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Elk Grove, CA 95758

November 2, 2014

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

1 Rule 14a-8 Proposal
Whole Foods Market, Inc. (WFM)
Proxy Access, James McRitchie

Ladies and Gentlemen:

This is in response to the October 23, 2014 request from A.J. Ericksen of Baker Botts LLP, on behalf of Whole Foods Market, Inc for the SEC to grant a no-action letter to exclude from the proxy James McRitchie's shareowner proposal asking for proxy access.

Mr. Ericksen argues my proposal is excludable "because the Proponent's Proposal directly conflicts with a proposal to be submitted by the Company in the 2015 Proxy Materials." He goes on to cite a list of no-action letters previously granted based on Rule 14a-8(i)(9), including my proposal at *The Walt Disney Company* (November 6, 2013).

The intent of Rule 14a-8(i)(9), is to avoid shareholders voting on proposals with provisions that could create confusion and ambiguity if passed due to conflicting provisions. The rule is not intended to allow companies to simply avoid shareholder proposals by substituting sham proposals on the same subject.

For example, in the case cited above, SEC staff granted the no-action request and issued a letter indicating the SEC would take no action against Disney if it left my proposal off the proxy, in reliance on Rule 14a-8(i)(9) because:

"inclusion of both proposals would present alternative and conflicting decisions for the shareholders and would **create the potential for inconsistent and ambiguous results.**" (my emphasis)

Mr. Ericksen uses the same phrasing when he argues in the current instance that inclusion of both proposals:

"would present alternative and conflicting decisions for the Company's shareholders and would create the potential for inconsistent and ambiguous results."

In the current case, including both proposals on the proxy would *not* lead to inconsistent and ambiguous results. Currently, Whole Foods shareowners cannot place their director nominees on the corporate proxy. My proposal would allow individual shareholders or groups holding 3% of the outstanding common stock for three years to place up to two nominees on the corporate proxy under specified circumstances.

Mr. Ericksen includes no specific counter proposal from the board but indicates the board intends to seek shareholder approval of bylaw amendments to permit any one shareholder (but not a group of shareholders) owning 9% or more of the Company's common stock for five years to nominate one candidate and to have that candidate listed on the proxy.

Included below is a report from FactSet with the percentage of shares owned by the top ten shareholders in Whole Foods Market as of 6-30-14. As can be easily seen, Baillie Gifford & Co. was the largest shareholder with 5.40% of outstanding shares.

Currency: USD

Name:	Holders:	Shares O/S:	Ownership %:	Float (%):
WHOLE FOODS MARKET INC COM (WFM)	All	361,245,000	84.26%	99.14

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Rank	Holder	Shares	%	Change	Effective Date	Expiration Date
1	Baillie Gifford & Co.	19,504,004	5.40	06-30-14	03-31-14	
2	The Vanguard Group, Inc.	18,844,051	5.16	06-30-14	03-31-14	
3	Saunders Capital Management LLC	16,491,524	4.57	06-30-14	03-31-14	
4	Brown Advisory LLC	15,319,926	4.24	06-30-14	03-31-14	
5	SSF Fund Management, Inc.	14,872,391	4.12	06-30-14	03-31-14	
6	BlackRock Fund Advisors	14,105,878	3.92	06-30-14	03-31-14	
7	I. Rowe Price Associates, Inc.	9,495,022	2.63	06-30-14	03-31-14	
8	Goldman Sachs Asset Management LP	9,280,445	2.57	06-30-14	03-31-14	
9	Fidelity Management & Research Co.	8,539,876	2.36	06-30-14	03-31-14	
10	Capital Research & Management Co. f...	8,270,000	2.29	06-30-14	03-31-14	

The proposal by the management of Whole Foods is a *sham*, submitted with the clear *intent* of denying proxy access to shareholder nominees.

None of the no-action 'precedents' cited by Mr. Ericksen involved proxy access proposals. The SEC almost dealt with a request involving proxy access in March 2013. Western Union sought to substitute a management proposal with a 3% ownership threshold when faced with a shareholder proposal from Norges Bank seeking 1%. See <http://www.sec.gov/divisions/corpfin/cf-noaction/14a-8/2013/norgesbank031313-14a8.pdf>. In that case, the proponent withdrew, making this the first time the SEC staff needs to decide whether a proxy access shareholder proposal can be excluded on the basis of a company presenting its own alternative 'proposal.'

If the SEC grants a no-action request in this instance, staff will be signaling that boards can exclude proposals by shareowners simply by substituting *any* proposal on the same general subject, even a proposal that would clearly be highly improbable to achieve or would have no impact if passed.

The idea that a shareholder would acquire \$700,000,000 worth of stock in Whole Foods and hold it for five years, while share value continues to plunge year after year in comparison with other market opportunities, is ludicrous. The phantom proposal mentioned by Mr. Ericksen isn't designed for 'proxy access,' it is designed for board entrenchment. Management's substitute phantom proposal is clearly a sham, aimed at forestalling any attempt by shareholders to obtain genuine proxy access.

If SEC staff grant the no-action request, the board doesn't even have to recommend in favor of their own proposal. They can recommend against it. If it fails to pass, the board can simply trot out the same absurd proposal whenever a shareowner seeks change. If management's proposal does pass, the board's prior proposal can be modified to block any future efforts by shareowners. For example, if shareowners pass the board's proposal and I come back next year with another 3% threshold proposal, the board can propose an 8.9%, 9.1% or even a 99% threshold.

Neither shareholders nor SEC staff are as stupid or easily confused as Mr. Ericksen imagines. If both proposals are on the proxy there is no inherent confusion. Shareholders would simply need to decide if a single nonexistent shareholder with 9% of the common stock held for five years should be able to place one director nominee on the corporate proxy or if parties holding 3% for three years should be able to place up to two nominees on the corporate proxy.

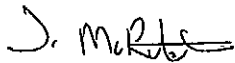
Including both proposals creates no conflict. Once shareholders have voted, boards know to implement the proposal that gets the highest vote.

Boards shouldn't be able to game the system with proposals simply meant to thwart the will of shareowners. If the SEC staff grants this no-action request, we can expect future proposals to include even more absurd qualifiers. For example, management could propose that proxy access be granted only to an individual shareholder holding 100% of the company's common stock held for ten years. Just to be on the safe side, they could also require that Mars and the Earth trade orbits in order for the new 'right' to be exercised. According to Mr. Ericksen's faulty logic, that variant should also keep a shareholder proxy access proposal off the ballot. I trust SEC staff not to fall for such arguments against shareowners exercising their legal rights.

Thank you for your careful consideration.

This is to request that the Securities and Exchange Commission allow this resolution to stand and be voted upon in the 2015 proxy.

Sincerely,



James McRitchie

cc: Albert Percival <Albert.Percival@wholefoods.com>

[WFM: Rule 14a-8 Proposal, September 9, 2014]
Proposal X* - Proxy Access for Shareholders

Resolution

Shareholders ask the Whole Foods Market, Inc. board, to the fullest extent permitted by law, to amend our governing documents to allow shareholders to make board nominations as follows:

1. The Company proxy statement, form of proxy, and voting instruction forms shall include, listed with the board's nominees, alphabetically by last name, nominees of any party of one or more shareholders that has collectively held, continuously for three years, at least three percent of the Company's securities eligible to vote for the election of directors.
2. Board members and officers of the Company may not be members of any such nominating party of shareholders.
3. Parties nominating under these provisions may collectively make nominations numbering up to 20% of the Company's board of directors, or no less than two if the board reduces the number of board members from its current size.
4. Preference will be shown to groups holding the greatest number of the Company's shares for at least three years.
5. Nominees may include in the proxy statement a 500 word supporting statement.
6. Each proxy statement or special meeting notice to elect board members shall include instructions for nominating under these provisions, fully explaining all legal requirements for nominators and nominees under federal law, state law and the company's governing documents.

Supporting Statement

- The right of shareholders to nominate board candidates is fundamental to good corporate governance and board accountability.
- Long-term owners of the Company should have a meaningful voice in nominating and electing directors.
- This proposal adopts popular 3% and 3-year eligibility thresholds.
- Limiting shareholder-nominated candidates to 20% of the board means control remains with board nominees.
- Our Company's share price has substantially underperformed the NASDAQ during the latest 1, 2 and 3-year time-periods.
- Bloomberg ranked the 401(k) plans of 240 of the 250 biggest companies in the S&P 500 as of February 21, 2014. Our Company placed 237th, almost at the very bottom. (Cited in *Do You Have The Best or Worst 401 (k) Plan?*, Forbes, July 23, 2014.) Our employees deserve better.

- Our board is entrenched and stale, with a majority having served nine years or longer. Fresh ideas are needed.
- Rather than independent directors, we need directors who are *dependent* on, and accountable to, the *shareholders* who elect them.

The Council of Institutional Investors, whose members have more than \$3 trillion invested, maintains the following policy:

Access to the Proxy: Companies should provide access to management proxy materials for a long-term investor or group of long-term investors owning in aggregate at least three percent of a company's voting stock, to nominate less than a majority of the directors. Eligible investors must have owned the stock for at least two years. Company proxy materials and related mailings should provide equal space and equal treatment of nominations by qualifying investors.

Vote to enhance shareholder value:

Proxy Access for Shareholders – Proposal X*