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December 31, 2020

**Rule 14a-8(i)(7)**

**VIA E-MAIL ([shareholderproposals@sec.gov](mailto:shareholderproposals@sec.gov))**

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

Re: 3M Company  
Shareholder Proposal of the John Bishop Montgomery Trust

Dear Ladies and Gentlemen:

On behalf of 3M Company (the “**Company**”), we are submitting this letter pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934 to notify the Securities and Exchange Commission (the “**Commission**”) of the Company’s intention to exclude from its proxy materials for its 2021 annual meeting of stockholders (the “**2021 Annual Meeting**”) a shareholder proposal (the “**Proposal**”) submitted to the Company by John Montgomery as trustee of The John Bishop Montgomery Trust (the “**Proponent**”). We also request confirmation that the staff of the Division of Corporation Finance (the “**Staff**”) will not recommend to the Commission that enforcement action be taken if the Company omits the Proposal from its 2021 proxy materials for the reason discussed below.

A copy of the Proposal, together with other correspondence relating to the Proposal, is attached hereto as Exhibit A.

In accordance with Staff Legal Bulletin No. 14D (Nov. 7, 2008) (“**SLB No. 14D**”), this submission is being delivered by e-mail to [shareholderproposals@sec.gov](mailto:shareholderproposals@sec.gov). Pursuant to Rule 14a-8(j), a copy of this submission also is being sent to the Proponent. Rule 14a-8(k) and SLB No. 14D provide that a shareholder proponent is required to send to the Company a copy of any correspondence the proponent elects to submit to the Commission or the Staff. Accordingly, we hereby inform the Proponent that, if the Proponent elects to submit additional correspondence to the Commission or the Staff relating to the Proposal, the Proponent should concurrently furnish a copy of that correspondence to the undersigned by e-mail.

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Pursuant to the guidance provided in Section F of Staff Legal Bulletin 14F (Oct. 18, 2011), we ask that the Staff provide its response to this request to the undersigned via e-mail at the address noted in the last paragraph of this letter.

The Company intends to file its definitive 2021 Proxy Materials with the Commission more than 80 days after the date of this letter.

### **THE PROPOSAL**

The Proposal requests that the Company's stockholders approve the following:

RESOLVED: 3M Company ('Company') shareholders request our Board of Directors take steps necessary to amend our certificate of incorporation and, if necessary, bylaws (including presenting such amendments to the shareholders for approval) to become a public benefit corporation (a "PBC") in light of its adoption of the Business Roundtable Statement of the Purpose of a Corporation (the "Statement").

### **BASIS FOR EXCLUDING THE PROPOSAL**

We request that the Staff concur that the Company may exclude the Proposal pursuant to Rule 14a-8(i)(7) because the Proposal deals with matters relating to the Company's ordinary business operations.

***A. Rule 14a-8(i)(7) centers on management functions directing certain core matters involving a company's business and operations***

A shareholder proposal may be excluded under Rule 14a-8(i)(7) if "the proposal deals with a matter relating to the company's ordinary business operations."

The term "ordinary business" refers to matters that are not necessarily "ordinary" in the common meaning of the word; instead the term "is rooted in the corporate law concept of providing management with flexibility in directing certain core matters involving the company's business and operations." See Securities Exchange Act Release No. 34-40018 (May 21, 1998) (the "**1998 Release**"). In the 1998 Release, the Commission explained that the ordinary business exclusion rests on two central considerations: first, that "[c]ertain tasks are so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight"; and second, the degree to which the proposal attempts to "micromanage" a company by "probing too deeply into matters of a complex nature

upon which shareholders as a group, would not be in a position to make an informed judgment.” In essence, a shareholder proposal may be excluded under Rule 14a-8(i)(7) if it pertains to *core matters involving the company’s business and operations* that are traditionally and properly the domain of management and board discretion and judgment.

***B. The Proposal relates to the Company’s ordinary business matters***

The Proposal requests that the Company take the steps necessary to amend its organizational documents to re-incorporate the Company as a public benefit corporation. A public benefit corporation is a for-profit Delaware corporation that is intended to produce a public benefit or operate in a responsible or sustainable manner. 8 *Del. C.* § 362(a). To convert from a Delaware corporation into a public benefit corporation under the terms of the Proposal, the Company would be required to amend its certificate of incorporation, which would require first that the board of directors adopt a resolution approving the conversion and second that the amendment be approved by the holders of two-thirds of the outstanding stock of the Company entitled to vote thereon. 8 *Del. C.* §363(a).

In doing so, the Proposal seeks to direct the Company’s core business operations by calling for a specific change to its corporate structure. The Staff has concurred with the principle that a company’s corporate structure is a matter of ordinary business. In *The Goldman Sachs Group, Inc.* (Jan. 26, 2017), the Staff allowed a company to exclude a proposal requesting that the company prepare and make public a study of the benefits and drawbacks of reorganizing as a bank holding company. In its letter allowing exclusion, the Staff noted that the proposal related to the company’s ordinary business operations because it “relates to a study of the benefits and drawbacks of the company’s current corporate structure.” In accordance with this principle, the Staff has also concurred in the omission of proposals relating to general corporate restructurings. *See, e.g., HomeTrust Bancshares, Inc.* (Aug. 31, 2015) (permitting exclusion of a proposal requesting that the company “make no acquisitions of any other financial institution” until its common stock traded above a certain price); *The Reader’s Digest Association Inc.* (Aug. 18, 1998) (permitting exclusion of a proposal requesting that the board of directors retain an investment bank to evaluate the options for reorganization or divestment of any or all company assets as well as any strategic acquisitions). Similarly, the Staff has concurred in the exclusion of proposals requesting spinoffs or sales of parts of a company on the grounds that these activities relate to ordinary business operations. *See, e.g., PPL Corp.* (March 11, 2015) (permitting exclusion of a proposal requesting the company’s board of directors to postpone a spin-off and allow shareholders to make certain decisions related to the proposed spin-off); *Sears, Roebuck and Co.* (Feb. 7, 2000) (permitting exclusion of a proposal requesting that the board of directors retain an investment bank to arrange for the sale of all or parts of the company). The Proposal, which explicitly requests a change in the Company’s corporate structure via a re-incorporation, similarly relates to the Company’s ordinary business.

Furthermore, the Proposal seeks merely a re-incorporation of the Company, which would have the same assets, liabilities and operations following the re-incorporation as before. Accordingly, the Proposal does not seek a sale of the Company or any other form of extraordinary transaction. While proposals pertaining exclusively to “extraordinary corporate transactions” are not excludable, *see, e.g., Allegheny Valley Bancorp, Inc.* (Jan. 3, 2001), such denials have been limited to proposals that address solely the sale or merger of the company in question. For example in *Analysts International Corp.* (March 11, 2013), the Staff permitted exclusion of a proposal requesting that the company engage the services of an investment banking firm to evaluate alternatives that could enhance shareholder value including, but not limited to, a merger or sale of the company. The Staff noted that “[p]roposals concerning the exploration of strategic alternatives for maximizing shareholder value which relate to both extraordinary and non-extraordinary transactions are generally excludable under Rule 14a-8(i)(7).” *See also Anchor Bancorp, Inc.* (July 11, 2013) (same).

Directors are charged by state law with responsibility for setting the Company’s priorities, objectives and goals to maximize long-term shareholder value. In setting a company’s priorities, objectives and goals, a board may be required to review and establish business strategies, make an assessment of the risks and liabilities associated with the objectives and goals, perform a cost/benefit analysis of transactions to be undertaken, ensure compliance with laws, rules and regulations and undertake many other responsibilities, including consideration of the company’s impact on its employees, customers, and suppliers and the communities in which the company operates. It is well understood that directors, not shareholders, have the responsibility to manage or oversee management of the corporation. As written, the Proposal usurps the business judgment of the board by dictating that the Company be re-incorporated to adopt a specific corporate structure that may or may not be beneficial to the Company’s shareholders or consistent with the board’s existing fiduciary duties or business judgment. These are precisely the types of “core matters involving the company’s business and operations” that are appropriately reserved to the board.

In addition, implementation of the Proposal would require the Company, in making fundamental decisions about its core business matters, to take into account and “balance” numerous factors and interests in any particular context. As discussed above, selection of the factors to take into account in making core business decisions is fundamentally the responsibility of management. For example:

- **Relationships with Constituents such as Customers, Employees, Suppliers and the Community.** If the Company re-incorporated as a public benefit corporation, it would be required to re-assess its relationships with all of its corporate constituencies, including by having the board “balance[] the pecuniary interests of the stockholders, the best interests

of those materially affected by the corporation's conduct, and the specific public benefit or public benefits identified in its certificate of incorporation." 8 *Del. C.* § 365. The Staff has consistently permitted exclusion under Rule 14a-8(i)(7) of proposals that sought to regulate companies' relationships with certain constituencies, including:

- customers (*see, e.g., Ford Motor Co.* (Feb. 13, 2013) (permitting exclusion of a proposal requesting removal of dealers that provided poor customer service, noting that "[p]roposals concerning customer relations are generally excludable under rule 14a-8(i)(7)");
  - employees (*see, e.g., Walmart, Inc.* (Apr. 8, 2019) (permitting exclusion of a proposal requesting a report evaluating discrimination risk from the company's policies and practices for hourly workers taking medical leave, noting that the proposal "relates generally to the [c]ompany's management of its workforce");
  - suppliers and subcontractors (*see, e.g., Foot Locker, Inc.* (Mar. 3, 2017) (permitting exclusion of a proposal requesting a report outlining the steps the company was taking, or could take, to monitor the use of subcontractors by the company's overseas apparel suppliers, noting that "the proposal relates broadly to the manner in which the company monitors the conduct of its suppliers and their subcontractors.");
  - the community in which the company operates (*see, e.g., Amazon.com, Inc.* (Mar. 28, 2019) (permitting exclusion of a proposal requesting an analysis of the community impacts of the company's operations, noting that "the [p]roposal relates generally to 'the community impacts' of the [c]ompany's operations and does not appear to focus on an issue that transcends ordinary business matters"); and
  - the company's shareholders, generally (*see, e.g., Con-way Inc.* (Jan. 22, 2009) (permitting exclusion of a proposal requesting that the board take steps to ensure future annual shareholder meetings be distributed via webcast, as "relating to [the company's] ordinary business operations (i.e., shareholder relations and the conduct of annual meetings)"); *Prudential Financial, Inc.* (Feb. 7, 2003) (permitting exclusion of a proposal seeking a shareholders' association to be established, "as relating to ordinary business matters (i.e., shareholder relations)").
- **Enhancing Shareholder Value.** The Staff has permitted the exclusion of proposals relating to the determination and implementation of a company's strategies for enhancing

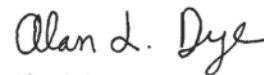
shareholder value, on the basis that such matters are the domain of management. *See, e.g., Bimini Capital Management* (March 28, 2018) (permitting exclusion of a proposal requesting that the company’s board take measures to close the gap between the book value of the company’s common shares and their market price); *Ford Motor Co.* (Feb. 24, 2007) (permitting exclusion of a proposal requesting that the company’s chairman “honor his commitments to shareholders to increase stock performance,” noting that the proposal appeared to relate to the company’s “ordinary business operations (i.e., strategies for enhancing shareholder value)”).

### CONCLUSION

For the reasons discussed above, the Company believes that it may omit the Proposal from its 2021 proxy materials. We request the Staff’s concurrence in our view or, alternatively, confirmation that the Staff will not recommend any enforcement action to the Commission if the Company excludes the Proposal.

If you have any questions or need additional information, please feel free to contact me at (202) 637-5737. When a written response to this letter is available, I would appreciate your sending it to me by e-mail at Alan.Dye@HoganLovells.com.

Sincerely,



Alan L. Dye

Enclosures

cc: Ivan K. Fong, 3M Company  
John Chevedden

**Exhibit A**

**Copy of the Proposal and Related Correspondence**



November 25, 2020

Mr. Ivan Fong  
Corporate Secretary  
3M Company  
3M Center  
Building 220-13E-26A  
St. Paul, MN 55144-1000  
[ifong@3m.com](mailto:ifong@3m.com)

Dear Mr. Fong,

I am pleased to be a 3M shareholder through my trust, The John Bishop Montgomery Trust, of which I am the sole trustee. I appreciate the leadership our company has shown on numerous issues.

I am submitting the attached *shareholder proposal requesting that 3M amend its certificate of incorporation to become a Delaware public benefit corporation*. I will meet Rule 14a-8 requirements including the continuous ownership of the required stock value until after the date of the respective shareholder meeting. My submitted format, with the shareholder-supplied emphasis, is intended to be used for definitive proxy publication.

This is my delegation to John Chevedden and/or his designee to act as my agent regarding this Rule 14a-8 proposal, and/or modification and presentation of it before and during the forthcoming shareholder meeting. This delegation does not cover proposals that are not rule 14a-8 proposals and does not grant the power to vote.

Please direct all future communications regarding my rule 14a-8 proposal to John Chevedden (PH: 310-371-7872, 2215 Nelson Ave., No. 205, Redondo Beach, CA 90278) at: [olmsted7p@earthlink.net](mailto:olmsted7p@earthlink.net) to facilitate prompt and verifiable communications. Please identify this proposal as my proposal exclusively.

Your consideration and the consideration of the Board of Directors is appreciated in responding to this proposal. Of course, I would welcome a dialogue and negotiations over the terms of the proposal. We expect to forward a broker letter soon, so if you simply acknowledge our proposal in an email message to [olmsted7p@earthlink.net](mailto:olmsted7p@earthlink.net), it may not be necessary for you to request such evidence of ownership.

Sincerely,

John Montgomery, Trustee for the John Bishop Montgomery Trust UA 4/4/2019

cc: Cc: Bruce Jermeland [bjermeland@3m.com](mailto:bjermeland@3m.com)  
Tony Riter [triter@3m.com](mailto:triter@3m.com)  
Jodi Huber [investorrelations@3m.com](mailto:investorrelations@3m.com)  
John Chevedden



[3M Company: Rule 14a-8 Proposal, November 25, 2020]  
[This line and any line above it – Not for publication.]

#### ITEM 4\* – Transition to Public Benefit Corporation

RESOLVED: 3M Company (“Company”) shareholders request our Board of Directors take steps necessary to amend our certificate of incorporation and, if necessary, bylaws (including presenting such amendments to the shareholders for approval) to become a public benefit corporation (a “PBC”) in light of its adoption of the Business Roundtable Statement of the Purpose of a Corporation (the “Statement”).<sup>1</sup>

SUPPORTING STATEMENT: The Company signed the Statement, which proclaims “we share a fundamental commitment to all of our stakeholders. . . . We commit to deliver value to all of them, for the future success of our companies, our communities and our country.”

However, the Company is a conventional Delaware corporation, so that directors’ fiduciary duties emphasize the company and its shareholders, but not stakeholders (except to the extent they create value for shareholders over time). Accordingly, when the interests of shareholders and stakeholders such as workers or customers clash, the Company’s legal duty excludes all but shareholders.

As one Delaware law firm reported to another signatory considering conversion, directors may consider stakeholder interests only if “*any decisions made with respect to such stakeholders are in the best interests of the corporation and its stockholders.*”<sup>2</sup> That contradicts the commitment made in the Statement.

In contrast, directors of a PBC must “balance” the interests of shareholders, stakeholders and a specified benefit<sup>3</sup>, giving legal status to the Statement’s empty promise.

This matters. A recent study determined that listed companies create annual social and environmental costs of \$2.2 trillion<sup>4</sup>. These costs have many sources, including pollution, climate change and employee stress.<sup>5</sup> A company required to balance stakeholder interests could prioritize lowering these costs, even if doing so sacrificed higher return

That matters to our shareholders, the majority of whom are beneficial owners with broadly diversified interests. As of the 2020 proxy statement, the Company’s top three

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<sup>1</sup> <https://s3.amazonaws.com/brt.org/BRT-StatementonthePurposeofaCorporationOctober2020.pdf>.

<sup>2</sup> <https://www.sec.gov/divisions/corpfin/cf-noaction/14a-8/2020/harringtonwellsfargo021220-14a8.pdf>

<sup>3</sup> 8 Del C, §365.

<sup>4</sup>

<https://www.schroders.com/en/sysglobalassets/digital/insights/2019/pdfs/sustainability/sustainex/sustainex-short.pdf>.

<sup>5</sup> Id.

holders were Vanguard, State Street and BlackRock, which are generally indexed or otherwise broadly diversified.

Such shareholders and beneficial owners are unalterably harmed when companies follow Delaware's "shareholder primacy" model and impose costs on the economy that lower GDP, which reduces equity value.<sup>6</sup> While the Company may profit by ignoring costs it externalizes, diversified shareholders will ultimately pay these costs. As a PBC, our Company could prioritize reducing these costs.

Shareholders are entitled to vote on a change that would serve their interests and ensure the commitment made to stakeholders is authentic and lasting.

Please vote for: Transition to Public Benefit Corporation – Proposal [4\*]



[This line and any below are *not* for publication]  
Number 4\* to be assigned by the Company

The graphic above is intended to be published with the rule 14a-8 proposal. The graphic would be the same size as the largest management graphic (and accompanying bold or highlighted management text with a graphic) or any highlighted management executive summary used in conjunction with a management proposal or a rule 14a-8 shareholder proposal in the 2021 proxy.

The proponent is willing to discuss the in unison elimination of both shareholder graphic and management graphic in the proxy in regard to specific proposals.

Reference SEC Staff Legal Bulletin No. 14I (CF)

[16] Companies should not minimize or otherwise diminish the appearance of a shareholder's graphic. For example, if the company includes its own graphics in its proxy statement, it should give similar prominence to a shareholder's graphics. If a company's proxy statement appears in black and white, however, the shareholder proposal and accompanying graphics may also appear in black and white.

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

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

- the company objects to factual assertions because they are not supported;

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<sup>6</sup> See, e.g., <https://www.advisorperspectives.com/dshort/updates/2020/11/05/market-cap-to-gdp-an-updated-look-at-the-buffett-valuation-indicator> (total market capitalization to GDP "is probably the best single measure of where valuations stand at any given moment")(quoting Warren Buffet).

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

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

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

The stock supporting this proposal will be held until after the annual meeting and the proposal will be presented at the annual meeting. Please acknowledge this proposal promptly by email [olmsted7p (at) earthlink.net].



**Wealth  
Management**

One PPG Place  
Suite 2900  
Pittsburgh, PA 15222

Office: 412.201.7200  
Fax: 412.201.7279

November 30, 2020

John Montgomery  
President  
Lex Ultima  
65 3<sup>rd</sup> Street, Suite 25  
P.O. Box 1270  
Point Reyes Station, CA 94956

Dear Mr. Montgomery:

Pursuant to your request, this letter is to confirm that as of the date of this letter, The John Bishop Montgomery Trust, UA 4/4/2019 held, and had held continuously for at least 13 months, 534 shares of 3M (MMM) common stock in his account ending in 930 at RBC Wealth Management, a division of RBC Capital Markets, LLC. The DTC clearinghouse number for RBC Wealth Management, a division of RBC Capital Markets, LLC is 0235.

Sincerely,

A handwritten signature in blue ink that reads 'Tammy Graybill'.

Tammy Graybill  
Assistant Complex Manager

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Investment and insurance products: • Not insured by the FDIC or any other federal government agency  
• Not a deposit of, or guaranteed by, the bank or an affiliate of the bank • May lose value