

118TH CONGRESS  
1ST SESSION

# S. 3179

To require the Securities and Exchange Commission to amend a rule of the Commission relating to shareholder proposals, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 1, 2023

Mr. SCHMITT (for himself, Mr. BRAUN, and Mr. BUDD) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To require the Securities and Exchange Commission to amend a rule of the Commission relating to shareholder proposals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Stop Woke Investing  
5 Act”.

6 **SEC. 2. SHAREHOLDER PROPOSALS.**

7 (a) DEFINITIONS.—In this section:

8 (1) ACCELERATED FILER; LARGE ACCELER-  
9 ATED FILER.—The terms “accelerated filer” and

1 “large accelerated filer” have the meanings given the  
2 terms in section 240.12b-2 of title 17, Code of Fed-  
3 eral Regulations, or any successor regulation.

4 (2) COMMISSION.—The term “Commission”  
5 means the Securities and Exchange Commission.

6 (3) MATERIAL.—The term “material”, when  
7 used to qualify a financial risk or financial return—

8 (A) means a financial risk or financial re-  
9 turn in which there is a substantial likelihood  
10 that a reasonable investor would attach impor-  
11 tance when—

12 (i) evaluating the potential financial  
13 risks or returns of an existing or prospec-  
14 tive investment; or

15 (ii) exercising, or declining to exercise,  
16 any rights with respect to securities; and

17 (B) does not include—

18 (i) furthering nonpecuniary, environ-  
19 mental, social, political, ideological, or  
20 other goals or objectives; or

21 (ii) any portion of a financial risk or  
22 financial return that primarily relates to  
23 events that—

1 (I) involve a high degree of un-  
2 certainty regarding what may occur in  
3 the long-term future; and

4 (II) are systemic, general, or not  
5 investment-specific in nature.

6 (4) NON-ACCELERATED FILER.—The term  
7 “non-accelerated filer” means an issuer that is not  
8 an accelerated filer or a large accelerated filer.

9 (b) AMENDMENTS REQUIRED.—Not later than 180  
10 days after the date of enactment of this Act, the Commis-  
11 sion shall amend section 240.14a–8 of title 17, Code of  
12 Federal Regulations, or any successor regulation, to pro-  
13 vide that the shareholder proposals that a company in-  
14 cludes on the proxy card of the company, and includes  
15 along with any supporting statement in the proxy state-  
16 ment of the company, shall be determined in accordance  
17 with the following:

18 (1) A company shall determine the proposals to  
19 include with respect to any 1 annual or special meet-  
20 ing of shareholders as follows:

21 (A) Subject to paragraph (2), if the com-  
22 pany is a non-accelerated filer, the company  
23 shall not be required to include more than 2  
24 proposals submitted by shareholders.

1           (B) Subject to paragraph (2), if the com-  
2           pany is an accelerated filer, the company shall  
3           not be required to include more than 4 pro-  
4           posals submitted by shareholders.

5           (C) Subject to paragraph (2), if the com-  
6           pany is a large accelerated filer, the company  
7           shall not be required to include more than 7  
8           proposals submitted by shareholders.

9           (2) A proposal may not be included under para-  
10          graph (1) unless the proposal has a material effect  
11          on the financial performance of the applicable com-  
12          pany.

13          (3) The method for determining which pro-  
14          posals to include under subparagraphs (A), (B), and  
15          (C) of paragraph (1) shall be—

16                  (A) determined by the company; and

17                  (B) disclosed to the Commission.

18          (4) The order in which the company receives  
19          the proposals shall have no bearing in determining  
20          whether a proposal is so included.

21          (5) If any 2 or more proposals submitted are  
22          substantially similar, all such proposals shall be con-  
23          sidered to be a single proposal for the purposes of  
24          this subsection.

1           (6) No proposal submitted by a member of the  
2 board of directors of the company may be so in-  
3 eluded.

4           (c) RULES OF CONSTRUCTION.—Nothing in this sec-  
5 tion may be construed—

6           (1) to require a company to include a share-  
7 holder proposal in the proxy statement of the com-  
8 pany if, under rules prescribed by the Commission,  
9 the proposal otherwise is not required to be included  
10 in the proxy statement;

11           (2) to authorize or approve any Commission  
12 rule or claim of authority to require a company to  
13 include the proposal of a shareholder in the proxy  
14 statement of the company; or

15           (3) to restrict the ability of the Commission to  
16 repeal any rule requiring a company to include the  
17 proposal of a shareholder in the proxy statement of  
18 the company.

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