BAKER BOTTS L.L.P.

910 LOUISIANA
HOUSTON, TEXAS
77002-4995

TEL +1 713.229.1234
FAX +1 713.229.1522
BakerBotts.com

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BY ELECTRONIC MAIL

A.J. Ericksen
TEL: 713.229.1393
aj.ericksen@bakerbotts.com

Office of International Corporate Finance
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549

Ladies and Gentlemen:

We are writing on behalf of Transocean Ltd., a Swiss corporation ("*Transocean*"). As more fully discussed below, Transocean is required to submit certain ordinary and routine matters to shareholders at annual general meetings under Swiss law. The purpose of this letter is to confirm that, on behalf of Transocean and based upon the facts, views and representations set forth below, the Staff of the Division of Corporation Finance (the "*Staff*") of the United States Securities and Exchange Commission (the "*Commission*") will not object if Transocean does not file a preliminary proxy statement under Rule 14a-6(a) promulgated under the Securities Exchange Act of 1934, as amended (the "*Exchange Act*"), for annual general meetings of its shareholders at which only the customary and routine matter discussed below and other matters otherwise excluded from such filing requirements are to be acted upon.

I. Background

A. Transocean

Transocean is a leading international provider of offshore contract drilling services for oil and gas wells. The company specializes in technically demanding sectors of the offshore drilling business with a particular focus on ultra-deepwater and harsh environment drilling services. The company's mobile offshore drilling fleet is considered one of the most versatile fleets in the world. Transocean's shares are listed on the New York Stock Exchange (the "*NYSE*"). Transocean is subject to the periodic reporting requirements of the Exchange Act applicable to a United States domestic registrant, including the proxy rules contained in Regulation 14A.

B. Law of Switzerland

Transocean is organized under the laws of Switzerland and, consequently, is subject to certain legal requirements applicable to companies organized under such laws, including the Swiss Code of Obligations and related regulations (the "*Swiss Code*"). Pursuant to the Swiss Code, Transocean currently intends to submit to its shareholders at its 2021 annual general meeting an amendment to Transocean's articles of association, which would renew the authorization granted

to Transocean's board of directors (the "*Board*") to increase Transocean's share capital within a period of two years, and by no more than 50% of Transocean's then existing share capital.[1] Within such authorization, Transocean's shareholders would also authorize the Board to withdraw preemptive rights with respect to all or a portion of such authorized shares under certain conditions.[2] Transocean submitted such a proposal at its 2014, 2016, 2018 and 2020 annual general meetings and filed a preliminary proxy statement with the Commission with respect thereto, none of which was pulled for review by the Staff. Transocean currently intends to submit such a proposal every one to two years, but at a minimum every two years, to its shareholders at its annual general meeting, based upon the maximum duration of such authority currently permitted by the Swiss Code.

C. Rule 14a-6

The Exchange Act requires an issuer to send a proxy statement and form of proxy to all shareholders prior to any solicitation of a proxy. Under Rule 14a-6 of the Exchange Act, an issuer is further required to file preliminary copies of each annual proxy statement and form of proxy with the Commission at least 10 calendar days prior to the date definitive copies of such materials are first sent or given to shareholders, unless the solicitation relates to any meeting of shareholders at which the only matters to be acted upon are, among others:

(1) the election of directors;

(2) the election, approval or ratification of accountant(s);

(3) a security holder proposal included pursuant to Rule 14a-8;

(4) the approval or ratification of a plan (as defined in paragraph (a)(6)(ii) of Item 402 of Regulation S-K) or amendments of such a plan; and

(5) a vote to approve the compensation of executives as required pursuant to Rule 14a-21(a), a vote to determine the frequency of shareholder votes to approve the compensation of executives as required pursuant to Rule 14a-21(b), or any other shareholder advisory vote on executive compensation.[3]

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1 Articles 651 and 698 of the Swiss Code.

2 Article 652b of the Swiss Code and Article 5 of Transocean's Articles of Association.

3 Rule 14a-6 also includes three other exceptions to the obligation to file preliminary copies of the proxy statement and form of proxy. Two of the exceptions are not applicable to Transocean because it is not an investment company or open-end investment company registered under the Investment Company Act of 1940, and the other exception covers shareholder nominees for director.

The first three exclusions were adopted in 1987,[4] the fourth exclusion was adopted in 1993[5] and the fifth exclusion was adopted in 2010[6] and 2011.[7] In each case, the Commission explained that the purpose of the exclusions is to relieve registrants and the Commission of unnecessary administrative burdens and processing costs associated with the filing and processing of proxy materials in preliminary form that deal with ordinary matters.

In addition to the enumerated exclusions for ordinary and routine matters set forth above, the Staff has on a number of occasions advised issuers that preliminary proxy filings were not required even though the action to be taken was not within the scope of the enumerated exclusions. In no-action letters to eight foreign issuers—Schlumberger Ltd., Aon plc, Garmin Ltd., Avago Technologies, Ingersoll-Rand plc, Ensco plc, Teva Pharmaceutical Industries Limited and Pacific Drilling SA—the Staff indicated that it would not object if each of the companies did not file a preliminary proxy statement when the only matters to be acted upon by shareholders at each company's annual meeting (aside from those matters specifically exempted by Rule 14a-6(a)) were certain ordinary and routine matters required to be submitted for shareholder approval under applicable foreign law.[8] We note that, in particular, the no-action letters issued to Avago Technologies, Ingersoll-Rand plc and Ensco plc address substantially similar proposals for which Transocean seeks relief herein.

II. Discussion and Analysis

On behalf of Transocean, we hereby request that the Staff confirm that it will not object if Transocean does not file a preliminary proxy statement under Rule 14a-6(a) for annual general meetings of its shareholders at which the only items to be acted upon by shareholders include (1) those already excluded from such filing requirements under Rule 14a-6 or based on the Staff advice cited above with respect to Swiss companies in Garmin Ltd. and (2) the consideration by shareholders of other ordinary and routine matters required to be submitted to shareholders under the laws of Switzerland, as more fully discussed below.

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4 Exchange Act Release No. 34-25217 (Dec. 21, 1987).

5 Exchange Act Release No. 34-33371 (Dec. 23, 1993). The Staff had previously affirmed that plan amendments do not trigger the preliminary filing requirements of Rule 14a-6 in Thompson, Hine and Flory, SEC Interpretive Letter (Mar. 29, 1991).

6 Exchange Act Release No. 34-61335 (Jan. 12, 2010) (adding the exemption for the Emergency Economic Stabilization Act of 2008 in what is now Rule 14a-6(a)(8)).

7 Exchange Act Release No. 34-63768 (Jan. 25, 2011) (adding remaining content now in Rule 14a-6(a)(8)).

8 See Schlumberger Ltd. (avail. Jan. 31, 2014); Aon plc (avail. Mar. 31, 2014); Garmin Ltd. (avail. Sept. 30, 2014); Avago Technologies (avail. Nov. 7, 2014); Ingersoll-Rand plc (avail. Mar. 13, 2015); Ensco plc (avail. Dec. 3, 2015); Teva Pharmaceutical Industries Limited (avail. Oct. 25, 2018); and Pacific Drilling SA (avail. Apr. 6, 2020).

A. General Exclusion for Legally Mandated Resolutions

The Commission has noted that exclusions to preliminary filing requirements are designed to relieve issuers and the Commission of unnecessary administrative burdens and processing costs associated with the filing and processing of proxy materials that deal with ordinary matters that are not generally selected for review in preliminary form.[9] The Commission has stated, "The matters that do not require filing of preliminary materials are various items that regularly arise at annual meetings."[10] If the purpose of preliminary filings is to allow greater review of irregular or unique resolutions, then the requirement to file preliminary proxy statements should not apply to the routine matters required under non-U.S. laws described herein. Indeed, the Staff has relieved issuers organized under the laws of Curacao, England and Wales, Switzerland, Singapore, Ireland, Israel and Luxembourg from filing preliminary proxy materials for certain routine matters required, under local law, to be submitted for shareholder approval at an annual meeting.[11] Further, this purpose is frustrated when an ordinary, recurring resolution nonetheless requires a preliminary filing. In the adopting release extending preliminary filing exclusion to votes on executive compensation, the Commission stated, "Because the shareholder vote on executive compensation and the shareholder vote on the frequency of such shareholder votes *are required for all issuers*, we view them as similar to the other items specified in Rule 14a-6(a) that do not require a preliminary filing."[12] Such required resolutions will regularly appear in an issuer's annual proxy materials, which precludes much of the necessity for preliminary Commission review.

The proposal required by the Swiss Code to be presented to shareholders at Transocean's annual general meeting is similarly routine and ordinary and therefore warrants a comparable exemption from Rule 14a-6(a)'s preliminary proxy filing requirement. With respect to the shareholder vote discussed below, it is customary for Swiss public companies to seek such approval at least every two years and frequently to seek such approval annually (particularly for companies that issued new shares in the previous year).[13] This shareholder vote is a routine and

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9 Exchange Act Release No. 34-25217 (Dec. 21, 1987).

10 Exchange Act Release No. 34-61335 (Jan. 12, 2010).

11 See Schlumberger Ltd. (avail. Jan. 31, 2014); Aon plc (avail. Mar. 31, 2014); Garmin Ltd. (avail. Sept. 30, 2014); Avago Technologies (avail. Nov. 7, 2014); Ingersoll-Rand plc (avail. Mar. 13, 2015); Ensco plc (avail. Dec. 3, 2015); Teva Pharmaceutical Industries Limited (avail. Oct. 25, 2018); and Pacific Drilling SA (avail. Apr. 6, 2020).

12 Exchange Act Release No. 34-63768 (Jan. 25, 2011) (emphasis added).

13 Updates to the Swiss Code are expected to become effective in 2022 (the effective date has not yet been finalized) that would permit the maximum duration of authority from shareholders for authorized share capital (after the enactment of the Swiss Code update referred to as "capital range") to last for up to five years, which is consistent with the maximum duration of authority for certain other jurisdictions for which the Staff has granted similar no action relief. See, e.g., Ensco plc (avail. Dec 3, 2015) (granting an exemption from the requirement to file preliminary proxy materials where the authorization from shareholders to issue and allot shares had a maximum duration of five years under the UK Companies Act 2006 but where market practice for English companies was to seek such authorization annually or otherwise more frequently than every five years).

ordinary matter for such issuers. Since one purpose of preliminary proxy exclusions is to relieve the Staff of unnecessary review of proxy materials that deal exclusively with ordinary matters, excluding resolutions that will routinely appear in proxy materials will allow the Staff greater time to review the preliminary proxy statements of other issuers containing more complex or novel issues.

If, however, an exclusion is not granted for the routine resolution discussed herein required under Swiss law or customary for Swiss public companies, Transocean will continue to be required to file preliminary proxy materials every one to two years, and at a minimum every two years.[14] This requirement to make preliminary proxy statement filings at least every two years is essentially attributable to Transocean's non-U.S. status because, if Transocean were organized under the laws of one of the states in the United States, the preliminary filing exceptions of Rule 14a-6(a) would apply to Transocean's routine and ordinary matters. The result is that U.S. issuers receive relief for what are considered ordinary and routine U.S. matters, but non-U.S. issuers are not granted relief for similar ordinary and routine matters under local law and custom. This imbalanced preliminary proxy statement burden between U.S. and non-U.S. issuers places Transocean on unequal footing with its counterparts organized in the United States and other countries for which the Staff has recently granted similar relief. We note, in particular, that the administrative burden caused by the requirement to file a preliminary proxy statement is substantial and affects Transocean's board and annual meeting schedule and proxy and compensation planning process, as the filing of a preliminary proxy statement requires Transocean to include ample lead time in its proxy season calendar in the event of possible Commission review or comment on otherwise routine and ordinary matters.

B. Support for Exclusion of Specific Legally Mandated Resolutions

Article 651, paragraph 2 of the Swiss Code states that a company's "articles of association lay down the nominal amount by which the board of directors may increase the share capital." Article 651, paragraph 1 of the Swiss Code states that "[b]y amending the articles of association, the general meeting may authorise the board of directors to increase the share capital within a period of no more than two years … [and] [s]uch authorised capital may not exceed one-half of the existing share capital." Furthermore, Article 698 of the Swiss Code clarifies that amendments to a Swiss company's articles of association must always be adopted by the general meeting of shareholders and states that "[t]he supreme governing body of a company limited by shares is the general meeting" which has the inalienable power "to determine and amend the articles of association." Consequently, under the Swiss Code, a Swiss company's shareholders must approve *any* issuance of shares, but such shareholders are allowed to delegate to the board of directors, through an amendment to the Swiss company's articles of association, the authority to issues shares for certain purposes. The Swiss Code, however, also limits the duration of such authorization to a period of two years and further limits the number of shares that may be issued under such authorization to no more than 50% of the company's then existing share capital. Upon

[14] As discussed in note 13 above, this two year maximum period will be extended to a maximum of five years following updates to the Swiss Code that are expected to become effective in 2022.

the expiration of such authorization, the company must again seek advance shareholder approval for the board of directors to issue shares for another period of up to two years. Within such authorization, the shareholders of the company may also authorize the board of directors to withdraw preemptive rights with respect to all or a portion of the authorized shares under certain conditions.[15]

Because it is impractical for a public company subject to the Commission's proxy rules to convene a special meeting of shareholders each time it issues shares, it is customary and routine for Swiss public companies, such as Transocean to seek authorization at a company's annual general meeting to obtain or renew the authority of the board of directors to issue a specified number of shares and to withdraw preemptive rights in connection with such issuance every one to two years, but at a minimum every two years.

At Transocean's 2020 annual general meeting, Transocean sought shareholder approval to amend its articles of association to increase the total number of shares permitted to be issued using Transocean's authorized share capital to a maximum number representing approximately 30% of Transocean's issued shares as of a then recent date. Pursuant to the terms of such authorization, the Board's authority would expire on May 7, 2022. This proposal was approved by 90.0% of the votes cast by Transocean's shareholders for such proposal at its 2020 annual general meeting. Similar proposals at Transocean's 2018, 2016 and 2014 annual general meetings were approved by 96.0%, 95.1% and 96.2%, respectively, of the votes cast by Transocean's shareholders at those meetings. Transocean currently intends to propose a similar authorization at its 2021 annual general meeting thereafter every one to two years, but at a minimum every two years.

We submit that the exclusion sought hereby is customary and routine and is distinguishable from the amendment of a domestic corporation's charter to increase its authorized shares for a number of reasons. Charter amendments to increase authorized shares are sought on an irregular basis. Market practice in the United States for public companies is to include in the charter a large amount of authorized but unissued capital to provide the flexibility to issue shares opportunistically without the requirement to call special meetings. The charters of public domestic registrants in fact often include so-called "blank check" preferred stock provisions (i.e., the authority of the board of directors to designate and issue future series of preferred stock without stockholder approval). This practice of domestic corporations has been accepted as market norm, as investors are protected under stock exchange regulations that require listed companies to seek shareholder approval for significant issuances. Further, an amendment to a domestic corporation's charter to increase its authorized share capital remains effective indefinitely (i.e., it is effective until the relevant provisions of the certificate of incorporation are otherwise amended). In contrast to the indefinite effectiveness of a domestic corporation's authorized share capital, an authorization for the board to increase share capital under Swiss law remains effective only until such time as set forth in the authorization, but in no event longer than two years. As a result, Swiss companies,

[15] Article 652b of the Swiss Code.

and issuers in countries with similar laws, submit proposals for shareholder approval regarding the issuance of shares much more frequently and regularly than comparable domestic registrants.

The authority of a domestic corporation to issue shares is not addressed in Rule 14a-6 because domestic corporations are generally permitted to issue shares at any time, without shareholder approval, up to a maximum number of shares specified in the corporation's certificate of incorporation, which has no expiration date. The delegation of authority to issue shares is a routine matter of corporate governance and is a power enjoyed as a matter of course by the boards of domestic corporations. Requiring Transocean to file a preliminary proxy statement annually due to the customary and routine proposals regarding granting the board authority for a limited period to increase the company's share capital described above only increases the administrative burdens and processing costs imposed on the Commission and on Transocean. The imposition of such burdens and costs on Transocean place Transocean on unequal footing with other registrants subject to Regulation 14A but not subject to the Swiss Code, as well as with issuers organized under the laws of Singapore, Ireland and England and Wales, who have obtained Rule 14a-6(a) relief for substantially similar proposals[16], including proposals that also address the disapplication or withdrawal of preemptive rights.[17] In addition, we note that, because Transocean is listed on the NYSE, its shareholders will continue to benefit from the protections afforded to them under the rules and regulations of the NYSE and the Commission, including those rules that limit Transocean's ability to issue significant amounts of shares.

III. Conclusion

Based on the foregoing analysis, we respectfully request your confirmation that the Staff will not object if Transocean does not file a preliminary proxy statement under Rule 14a-6(a) for annual general meetings of its shareholders at which the only items to be acted upon by shareholders include (1) those otherwise excluded from such filing requirements under Rule 14a-6 or based on previously issued Staff advice with respect to Swiss companies in Garmin Ltd. and (2) the consideration by shareholders of the customary and routine matter discussed above.

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[16] See Avago Technologies (avail. Nov. 7, 2014) (granting a Singapore company exemption from filing a preliminary proxy statement for annual proposal to authorize the company's board of directors to issue and allot shares); Ingersoll-Rand plc (avail. Mar. 13, 2015) (granting an Irish company exemption from filing a preliminary proxy statement for proposal to authorize the company's board of directors to issue shares); and Ensco plc (avail. Dec. 3, 2015) (granting an English company exemption from filing a preliminary proxy statement for proposal to authorize the company's board of directors to issue and allot shares and to disapply pre-emption rights). Although the Swiss law concept of authorized capital differs slightly from the "issue and allot" concept under the laws of Singapore, Ireland and England discussed in these no-action letters, the practical effect is the same, namely, it allows the board of directors to approve the issuance of shares within the limitations of the time-limited authorization under the company's charter without having to obtain a separate shareholder vote with respect to each issuance.

[17] See Ensco plc (avail. Dec. 3, 2015) (granting an English company exemption from filing a preliminary proxy statement for proposal to authorize the company's board of directors to issue and allot shares and to disapply pre-emption rights).

In the event the Staff disagrees with any conclusion expressed herein, or should any information in support or explanation of Transocean's position be required, we will appreciate an opportunity to confer with the Staff before issuance of its response. If the Staff has any questions regarding this request or requires additional information, please contact A.J. Ericksen at 713.229.1393.

We appreciate your attention to this request.

Very truly yours,

BAKER BOTTS L.L.P.

By: 
A.J. Ericksen

cc: Daniel Ro-Trock
Transocean Ltd.