 17: (CHINA OUT) Tim Cook, Chief Executive Officer of Apple Inc., and China Mobile Chairman Xi Guohua (R) visit a China Mobile shop to celebrate the launch of iPhone 5S and iPhone 5C on China Mobile's fourth generation (4G) network on January 17, 2014 in Beijing, China. Apple Inc. and China Mobile Limited, the world's largest carrier with over 760 million subscribers, signed a deal on December 23, 2013 after six years of negotiations.

CUPERTINO — A Bay Area man with a small stake in the world's largest technology company is fighting to put human rights front and center throughout Apple's global operations — and he'll soon find out whether other Apple shareholders back his plan.

Jing Zhao of Concord — a long-time proponent of human rights measures aimed at holding technology companies accountable for their actions around the world — has proposed that Apple should create a human rights committee to "review, assess, disclose, and make recommendations to enhance Apple's policy and practice on human rights," according to Apple's proxy statement, filed with the Securities and Exchange Commission this week.

[29] https://www.mercurynews.com/2017/12/29/bay-area-based-apple-shareholder-asks-apple-to-create-human-rights-committee/

In his supporting statement, Zhao listed Apple's decision in July that took down hundreds of virtual private network apps in its Chinese App Store for iPhones. The move led to an inquiry from two U.S. senators on whether Apple is enabling Beijing's internet censorship and other human rights violations.

Apple's board has recommended a vote against Zhao's proposal, arguing in its proxy statement that the Cupertino company already has an independent audit committee and Supplier Responsibility Team that help Apple take action on its "unwavering commitment to social responsibility and human rights."

Zhao's proposal will be one of six on the ballot at the shareholders meeting February 13 at Apple Park. Most of the others are bureaucratic votes such as re-electing board directors and appointing an independent accounting firm.

Zhao, who owns at least $2,000 in Apple stock, has been a minor, but extremely persistent voice in raising human rights actions with tech companies. Zhao has made similar proposals for several years annually to Google, Yahoo and Altaba — Yahoo's rebranded name after Verizon purchased the company — with none approved so far by shareholders.

In 2011, Zhao got a proposal on Yahoo's ballot for the company to adopt a code of human rights principles — after five years of falling short, according to a 2011 CNN article. The proposal drew 25 million "yes" votes and 779 million "no" votes.

Zhao, a researcher who runs an independent think tank called US-Japan-China Comparative Policy Research Institute (CPRI), has made at least 36 human rights-related proposals to Silicon Valley companies since 2010 and made proposals to Apple every year since at least 2015, according to fellow Apple investor James McRitchie.

Last February at Apple's annual shareholders meeting, shareholders voted to reject his proposal that Apple should implement an oversight committee to reform executive pay.

Zhao declined a request for comment on his latest proposal.

Apple has pushed back against Zhao's argument concerning the recent news in China, saying the company was compelled to follow Chinese law or face expulsion.

"We do not have the option to ignore laws, either in China or in any other country where we provide products and services," said Apple. "We would rather not have been required to remove the apps, but we must follow applicable law wherever we do business."

Many investor-written proposals rarely see the light of day on the ballot. Companies frequently petition the SEC to exclude proposals by arguing they are already considered in their day-to-day operations and do not require shareholder intervention.

But the SEC, in a surprising move, decided to include Zhao's proposal to Apple on the ballot for the first time, saying Apple did not prove the proposal was "not sufficiently significant to the (Apple's) business operations."

"The board's analysis does not explain why this particular proposal would not raise a significant issue for the Company," wrote SEC's senior special counsel Matt McNair to Apple's Vice President of Corporate Governance Gene Levoff in a Dec. 21 letter.

McRitchie, a self-described "shareholder advocate" from Elk Grove, has a proposal of his own on the ballot. That one seeks to allow more shareholders to join a nominating group for prospective board directors and to increase the potential number of nominees.

McRitchie does not believe his or Zhao's proposals will get the majority vote they need to pass. But rather than focusing on the end goal, he took pride in the journey to get on the ballot.

"Just because it doesn't pass doesn't mean that it's not substantial," said McRitchie. "Apple needing to pay attention to human rights is important for its reputation. (Apple) has Al Gore on the board; it has social responsibility on its mind."

[16.10]Apple CEO downplays special dividend at shareholder meeting

Stephen Nellis, February 13, 2018[30]

(Reuters) - Apple Inc Chief Executive Tim Cook downplayed a suggestion that the company might issue a special dividend to shareholders with some of the $285 billion in cash that the company is now able to bring back from overseas.

At an annual shareholder meeting at Apple Park in Cupertino on Tuesday, Cook responded to a question on whether the company might double its dividend in the wake of changes to United States tax laws that allowed corporations to bring back overseas cash at lower tax rates than before.

“Special dividends, I’m not really a fan of,” Cook responded. “But in terms of annual increases in the dividend, it is something that this board and management are committed to doing.”

Cook said the company would provide an update on its capital return program during its April earnings call with investors, as it has done for the past several years.

At the meeting, shareholders defeated two shareholder proposals, one asking that rules allowing shareholders to nominate directors to the board be eased, and another asking for a human rights committee at Apple.

[30] https://www.reuters.com/article/us-apple-shareholders/apple-ceo-downplays-special-dividend-at-shareholder-meeting-idUSKCN1FX2GA

The proxy access measure asked Apple to reconsider its rules for shareholders to nominate directors; the rules say that a group of no more than 20 shareholders must hold 3 percent of Apple’s stock in order to nominate a director for one of the eight director positions. The proposal did not pass, with 67.8 percent of shareholders voting against it.

Another proposal urged Apple to create a human rights panel to oversee issues such as workplace conditions and censorship in China and to report results back to the public. The proposal was defeated, with 94.4 percent of shareholders voting against it.

Apple had recommended that shareholders vote against both of the measures.

Shareholders approved four measures put forth by the company, including a required “say on pay” vote to approve pay for executives and a measure on re-electing the current directors.

Shares of Apple were up 0.1 percent at $162.84.

[16.11]Apple moves to store iCloud keys in China, raising human rights fears

Stephen Nellis, Cate Cadell of Reuters, February 23, 2018[31]

SAN FRANCISCO/BEIJING (Reuters) - When Apple Inc begins hosting Chinese users' iCloud accounts in a new Chinese data center at the end of this month to comply with new laws there, Chinese authorities will have far easier access to text messages, email and other data stored in the cloud.

That's because of a change to how the company handles the cryptographic keys needed to unlock an iCloud account. Until now, such keys have always been stored in the United States, meaning that any government or law enforcement authority seeking access to a Chinese iCloud account needed to go through the U.S. legal system.

Now, according to Apple, for the first time the company will store the keys for Chinese iCloud accounts in China itself. That means Chinese authorities will no longer have to use the U.S. courts to seek information on iCloud users and can instead use their own legal system to ask Apple to hand over iCloud data for Chinese users, legal experts said.

Human rights activists say they fear the authorities could use that power to track down dissidents, citing cases from more than a decade ago in which Yahoo Inc handed over user data that led to arrests and prison sentences for two democracy advocates. Jing Zhao, a human rights activist and Apple

[31] https://www.reuters.com/article/us-china-apple-icloud-insight/apple-moves-to-store-icloud-keys-in-china-raising-human-rights-fears-idUSKCN1G8060

shareholder, said he could envisage worse human rights issues arising from Apple handing over iCloud data than occurred in the Yahoo case.

In a statement, Apple said it had to comply with recently introduced Chinese laws that require cloud services offered to Chinese citizens be operated by Chinese companies and that the data be stored in China. It said that while the company's values don't change in different parts of the world, it is subject to each country's laws.

"While we advocated against iCloud being subject to these laws, we were ultimately unsuccessful," it said. Apple said it decided it was better to offer iCloud under the new system because discontinuing it would lead to a bad user experience and actually lead to less data privacy and security for its Chinese customers.

As a result, Apple has established a data center for Chinese users in a contractual arrangement with state-owned firm Guizhou - Cloud Big Data Industry Co Ltd. The firm was set up and funded by the provincial government in the relatively poor southwestern Chinese province of Guizhou in 2014. The Guizhou company has close ties to the Chinese government and the Chinese Communist Party.

The Apple decision highlights a difficult reality for many U.S. technology companies operating in China. If they don't accept demands to partner with Chinese companies and store data in China then they risk losing access to the lucrative Chinese market, despite fears about trade secret theft and the rights of Chinese customers.

BROAD POWERS

Apple says the joint venture does not mean that China has any kind of "backdoor" into user data and that Apple alone – not its Chinese partner – will control the encryption keys. But Chinese customers will notice some differences from the start: their iCloud accounts will now be co-branded with the name of the local partner, a first for Apple.

And even though Chinese iPhones will retain the security features that can make it all but impossible for anyone, even Apple, to get access to the phone itself, that will not apply to the iCloud accounts. Any information in the iCloud account could be accessible to Chinese authorities who can present Apple with a legal order.

Apple said it will only respond to valid legal requests in China, but China's domestic legal process is very different than that in the U.S., lacking anything quite like an American "warrant" reviewed by an independent court, Chinese legal experts said. Court approval isn't required under Chinese law and police can issue and execute warrants.

"Even very early in a criminal investigation, police have broad powers to collect evidence," said Jeremy Daum, an attorney and research fellow at Yale Law School's Paul Tsai China Center in Beijing. "(They are) authorized by internal police procedures rather than independent court review, and the public has an obligation to cooperate."

Guizhou - Cloud Big Data and China's cyber and industry regulators did not immediately respond to requests for comment. The Guizhou provincial government said it had no specific comment.

There are few penalties for breaking what rules do exist around obtaining warrants in China. And while China does have data privacy laws, there are broad exceptions when authorities investigate criminal acts, which can include undermining communist values, "picking quarrels" online, or even using a virtual private network to browse the Internet privately.

Apple says the cryptographic keys stored in China will be specific to the data of Chinese customers, meaning Chinese authorities can't ask Apple to use them to decrypt data in other countries like the United States.

Privacy lawyers say the changes represent a big downgrade in protections for Chinese customers.

"The U.S. standard, when it's a warrant and when it's properly executed, is the most privacy-protecting standard," said Camille Fischer of the Electronic Frontier Foundation.

A man looks at the screen of his mobile phone in front of an Apple logo outside its store in Shanghai, China July 30, 2017. REUTERS/Aly Song

WARNED CUSTOMERS

Apple has given its Chinese users notifications about the Feb. 28 switchover to the Chinese data center in the form of emailed warnings and so-called push alerts, reminding users that they can choose to opt out of iCloud and store information solely on their device. The change only affects users who set China as their country on Apple devices and doesn't affect users who select Hong Kong, Macau or Taiwan.

Apple doesn't require an iCloud account to set up and use an iPhone. But if the user enables iCloud during set up, the default settings on the iPhone will automatically create an iCloud back-up. Apple declined to comment on whether it would change its default settings to make iCloud an opt-in service, rather than opt-out, for Chinese users.

Apple said it will not switch customers' accounts to the Chinese data center until they agree to new terms of service and that more than 99.9 percent of current users have already done so.

Until now, Apple appears to have handed over very little data about Chinese users. From mid-2013 to mid-2017, Apple said it did not give customer account content to Chinese authorities, despite having received 176 requests, according to transparency reports published by the company. By contrast, Apple has given the United States customer account content in response to 2,366 out of 8,475 government requests.

Those figures are from before the Chinese cyber security laws took effect and also don't include special national security requests in which U.S. officials might have requested data about Chinese nationals. Apple, along with other companies, is prevented by law from disclosing the targets of those requests.

Apple said requests for data from the new Chinese datacenter will be reflected in its transparency reports and that it won't respond to "bulk" data requests.

Human rights activists say they are also concerned about such a close relationship with a state-controlled entity like Guizhou-Cloud Big Data.

Sharon Hom, executive director of Human Rights in China, said the Chinese Communist Party could also pressure Apple through a committee of members it will have within the company. These committees have been pushing for more influence over decision making within foreign-invested companies in the past couple of years.

(Corrects paragraph 7 to read “contractual arrangement” instead of “joint venture”; corrects to show that Apple does not require an iCloud account to set up an iPhone)

[16.12] Proxy Preview 2018 Board: Oversight section [32]

Apple convinced the SEC that it need not include a proposal from Harrington Investments that raised concerns about its

operations in China. Commission staff agreed it duplicates another human rights resolution it received first from Jing Zhao, asking for a human rights committee. (That proposal is covered in the Board Oversight section, p. 63.) The proposal sought a report on Apple's "role in promoting freedom of expression." Specifically, it asked the company to:

• Summarize measures Apple took to prevent removal of relevant VPN apps in China;

• Describe Company policies for evaluating and responding to, above and beyond legal compliance, government requests to remove apps from the App store affecting freedom of expression;

• Explore policy options for the Company to play a role in ensuring that consumers in countries like China, with severe censorship records, have unfettered and anonymous access to the Internet.

Human rights: Chinese human rights activist Jing Zhao, who has filed often at tech companies about problems in China,asks that Apple establish a Human Rights Committee to review, assess, disclose, and make recommendations to enhance Apple's policy and practices on human rights. The board of directors is recommended, in its discretion and consistent with applicable laws to: (1) adopt Apple Human Rights Principles, (2) designate

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[32] https://womendonors.org/wp-content/uploads/2018/03/WDN_proxy_preview_2018.pdf p.53 &p.65

the members of the committee, including outside independent human rights experts as advisors, (3) provide the committee with sufficient funds for operating expenses, (4) adopt a charter to specify the functions of the committee, (5) empower the committee to solicit public input and to issue periodic reports to shareholders and the public on the committee's activities, findings and recommendations, and (6) adopt any other measures.

The company unsuccessfully challenged the proposal at the SEC, which did not agree it can be excluded on ordinary business grounds. Apple contended respect for human rights is integral to its business practices which management and the board already consider, but the SEC said that Apple did not "explain why this particular proposal would not raise a significant issue for the Company." Investors gave the proposal 5.6 percent support at the mid-February annual meeting.

[17]Tesla 2018 Meeting Proposal Number 3[33]

Board Chairman Independence

Resolved: shareholders recommend that Tesla adopt a policy that the chairman of our board of directors be an independent director.

Supporting Statement

Mr. Elon Musk has served as Chief Executive Officer for ten years since 2008 and as Chairman of the Board of Directors for fourteen years since 2004. Although the current leadership structure, in which the positions of Chairman and CEO are held by one person, could provide an effective leadership for Tesla at the early stage, now in this much more highly competitive and rapidly changing technology industry, it is more and more difficult to oversee Tesla's business and senior management (especially to minimize any potential conflicts) that may result from combining the positions of CEO and Chairman.

For example, in November 2016 Tesla completed acquisition of SolarCity, so Tesla's CEO and Chairman is also a significant stockholder of SolarCity and Chairman of its Board of Directors; Jeffrey B. Straubel, Tesla's Chief Technical Officer, is also a member of SolarCity's Board of Directors; and certain other members of Tesla's Board of Directors have interests in SolarCity (NOTICE OF 2017 ANNUAL MEETING OF STOCKHOLDERS p.46.). Elon Musk is also the CEO, Chief Technical Officer and a significant stockholder of SpaceX. Kimbal Musk, a member of

[33] https://ir.tesla.com/static-files/c2551651-d79d-438c-8620-a22b3b3eb713, http://cpri.tripod.com/cpr2018/teslaproxy.pdf

Tesla’s Board of Directors, is also a member of the board of directors of SpaceX. In addition, certain other members of Tesla’s Board of Directors have interests in SpaceX……. (NOTICE OF 2017 ANNUAL MEETING OF STOCKHOLDERS p.47.).

An independent chairman of the board of directors is the prevailing practice in the international market, such as in the United Kingdom. In the United States too, many big companies already have or began to have an independent Board Chairman. Tesla should not be exception.

[18]Tesla 2019 Meeting Proposal Number 7[34]

Public Policy Committee

Resolved: shareholders recommend that Tesla Inc. (the Company) establish a Public Policy Committee to oversee the Company's policies including human rights, environment, domestic governmental regulations, foreign affairs and international relations affecting the Company's business.

Supporting Statement

A lot of things happened in the Company since the board rejected my independent Chairman proposal at our 2018 shareholders meeting; a lot of things happened in the United States since Mr. Donald Trump became the President; a lot of things happened in US-China relations, particularly the tense trade disputes affecting the Company's business in China, since Mr. Xi Jinping removed his own term limit as China's President. A lot of things will happen more unpredictably affecting the Company's business.

Many companies, such as the dead Yahoo and the troubled facebook, failed without a public policy committee. The Company's current Audit Committee, Compensation Committee, and Nominating and Corporate Governance Committee are not adequate to deal with the new age of global competition, confusion, conflicts and confrontation. The Company needs not only an independent Chairman (or Chairwoman), but also a public policy committee.

[34] http://cpri.tripod.com/cpr2019/proxy2019.pdf

[19]Wells Fargo 2018 Meeting Proposal Number 5[35]

Reform Executive Compensation Policy with Social Responsibility

Resolved: shareholders recommend that Wells Fargo & Company engage multiple outside independent experts or resources from the general public to reform its executive compensation policy with social responsibility.

Supporting Statement

A socially responsible executive compensation policy is essential to corporate social responsibility. Wells Fargo does not have a compensation committee. "The HRC [Human Resource Committee] retained FW Cook to provide independent advice on executive compensation matters for 2016." (2017 Proxy Statement, p.59). It is obvious that a paid consulting firm cannot provide any independent voice which the company does not want to hear. For example, Apple Inc. wasted the company money to hire a consulting firm to advise Apple to award the same $1,000,000 salary, the same $20,000,105 stock and the same $4,000,000 non-equity incentive plan compensation each in 2015 to its five named executive officers. The current Wells Fargo executive compensation policy is not socially responsible, as shown from the case of the forfeited $41 million from the former CEO. It does not include social elements beyond the narrow market consideration, such as the rising of the CEO-worker pay ratio, to measure the executive compensation.

"A man must always live by his work, and his wages must at least be sufficient to maintain him." (Adam Smith, *The Wealth of Nations* "Book 1

[35] http://cpri.tripod.com/cpr2018/2018proxy5.pdf

Chapter 8 Of the Wages of Labour," 1776.) However, citing Economic Policy Institute, the Wall Street Journal reported: "The ratio has ballooned since the 1970s: The bosses of America's 350 largest companies made on average 276 times the money of their rank-and-file subordinates in 2015, up from 30 times in 1978." ("CEO-Worker Pay Ratio Generates Outrage—And Some Insight" by Stephen Wilmot, July 6, 2017) Furthermore, "Summary compensation tables massively understate what executives earn and don't tell investors what they need to know." "In 2015—the last year for which full data is available—the average pay of the 500 highest-paid U.S. executives was $17.1 million according to fair-value estimates, but $32.6 million according to realized pay." ("Better Ways to Measure Your Boss's Pay" by Stephen Wilmot, July 4, 2017.) This rising trend of inequality is not only socially immoral but also economically unsustainable.

For the purpose of this proposal, the HRC has the flexibility to select multiple independent experts or sources and social elements, such as the CEO-worker pay ratio of Wells Fargo and the average employee's pay, the minimum wage, and jobless rate of America. For example, Intel accepted my advice and organized three meetings to receive true independent insights from outside experts (including an UN officer, a federal officer, an Australian professor, a British journalist, an activist, NPO researchers, a lawyer, and shareholders) to review its human rights principles and employee's code of conduct policy.

[20]Twitter 2018 Meeting Proposal Number 4[36]

Public Policy Committee

Resolved: stockholders recommend that Twitter, Inc. establish a Public Policy Committee of the Board of Directors to oversee Twitter's policies and practice that relate to public policy issues including human rights, corporate social responsibility, charitable giving, political activities and expenditures, foreign governmental regulations and international relations that may affect Twitter's operations, performance, reputations and stockholders value.

Supporting Statement

Twitter has become the most used public policy platform in the US (such as @realDonaldTrump) and the world (including political dissidents in China even where Twitter is blocked to operate). And the world becomes more and more connected by smart phones and other mobile equipments.

On the other hand, "[o]ur board of directors has established an audit committee, a compensation committee and a nominating and corporate governance committee" (Notice of Annual Meeting of Stockholders 2017, p.16). There is not a committee to deal with public policy issues affecting our Company's business. Since "[d]uring fiscal 2016, our nominating and corporate governance committee held 1 meeting" (Notice of Annual Meeting of Stockholders 2017, p.17) only, the nominating and corporate governance committee did not deal with public policy issues.

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[36] http://cpri.tripod.com/cpr2018/twitterproxy.pdf

Microsoft established Regulatory and Public Policy Committee in 2012 (partly responding to my proposals, which I withdraw). On the other hand, Yahoo had continuously rejected my public policy (human rights) proposals until its end (see my proposals to Yahoo 2011 and 2013 shareholders meetings, to Verizon 2017 shareholders meeting and to Altaba 2017 shareholders meeting).

It is time that Twitter should establish a committee to deal with increasingly complicated public policy issues.

[21] Activists are using shareholder votes to promote social agendas[37]

The Economist Apr 14th 2018 | NEW YORK

JING ZHAO'S main occupation is translating Latin classics into Chinese. He runs a small think-tank, the US-Japan-China Comparative Policy Research Institute. He lives off rents from property bought cheaply after the financial crisis. But this quiet, intellectual California resident has a surprising sideline: submitting proposals to be voted on by the shareholders of companies in which he owns small stakes. That makes him part of a movement that is forcing management at some of the world's biggest firms to consider not just profitability but broad shifts in social attitudes.

The annual meetings of America's listed companies, usually held between February and June, have come to constitute "proxy season"—so-called because shareholders need not cast their votes in person. This year proposals from Mr Zhao will be on the ballot at four giant firms. He wants Apple to create a human-rights committee, citing its decision last year to bow to Chinese censorship by removing hundreds of "virtual private network" apps from its Chinese app store. For Twitter, he proposes a new committee to oversee issues such as human rights and corporate social responsibility. A third proposal would lessen Elon Musk's dominance over Tesla by giving the board more power. And finally, he wants changes to remuneration policies at Wells Fargo, a big bank that faces fines of up to $1bn for mis-selling financial products.

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[37] http://news.boardprospects.com/articles/share/2959634/

Each firm has reacted negatively to Mr Zhao's proposals. Apple and Twitter appealed, unsuccessfully, to the Securities and Exchanges Commission (SEC) to have them struck down. So far only the proposal regarding Apple has been voted on, with just 5% in favour. But Mr Zhao, and others trying to use proxy votes to mould corporate America, are playing a long game. The vote has drawn attention to Apple's concessions in China. And 5% is enough, under the SEC's rules, that Apple cannot block the proposal from next year's ballot.

Shareholder proposals used to relate mostly to corporate governance—for example, splitting the roles of chairman and chief executive. But in recent years that has changed. Even as the total number of proposals has fallen, the number relating to social and policy issues has crept up. Last year, according to the Manhattan Institute, a think-tank, more than half of those at America's 250 biggest firms related to such matters. An analysis by Institutional Shareholder Services (ISS), a proxy-advisory firm—which advises fund managers on how to vote on proposals—found that of the 459 shareholder proposals submitted by early April this year, many fell under just a few headings: transparency about political spending, climate change, racial and gender diversity, and pay.

But that does not capture the proposals' range and creativity. Campaigners on a dizzying array of issues regard proxy voting as an exciting new weapon. For example, this year the Sisters of St Francis of Philadelphia, an American order of nuns, got a proposal onto the ballot at AmerisourceBergan, one of America's largest pharmaceutical distributors. Demanding greater transparency about the sale of opioids, it gained 41% of the vote. That is startling, given that supplying pharmaceuticals is the firm's core purpose.

The message to management is unlikely to go unnoticed. Two other distributors, Depomed and McKesson, face similar votes.

The Interfaith Centre on Corporate Responsibility, a group of unions, pension funds, religious groups and self-described "socially responsible" asset managers, published a guide to the 266 proposals its members put forward this year. One wants Amazon to look at how to cut food waste. Another wants Bristol-Myers to consider how to incorporate public concerns over expensive drugs into executive pay. A third wants Goldman Sachs and Citigroup to say how they will avoid violating the rights of indigenous people whose lands might be crossed by oil pipelines.

Early and often

Typically, proxy proposals are framed as being beneficial for a firm's bottom line, no matter what the issue. That can stretch credulity. But it also provides essential cover for fund managers who may look kindly on a proposal but are voting on behalf of the shares they manage, since they are generally bound to support only proposals that would enhance a firm's value.

In public, executives tend to welcome proxy activism. In private they moan about the time and money it soaks up. Seemingly innocuous requests for studies on an issue touch a raw nerve; each word could form the basis for future litigation.

It is all a far cry from the early days of proxy voting, in the 19th century, when the rise of public companies with dispersed owners made it hard to get a quorum. Shareholders were permitted to nominate a proxy to vote on their behalf. For a long time, their representation was mostly for show. In 1937 a jaded correspondent for The Economist noted that shareholders were merely provided with “special facilities for voting in favour of the chairman’s policy before they have heard his speech”.

The issue was included in the SEC’s original mandate, in 1934. But the agency has struggled ever since to decide who should be able to put forward a proposal, and what sort of demands it may entail. It took years for shareholders to gain the right to approve a firm’s choice of auditor, but such a vote is now mandatory—and particularly relevant this year. The collapse of two big firms, Carillion and Steinhoff, is provoking shareholders at some other firms with the same auditors, KPMG and Deloitte, to demand that they switch. ISS has recommended that GE’s shareholders vote in favour of dropping KPMG.

The current rules set a low bar for submitting a proposal. A shareholder must have owned at least $2,000 of a company’s stock for a year, and write a letter setting out the topic of the vote in less than 500 words. But getting it accepted is harder. Proposals are supposed to address issues that affect at least 5% of a company’s business, and neither conflict with its ordinary activities nor reflect a personal grievance. Management can appeal to the SEC to block a vote. According to the Sustainable Investments Institute, an advisory firm for social, environmental and policy issues, during the past eight years appeals heard by the SEC have been granted 40-60% of the time.

The SEC can be unpredictable and its results and utterances Delphic, says Heidi Walsh, the institute’s director. Last year it ruled that Exxon had to allow a vote on proposals requiring extensive studies of the risks climate change posed to its business. Over the firm’s objections, the proposals were approved. But this year the SEC allowed EOG, an oil and gas firm, to block a proposal requiring it to set targets to reduce greenhouse-gas emissions.

If either side disagrees with the SEC's decision, it can go to court. In 1969 opponents of the Vietnam war, who had sought and failed to call a shareholder vote to force Dow Chemical to stop making napalm, appealed. That led to the SEC ending its ban on proposals relating to political and moral issues. After a proposal in the 1980s to stop the force-feeding of geese was blocked, litigation established that a proposal can sometimes merit a vote, even if it concerns less than 5% of a firm's business. In 2015 litigation by Walmart reversed an SEC decision to allow a proposal seeking to restrict the retailer's gun sales.

The changing nature of shareholding has created some unlikely social-justice warriors. Shares used to be held in tiny lots by individuals. They are now largely consolidated into big public and private pools. That has turned sovereign-wealth funds, pension funds and the like, which vote in proportion to the shares they manage, into the equivalent of voting blocs. Private funds often used to neglect to cast their votes, perhaps for fear of antagonising corporate clients. That changed in 2003, when the SEC started requiring them to do so. Some officials running public pension funds seem to revel in their new-found power. Scott Stringer, New York City's chief financial officer, made his stance on proxy proposals relating to diversity and climate change a big part of his election campaign.

In this new framework for corporate governance, the role of éminence grise is filled by proxy-advisory firms like ISS. It and Glass Lewis are the two best-known. They help institutional investors to sort through the array of proposals put forward by other shareholders and by the firm itself, and give recommendations to guide votes. But one voice is still scarcely heard: that of individual owners whose shares are held in funds and pension schemes. As social issues rise up the corporate agenda, it is a lingering injustice that they are ignored.

This article appeared in the Finance and economics section of the print edition under the headline "Voting with your pocket".

[22.1]PG&E 2019 Meeting Proposal Number 5[38]

Corporation Structure Reform

Resolved: shareholders recommend that PG&E Corporation reform PG&E's structure to combine with Pacific Gas and Electric Company into one organization under one board and one executive team, under applicable law and regulation rules.

Supporting Statement

According to Joint Notice of 2018 Annual Meetings Joint Proxy Statement of PG&E Corporation and Pacific Gas and Electric Company summary compensation table (p.61), PG&E Corporation's CEO and President Ms. Williams took $8,597,220, Pacific Gas and Electric Company's President and COO Mr. Stavropoulos took $6,413,256, and PG&E Corporation's Executive Chair of the Board Mr. Earley took $6,012,329 (with early retirement before the end of 2017), totaling $21,022,805 in 2017 when California residents suffered devastating lose and lives from wild fires and other natural and unnatural causes! Mr. Earley also took $11,730,646 in 2016 and $12,198,394 in 2015. Californians cannot afford to award three bosses for one and same poor public utilities service at the same time with such an absurd high compensation.

Furthermore, according to the Wall Street Journal "Better Ways to Measure Your Boss's Pay" (July 4, 2017): "Summary compensation tables massively understate what executives earn and don't tell investors what they

[38] http://cpri.tripod.com/cpr2019//pgeproxy.pdf

need to know." "In 2015—the last year for which full data is available—the average pay of the 500 highest-paid U.S. executives was $17.1 million according to fair-value estimates, but $32.6 million according to realized pay."

The division of PG&E Corporation and Pacific Gas and Electric Company is unnecessary for and harmful to public service, and is unethical for two groups of executive officers to award themselves with absurd compensation. There is no such a “joint venture” of public service in other advanced democratic societies.

[22.2] PG&E sets meeting amid fury over wildfire woes, hefty executive paydays[39]

George Avalos, Mercurynews May 17, 2019

PG&E has set the date for its annual meeting of shareholders amid intense fury in the wake of years of wildfire catastrophes and disclosures of multi-million-dollar payments for top bosses at the disgraced utility.

June 21, 10 a.m., at PG&E corporate headquarters, 77 Beale St., San Francisco is the date for the annual meeting of shareholders of the bankrupt and embattled power provider, PG&E stated in an official filing with the Securities and Exchange Commission on Friday.

Among the issues for shareholders to ponder: a pay raise for Geisha Williams, former PG&E chief executive officer, whose tenure as the company's top boss included 2017 and 2018.

Williams took over as CEO of PG&E in March 2017 and, less than two years later, resigned from that post on Jan. 13 of this year, just ahead of PG&E's bankruptcy filing on Jan. 29.

PG&E sought bankruptcy protection to ward off a menacing mountain of liabilities and wildfire-linked claims in a Chapter 11 proceeding that listed $51.69 billion in debts.

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[39] https://www.mercurynews.com/2019/05/17/pge-sets-meeting-amid-fury-over-wildfire-woes-hefty-executive-paydays/ , http://cpri.tripod.com/cpr2019/mercurynews20190517.pdf

Deadly blazes in both 2017 and 2018 have been directly linked to PG&E's equipment as the principal cause of the infernos.

In October 2017, a series of fatal wildfires torched the North Bay Wine Country and nearby regions. State fire investigators have determined that PG&E's equipment caused 17 of these blazes.

In November 2018, a wildfire roared through Butte County and essentially destroyed the town of Paradise. This disaster, nicknamed the Camp Fire, killed 85. State experts have determined that PG&E's equipment caused the Butte County fire.

Williams was awarded $9.3 million in total direct pay in 2018, according to documents PG&E filed Friday with the Securities and Exchange Commission.

That was 8.1 percent more than the $8.6 million Williams received in 2017. Total direct pay includes an executive's base salary, bonuses, incentive payments, stock options, stock awards and miscellaneous pay such as perks.

PG&E stated that the pay raise for Williams in 2018 was connected to the company's financial and stock market performance.

"For Geisha Williams, who served as the PG&E Corp. CEO and president during 2018, approximately 89 percent of 2018 target compensation was tied to corporate performance," PG&E stated in the SEC filing. For other executive officers listed by name, roughly 75 percent of the average 2018 target compensation was tied to corporate performance.

Chief Financial Officer Jason Wells was awarded $3.2 million in total direct compensation during 2018, the regulatory filing showed. That was up 2.9 percent from the total pay Wells received in 2017.

PG&E is already a convicted felon for crimes it committed before and after a fatal gas explosion in San Bruno that killed eight that the utility caused through a combination of flawed record keeping and shoddy maintenance.

At least one shareholder, Jing Zhao, a Concord resident, has presented a formal proposal to restructure PG&E in the wake of the deadly fires and other disasters. Zhao expressed concern about the company's decision to reward top executives despite the string of debacles.

Northern California residents suffered "devastating" losses during the time frame that some PG&E top executives were receiving multi-million-dollar pay packages, Zhao stated in his proposal to the shareholders. Zhao added that the money that PG&E awarded to Williams and other executives amid the disasters was "absurd high compensation."

[22.3] Bonuses Slapped Down at Bankrupt PG&E

Tony Chapelle, AGENDA, September 23, 2019

Top executives at embattled **PG&E** had their request for $11 million in performance bonuses quashed last month by the federal bankruptcy court in charge of the company's restructuring.

Creditors and others affected by the company cheered the Aug. 30 decision. The judge overseeing the case ruled that he wouldn't allow the utility company's managers to receive any incentive pay without them showing a clearer link to safety improvements. He also questioned whether the company could afford to pay added compensation. PG&E went into bankruptcy last January after claiming it faces $30 billion in potential liability because of its role in causing a rash of California wildfires.

"The judge made a common-sense judgment," writes activist investor **Jing Zhao** in an e-mail. "In fact, it is not enough to deny new million-dollar compensation to the new executives. [The judge] should claw back the millions already paid to the old executives."

Zhao's proposal to eliminate the subsidiary layer at PG&E went to a proxy vote this year. Thirteen percent of shareholders supported his resolution to streamline the corporate makeup, which he claimed would save on management compensation.

"This is very supportive [of] my request to dramatically reduce executive pay [by] at least half," Zhao concluded.

Yet bankruptcy judges and trustees frequently allow boards to pay executive bonuses while they're reorganizing under Chapter 11. So even though survivors of the catastrophic wildfires consider it unthinkable that some of the same managers who were around when the firm ran into insolvency are seeking incentives, governance and bankruptcy experts predict that it's not a matter of if but how much they'll ultimately be awarded.

Last April, Judge **Dennis Montali**, who is presiding over the case at the federal bankruptcy court for the Northern District of California, approved a $235 million annual bonus plan for 10,000 mid-level PG&E employees. The top 12 executives, who did not include new CEO **William Johnson**, didn't participate in that pool. But on Aug. 9, attorneys for PG&E argued that the executives should be awarded bonuses to "appropriately incentivize" them. To that, Montali quipped, "If they're not incentivized enough, they ought to find another job, frankly."

That misses the mark from a legal standpoint, says **Howard Brod Brownstein**, who has been a chief restructuring officer in bankruptcies. "One has to focus on the overall recovery of the company."

Brownstein is a director at **P&F Industries** as well as a certified turnaround professional who operates **Brownstein Corporation**, a turnaround management firm. He and other directors maintain that, since bankruptcy is the process by which creditors (and shareholders, if there's anything left to pay them) receive money or assets from the crippled company, it's vital that the enterprise that emerges from bankruptcy be strong enough to operate. For that, says Brownstein, "you need a knowledgeable and capable management team, who understandably will require more pay … for taking the risk of being at a company that may not survive.”

The Ghost of AIG

Dennis Chookaszian, who has served on 13 public company boards and who teaches corporate governance at the **University of Chicago**, says the PG&E case reminds him of the infamous bonus controversy that occurred at **AIG Group** in the wake of the global financial crisis.

Although AIG was the company that most directly wrecked the financial system due to its enormous market in subprime-mortgage credit default swaps, the federal government still assured the company it would be bailed out. In 2008, Treasury Secretary **Hank Paulson** appointed **Ed Liddy** as CEO of the troubled company. Liddy requested to be paid only $1 a year. Yet just months after AIG accepted a $37 billion loan from Uncle Sam, other managers at the insurer feasted on $165 million in retention bonuses.

Contractually, Liddy was obligated to pay the bonuses. But he appealed to the executives’ consciences and asked them to return the extra pay so the company could climb back into the black quicker. Many likely declined his request, although the response to the giveback request was not revealed. His only other recourse would have been to bring a lawsuit, which Chookaszian thinks Liddy would have lost. “So he had to pay them so as to keep those executives working for AIG and keep the company going,” Chookaszian says.

The situation is similar with PG&E, Chookaszian says. “The judge probably has to pay some bonuses to keep the people.”

The Haggle

Chookaszian predicts there will be continuing negotiations between the judge and the utility's attorneys. He says the judge probably will attempt to help the company hold on to the maximum amount of money it can to pay as much of the $30 billion in legal liabilities as possible. "He's probably going to have to blink to keep from diminishing the value of the company. But there are no rules on this. It's whatever the judge can work out to keep the people. He starts out by saying he's not going pay anything. They come back and put pressure on him. It goes back and forth."

Chookaszian says once PG&E emerges, it will likely be sold to one or more investors who'll probably create a new public company.

"One thing you know for sure: there's going to be a new PG&E." Chookaszian explains that the only mystery is whether the new company will keep all of the assets or if the judge will spin off multiple companies to different parts of the state.

Until then, however, Chookaszian says, the judge will have to approve bonuses to appease the managers. "If not, the power shuts down in California."

Montali acknowledged that the executive bonus plan had been vetted by independent compensation consultants to bring it comparatively close to what the market would bear. But in bankruptcy cases, outright retention bonuses are verboten. Executives at bankrupt companies must prove they're being incentivized based on performance.

Retention vs. Performance

Up until 2005, companies that filed voluntary Chapter 11 petitions routinely asked the court for bonuses through so-called key employee retention plans, or KERPs, explains **Shepherd Pryor IV.** He's a former deputy head of corporate banking at **Wells Fargo** and former director at **Taylor Capital Group**. "The KERP would coax key employees to stay through resolution of the bankruptcy, and things would work out … better for both employees and the company," writes Pryor in an e-mail.

But in 2005, when the bankruptcy code was overhauled, KERPs for senior executives suddenly were viewed as a way for failed managers to remain ensconced in their positions. What are called key employee incentive plans, or KEIPs, took the place of KERPs.

Pryor states that the difference is that KEIPs don't aim to save the company from losing value through key departures but, instead, incentivize and require managers to perform better before they earn additional money. "Still, in a litigious atmosphere, KEIPs are often criticized in litigation for being disguised KERPs," he says.

Indeed, the ***San Francisco Chronicle* reported** that Montali ruled that PG&E's bonus plan failed to show an "ascertainable connection between the officers' performance and the metrics." He did, however, leave open a door for bonuses after the company brushed up its act. The newspaper reported that Montali said he'd let PG&E propose a new plan that did not include cash payments but that was "solely motivated by safety metrics."

An outside counsel representing PG&E in the bankruptcy case, **Stephen Karotkin** at the law firm **Weil Gotschal**, did not return calls for comment.

Stephen H. Case, a retired senior partner at law firm **Davis Polk & Wardwell** and a specialist in bankruptcy and restructurings, applauds the position that Montali took. He claims the PG&E board needs to tighten up and address performance issues the way the court does.

Indeed, Case, who was chairman of Motors Liquidation Co., which had been **General Motors** until its assets were unwound after the financial crisis, isn't completely sure PG&E has to pay the bonuses at all.

"Running a utility, in my limited experience, basically requires competent engineering skills, and in America there are a lot of competent engineers. Couldn't the board hire a headhunter and in short order replace the top 20 people at PG&E? Do you really need to pay a large bonus to keep people? So it makes sense to me that Judge Montali says, 'Come on, guys. You can do better than paying bonuses just to keep them here. Show me that they're doing their job and doing it well.'"

On Sept. 13, PG&E announced a **preliminary court settlement** with insurance companies and hedge funds that had invested in insurance claims that will repay the bulk of fire victims from Northern California wildfires in 2017 and the Camp Fire in 2018. The company says the agreement covers 85% of these so-called subrogation claims. In addition, PG&E asked the court to cap its direct payments to fire victims at $8.4 billion. The requests are subject to approval by the bankruptcy court.

But on Sept. 19, bondholders – including hedge fund Elliott Management Corp. – and a court-authorized committee that represents the fires victims asked the bankruptcy court's **permission** to file a competing chapter 11 plan that would pay $24 billion to victims.

PG&E issued a statement complaining that the bondholders already were to be paid in full for their bonds under its proposed plan, and therefore should not have voting rights on the bankruptcy terms. PG&E claims Elliott and its allies are trying to “get more than they are entitled to under the law,” which ultimately will cost the utility’s customers extra billions of dollars.

The bondholders dispute that. According to the ***Wall Street Journal***, they said they were “cheated [out] of their contract rate of interest as well as premiums they say are due on the debt.” Meanwhile, they’ve offered to give PG&E an infusion of $28.4 billion in exchange for 59% of the equity in the new company that emerges from bankruptcy.

Editor's Note: This story was updated to include information about the settlement announced today.

Activists Are Using Shareholder Votes to Promote Social Agendas
The Economist Apr 14th 2018
"JING ZHAO'S main occupation is translating Latin classics into Chinese. He runs a small think-tank, the US-Japan-China Comparative Policy Research Institute."
"[T]his quiet, intellectual California resident has a surprising sideline: submitting proposals to be voted on by the shareholders of companies in which he owns small stakes. That makes him part of a movement that is forcing management at some of the world's biggest firms to consider not just profitability but broad shifts in social attitudes."

Jing Zhao studied Nuclear Physics at Tsinghua University, Sociology at Osaka University and Political Science at University of Wisconsin-Madison. After working in Japanese and American companies, he founded US-Japan-China Comparative Policy Research Institute in 2002 in Silicon Valley. He has published about twenty study books on History, Politics, International Relations, Philosophy, Religion and Language.

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