February 18, 2025

Arthur D. Levinson, Chairman of the Board
Tim Cook, Chief Executive Officer
Apple Inc.
One Apple Park Way
Cupertino, CA 95014

Dear Chairman Levinson and Chief Executive Officer Cook:

We write to you in your respective capacities as Chairman of the Board of Directors and President of Apple Inc. ("Apple") on behalf of Apple's shareholders and customers to express our concerns about the Board's recommendation against Proposal Number 6, requesting that management end its Diversity, Equity, and Inclusion ("DEI") programs.

We believe the Board's recommendation puts the company and its shareholders at risk for at least two reasons. First, America First Legal Foundation ("AFL") has obtained evidence strongly suggesting that the company's DEI programs violate federal civil rights laws, including Title VII of the Civil Rights Act of 1964.[1] It appears that management has illegally prioritized race and gender in hiring, networking, promotion, and contracting.[2] Based on these facts, the Board has a fiduciary duty to end DEI and mitigate the threat of legal liability from management's race-conscious hiring programs. Second, the Board has a duty to provide investors with direct disclosure of the obvious risk that customers and the federal government could react negatively to the company's unlawful DEI programs, a disclosure Apple has failed to make. Doing away with such programs would necessarily obviate the disclosure risk.

I. Background

A. Proposal Number 6

In Proposal Number 6, shareholders have requested that the company abolish its DEI department, programs, policies, and goals.[3] The Board recommends voting against

[1] Title VII of the Civil Rights Act of 1964 prohibits hiring, training and giving internships or promotions based on race, color, sex, or national origin. *See*, 42 U.S.C. § 2000e-2(a), (d).
[2] *Inclusion & Diversity,* APPLE, https://perma.cc/JX5J-E2EH; Racial Equity, and Justice Initiative, APPLE, https://perma.cc/7Y79-LGVJ; *Supplier Diversity,* APPLE, https://perma.cc/P6GJ-PVWL.
[3] Proposal No. 6, *Notice of 2025 Annual Meeting of Shareholders and Proxy Statement*, APPLE INC., at 85, https://perma.cc/2KTD-ZUZM (hereinafter "Proxy Statement").

Proposal Number 6,[4] though arguing, "The proposal is unnecessary as Apple already has a well-established compliance program. The proposal also inappropriately attempts to restrict Apple's ability to manage its own ordinary business operations, people and teams, and business strategies."[5] The Board's recommendation further claims that Apple is "an equal opportunity employer and does not discriminate in recruiting, hiring, training, or promoting on any basis protected by law."[6]

B. Risks Identified by Apple

In its Form 10-K, Apple identifies several risks the company faces for its investors. First, it identifies that the company's "business, reputation, results of operations, financial condition and stock price can be affected by a number of factors."[7] Second, it identifies that "political events" and "technological change" may affect the business.[8] Third, the company notes that, "Expectations relating to environmental, social and governance considerations and related reporting obligations expose the Company to potential liabilities."[9]

But in describing these risks, the Board fails to acknowledge the risk that the company's illegal DEI programs will subject the company to civil liability and exposure to potential federal enforcement action. Apple alludes to the possibility that some stakeholders may "disagree" with the company's environmental, social, and governance ("ESG") initiatives, and it emphasizes in its warning the risk that "failure … to achieve its [ESG] goals" will harm the company.[10] But the risk warning never alerts investors to the very real flip-side risk that *achieving* ESG/DEI goals, or working towards them, will put the company at serious risk of consumer backlash and federal enforcement action in the opposite direction.

C. DEI at Apple

AFL has obtained audio of Apple Vice President of Core OS – Software Engineering, Jon Andrews, candidly discussing Apple's discriminatory hiring practices at two "all-hands" meetings in the past year. His statements belie the claims made in the Board's recommendation to vote against Shareholder Proposal Number 6. For instance, in one meeting, Andrews stated:

> We've made some changes to the way we do manager hiring … There's two questions at the top of an offer when it goes to approval. One is that

[4] *Id.* at 87.
[5] *Id.*
[6] *Id.*
[7] *Apple Inc.,* Annual Report (Form 10-K), at 5 (Sept. 28, 2024), https://perma.cc/5CAW-2FUL (hereinafter "Form 10-K").
[8] *Id.* at 6–7.
[9] *Id.* at 14.
[10] *Id.*

> a female was interviewed, and that a URE [underrepresented employee] was interviewed. And … for management positions, I have said that *I won't approve an offer unless there's a yes next to one of those*. So, we're going to keep looking until we find a diverse slate, and then we'll make the offer for management positions. I think this is super important because we do know … that diverse managers hire diverse teams.

In a second meeting, Andrews said:

> Around hiring, we've been as diligent as we possibly can in making sure we find a diverse slate of candidates. If a team is struggling, we'll actually hold them back of offering until they have … We have some teams that have specifically said, "We don't have a diverse team, and we're intentionally going to go out and build a diverse team." And when they have, they see the results.

Nor does this appear to be a rogue actor describing his own policies in "all-hands" meetings. Apple openly advertises on its website, "We filled more open leadership roles than ever with women globally and Black candidates in the United States."[11] What Apple fails to disclose to its investors, though, is that to achieve this race-conscious goal, it has apparently imposed its own version of the racially discriminatory "Rooney Rule,"[12] where Apple holds positions open as long as possible to ensure "diverse" results.

D. Changes in the Legal Landscape and Apple's Response

Finally, there are multiple reasons to believe that management's commitment to the company's DEI programs has significantly increased the risk of potential federal enforcement action and threatens shareholder value. First, the U.S. Supreme Court emphasized in *Students for Fair Admission v. President and Fellows of Harvard College* that, where federal law prohibits race discrimination,"[e]liminating racial discrimination means eliminating all of it," including DEI.[13] Second, the U.S. Supreme Court "lower[ed] the bar" for plaintiffs in Title VII cases,[14] which the new Acting Chair of the Equal Employment Opportunity Commission ("EEOC") predicted would mean "a host of increasingly popular race-conscious corporate [DEI] initiatives" will be easier to challenge in court.[15] Third, President Trump signed Executive Order 14,173, titled Ending Illegal Discrimination and Restoring Merit-

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[11] *Inclusion & Diversity,* APPLE, https://perma.cc/JX5J-E2EH.

[12] *See America First Legal Blasts the NFL's Illegal and Racist "Rooney Rule," Files Federal Civil Rights Complaint,* AMERICA FIRST LEGAL (Feb. 6, 2024), https://perma.cc/YT4Q-VAZ4.

[13] 600 U.S. 181, 206 (2023) (interpreting Equal Protection Clause and Title VI of the Civil Rights Act).

[14] *Muldrow v. City of St. Louis*, 601 U.S. 346, 356 n.2 (2024).

[15] Andrea Lucas, *With Supreme Court Affirmative Action Ruling, It's Time for Companies to Take a Hard Look at Their Corporate Diversity Programs*, REUTERS (June 29, 2023), https://perma.cc/Q9S7-JS5H (discussing the potential implications of *Muldrow v. St. Louis*).

Based Opportunity.[16] Through this Executive Order, President Trump directed the Attorney General and the heads of agencies to "identify up to nine potential civil compliance investigations of publicly traded corporations."[17] For federal contractors, including Apple, it specified that the employment, procurement, and contracting practices of Federal contractors and subcontractors "shall not consider race, color, sex, sexual preference, religion, or national origin in ways that violate the Nation's civil rights laws."[18] However, management's DEI programs are specifically designed to consider and balance the race, color, sex, sexual preference, religion, and national origin of Apple's employees. This is facially unlawful.[19]

Despite all these developments, the Board issued a proxy statement encouraging shareholders to vote no and stated, "This proposal is unnecessary" and falsely claimed that "Apple is an equal opportunity employer and does not discriminate in recruiting, hiring, training, or promoting on any basis protected by law."[20] None of the materials issued by the Board has given shareholders the full picture of the risk that Apple's DEI programs pose to the company.

II. Undisclosed Risks by Apple

A. Title VII Liability

Apple asserts in its Form 10-K that it is an equal opportunity employer that complies with anti-discrimination laws. A closer examination of Apple's employment practices, however, suggests that Apple's DEI practices likely violate Title VII, creating an undisclosed risk to shareholders.

Title VII prohibits discrimination based on an "individual's race, color, … or national origin" in hiring, promotion, termination, compensation, and other conditions or privileges of employment.[21] This is an exacting standard. An employment practice is generally unlawful if "race, color, religion, sex or national origin was a *motivating factor*" for that practice.[22] Indeed, simply mandating that a racial minority be included in a candidate pool for interview (colloquially called the "Rooney Rule"), "when considered with other factors in a case, can constitute circumstantial evidence of race discrimination."[23] This prohibition even applies if the discrimination is

[16] 90 Fed Reg. 8,633 (Jan. 31, 2025).
[17] *Id.* at 8,635.
[18] *Id.* at 8,634.
[19] 42 U.S.C. § 2000e-2(m); *see also City of Richmond v. J.A. Croson Co.,* 488 U.S. 469, 493 (1989).
[20] Proxy Statement, *supra* note 3, at 87.
[21] 42 U.S.C. § 2000e-2(a)(1).
[22] 42 USC § 2000e-2(m) (emphasis added); *Price Waterhouse v. Hopkins*, 490 U.S. 228, 258 (1989); *Desert Palace Inc v. Costa*, 539 U.S. 90, 98–102 (2003).
[23] *Rudin v. Lincoln Land Cmty. Coll.*, 420 F.3d 712, 721–22 (7th Cir. 2005).

directed against a majority group.[24] The pursuit of diversity does not permit an employer to ignore Title VII's strict race-neutral mandate.[25]

Additionally, racially discriminatory hiring programs may run afoul of Section 1981's guarantee that "all persons … shall have the same right … to make and enforce contracts," which is defined to include the "enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship."[26] The same kinds of "purposeful discrimination that violates the Equal Protection Clause … will also violate § 1981."[27] This applies equally to private conduct.[28] Though Section 1981 claims must meet a higher standard than Title VII claims,[29] they may also (as in the Title VII context) be brought for alleged discrimination against white persons.[30]

Here, Apple's conduct likely violates these statutory prohibitions and potentially exposes the company to substantial liability. As the company's officers have said, in at least specific contexts, Apple explicitly requires that its hiring pool for managers contain women and "underrepresented" individuals. As noted above, the same officer said Apple would "keep looking" until it found a "diverse slate" of candidates for its manager positions.

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[24] *See McDonald v. Santa Fe Trail Transp. Co.*, 427 U.S. 273, 280 n.8 (1976) (holding in a case not involving affirmative action, that Title VII protects whites as well as blacks from racial discrimination).

[25] *See Taxman v. Bd. Of Educ. Of Tp. Of Piscataway*, 91 F.3d 1547, 1558–63 (3d Cir. 1996) ("There is no congressional recognition of diversity as a Title VII objective requiring accommodation."); *Frank v. Xerox Corp.*, 347 F.3d 130, 133 (5th Cir. 2003) (finding that affirmative action plan designed to create "balance" violated Title VII when used as the basis for termination). The only exception to Title VII's mandate is the "remedial" exception developed by the Supreme Court in the 1970s. To pass muster under the remedial exception, an affirmative action plan must (1) be "designed to break down old patterns of racial segregation and hierarchy"; (2) not "require the discharge of white workers and their replacement with new black hires"; (3) be "temporary"; and (4) "not [be] intended to maintain racial balance, but simply to eliminate a manifest racial imbalance." *United Steelworkers of Am. AFL-CIO-CLC v. Weber*, 443 U.S. 193, 208 (1979); *see also Johnson v. Transportation Agency, Santa Clara Cnty., Cal.*, 480 U.S. 616, 628–30 (1987). This is a high bar. For instance, Apple makes no suggestion that its DEI programs are temporary. *See, e.g., Taxman*, 91 F.3d at 1564 (finding an affirmative action plan invalid because it was not temporary). And to show a "manifest imbalance," an employer must compare the share of minorities currently employed in a job to the share of the minority population with the requisite training for that specific job. *See Johnson*, 480 U.S. at 632. None of Apple's DEI programs appear to satisfy the remedial exception. Regardless, even if the DEI programs were legal under the remedial exception, that exception may not exist much longer. *See, e.g.*, *SFFA,* 600 U.S. at 289–310 (Gorsuch, J., concurring) (equating Title VII with Title VI, concluding that Title VI does not permit affirmative action).

[26] 42 U.S.C. § 1981.

[27] *Gratz v. Bollinger*, 539 U.S. 244, 276 (2003).

[28] 42 U.S.C. § 1981(c); *Runyon v. McCrary*, 427 U.S. 160, 168–75 (1976) ("It is now well established that § 1 of the Civil Rights Act of 1866, 14 Stat. 27, 42 U.S.C. § 1981, prohibits racial discrimination in the making and enforcement of private contracts.").

[29] *Comcast Corp. v. Nat'l Ass'n of Afr. Am.-Owned Media*, 589 U.S. 327, 331–32 (2020) (requiring that racial discrimination be a but-for cause of the injury, not just a "motivating factor").

[30] *See McDonald*, 427 U.S. at 286–87 ("Our examination of the language and history of § 1981 convinces us that § 1981 is applicable to racial discrimination in private employment against white persons.").

Contrary to the Board's claim that Apple operates a "well-established compliance program," Apple appears to be haphazardly approaching the precipice of substantial liability under civil rights law. These comments, not to mention the substance of Apple's hiring practices, suggest that race is a motivating factor animating how these processes are operated. Moreover, Apple's practices undercut its assertion in its Form 10-K that it is "an equal opportunity employer." The Board's assertions in both the Proxy Statement and the Form 10-K fail to fully disclose the risks associated with Apple's hiring practices.

B. Customer Backlash

In addition to the potential legal liability created by its DEI practices, Apple has failed to disclose the tremendous financial risks generated by these activities. By now, it is well established that corporate DEI programs have the potential to cost billions of dollars in corporate value if they prompt backlash from enraged consumers.

The examples speak for themselves. In 2019, Gilette ran an advertisement promoting transgender shaving and its parent company lost roughly $8 billion in year-on-year net revenues.[31] The infamous Anheuser-Busch fiasco associated with its Bud Light advertising in April 2023 cost the brand more than 25 percent of its sales.[32] Bud Light only started regaining its financial position once it course corrected, resumed focusing on its target audience, and stopped promoting divisive social issues.[33] When Disney opposed parental rights in education, its shares dropped 33 percent, erasing $50 billion in shareholder value.[34]

The damage from potential DEI-related consumer boycotts is not only told on the stock ticker. In 2018, a third of NFL viewers claimed they stopped watching the league during the Colin Kaepernick saga.[35] Ever since the NBA pulled its All-Star Game out of Charlotte in 2017 in protest of the state's bathroom law, its ratings have plummeted.[36] When the MLB moved its All-Star Game out of Atlanta for similar

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[31] Katie Pavlich, *Woke to Broke: Gillette Loses Billions After Anti-Men, Transgender Shaving Ads*, TOWNHALL (Aug. 1, 2019), https://perma.cc/T2NU-D94P.
[32] Daniel Newman, *Bud Light Sales Continue to Plummet After Transgender Marketing Controversy*, ST. LOUIS POST-DISPATCH (May 1, 2023), https://perma.cc/MP5X-ANAV.
[33] *See, e.g.*, Rebecca Stewart, *Super Bowl Instant Reply: Bud Light Plays it Safe with an Ad Made for Bros,* ADWEEK (Feb. 9, 2025), https://perma.cc/2496-WTYL.
[34] Andrew Stiles, *Disney Stock Down 33 Percent Since CEO Instigated Feud with DeSantis*, WASH. FREE BEACON (May 24, 2023), https://perma.cc/ADV5-95HN; Nick Monroe, *Disney Loses Nearly $50 Billion in Stock Value Since Waging War Against Florida's Anti-Grooming Law*, POST MILLENNIAL (Apr. 22, 2022), https://perma.cc/6LPM-H74U.
[35] Daniel Roberts, *Poll: 33% of NFL Fans 'Purportedly Stopped Watching' This Season*, YAHOO NEWS (Jan. 8, 2018), https://perma.cc/N3KF-4AMW.
[36] Clay Travis, *NBA is America's First Bud Light-style Fiasco But You're Not Supposed to Know That*, FOX NEWS (July 8, 2023), https://perma.cc/D64E-ARFU.

political reasons, it suffered incalculable reputational damage.[37] Many companies cannot afford to suffer the same kind of backlash.

By withholding the potential risks of pursuing an aggressive DEI program from shareholders, Apple is either concealing to disclose—or failing to recognize—that it is engaged in practices that stand to destroy billions of dollars in shareholder value. Given the extensive history of these incidents, Apple should clearly be on notice that its policies could generate this kind of intense backlash.

C. Securities Litigation

By failing to disclose the risks posed by its DEI and ESG policies, Apple risks materially violating its obligations under the Securities and Exchange Act of 1934 and federal securities regulation.

In particular, Rule 14a-9 (17 C.F.R § 240.14a-9) provides that "no solicitation subject to this regulation shall be made by means of any proxy statement, form of proxy, notice of meeting or other communication … containing any statement which, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact." Similarly, under Rule 10b-5 (17 C.F.R. § 240.10b-5), it is "unlawful" for any person to "make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading." Under both provisions, injured shareholders can sue a corporation and/or director defendants for material misrepresentations in annual proxy statements or other communications, including for "half-truths" that "state the truth only so far as it goes, while omitting critical qualifying information."[38]

When a corporation affirmatively states that it complies with anti-discrimination law in its employment programs, even though it is aware of the liability risk posed by DEI and ESG programs, and *fails* to disclose that risk to shareholders, it opens itself up to the risk of significant securities litigation. Relatedly, when a corporation states that it faces risk from activist stakeholders for failing to meet ESG goals while declining to mention the countervailing risk from conservative shareholders and consumers when it *meets* those goals, it could be stating a "half-truth."[39] Similar legal theories have already affected other companies.

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[37] Andrew Solender, *Republicans Vow Boycott, Retaliation Against MLB Over Pulled All-Star Game*, FORBES (Apr. 2, 2021), https://perma.cc/D7AR-4EAR.
[38] *Macquarie Infrastructure Corp. v. Moab Partners*, 601 U.S. 257, 263 (2024).
[39] *Id.*

AFL is currently suing Target for failing to disclose risks related to their DEI and ESG policies, which ultimately harmed shareholders after a customer boycott.[40] That lawsuit alleges that Target and its Board of Directors violated the federal securities laws by causing Target to issue proxy statements that falsely and misleadingly stated the Board oversaw social and political issues arising from Target's pursuit of ESG and DEI mandates and that these policies were adopted to advance shareholders' pecuniary interest.[41] In addition, the complaint alleged that Target misled investors when it suggested it only faced risk "from one side of the political spectrum," acknowledging only the risk it would face from a *failure* to meet the DEI goals.[42] Target then enacted DEI policies and prepared an aggressive Pride campaign in its stores.[43] All the while, the Board assured its investors that it was monitoring the potential risks of these risks.[44] Target's disclosures represented material misrepresentations and omissions, as these policies led to significant shareholder losses, for which AFL brought suit.[45]

A federal court has already ruled in favor of AFL's clients by denying Target's attempt to dismiss the suit.[46] There, the Court ruled that the plaintiffs had "adequately pleaded both section 10(b) *and* section 14(a) claims."[47] Furthermore, the court vindicated that Target, through its proxy statements, had failed to address the possibility of consumer backlash from its ESG/DEI initiatives and, as a result, the "plaintiffs ha[d] pleaded that there was a known risk" posed by these programs that Target had fraudulently failed to disclose.[48] Notably, the Target plaintiffs also successfully pled all the other required elements of 10(b) and 14(a) claims.[49] Having failed to dismiss the plaintiffs' claims at the pleading stage, Target now faces a class-action suit over the same claims.[50]

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[40] *Brian Craig v. Target Corporation, et al.*, AMERICA FIRST LEGAL, https://perma.cc/4UB7-ZALH; *VICTORY – U.S. District Court Denies Target's Attempt to Dismiss AFL Lawsuit and Transfer Venue; Shareholder Action Against Undisclosed Risks and Losses Caused by Target's ESG, DEI, and LGBTQ "Pride Campaign" to Continue*, AMERICA FIRST LEGAL (Dec. 4, 2024), https://perma.cc/CC36-UJ3F.
[41] First Amended Complaint, *Craig v. Target Corp.*, No. 2:23-cv-00599, ECF No. 52 ¶ 4.
[42] *Craig v. Target Corp.*, 2024 WL 4979234, at *9 (M.D. Fla. Dec. 4, 2024).
[43] First Amended Complaint, *Craig v. Target Corp.*, No. 2:23-cv-599, ECF No. 52 ¶¶ 193–229.
[44] *Id.* ¶¶ 16, 307–09.
[45] *Id.* ¶¶ 428–48.
[46] *Craig v. Target Corp.*, No. 2:23-cv-599-JLB-KCD, 2024 WL 4979234 (M.D. Fla. Dec. 4, 2024).
[47] *Id.* at *16.
[48] *Id.* at *6.
[49] A 10(b) claim must plead 1) a material misstatement or omission, 2) scienter, 3) a connection with a securities transaction, 4) reliance on the misstatement or omission, 5) economic loss, and 6) a causal connection between the misstatement and the loss. *Id.* at *3 (citing *Mizzaro v. Home Depot, Inc.*, 544 F.3d 1230, 1236–37 (11th Cir. 2008)); A 14(a) claim must allege that plaintiffs prepared a proxy statement with a material misstatement or omission that caused the plaintiff's injury. *Id.* at *14.
[50] *City of Riviera Beach Police Pension Fund v. Target, Corp., et al.*, No. 2:25-cv-00085 (M.D. Fla.). The action has been marked as related to *Craig v. Target Corp., et al.*, No. 2:23-cv-00599-JLB-KCD (M.D. Fla.).

Apple's Board risks similarly misleading its shareholders. For instance, Apple states that it strives to "create a culture of belonging" while claiming that the company is an equal opportunity employer whose Board and management maintain active oversight of its risks.[51] Also, like Target, Apple suggests that it faces a risk of left-wing activist criticism for failing to meet its DEI goals but only vaguely alludes to the possibility that conservative customers may be displeased at Apple if it *meets or pursues* those goals.[52] Apple and its Board are issuing the same kinds of messaging as Target, claiming that its "well-established compliance program" is keeping it within the bounds of the law while, in actuality, exposing the company to substantial legal liability. Apple's DEI policies mirror Target's as well. Last May, Apple introduced a new collection of "Pride" products to help "champion" the "LGBTQ+ movement."[53] Apple has a "Supplier Diversity Program," available to "minority-owned" companies.[54] Apple also engages in diversity leadership networks only available to minorities, such as the National Minority Supplier Development Council, Women's Business Enterprise National Council, and the National LGBT Chamber of Commerce.[55] These policies expose the company to *legal* liability and further increase the likelihood of costly consumer backlash. Given recent history, the company should be aware of this risk, yet has failed to disclose it.

If Apple and its Board fail to disclose the full extent of the risks of these policies and abolish the illegal and discriminatory ones, they risk a lawsuit over their lack of transparency. Apple claims that its legal team—led by its Senior Vice President, General Counsel, and Chief Compliance Officer—is focused on legal compliance[56] yet it has put the company in jeopardy of a potential Department of Justice or EEOC investigation for failing to follow Title VII of the Civil Rights Act of 1964.

III. Changing Political Landscape Compounds These Risks

The Board's determination to continue potentially unlawful DEI policies creates even further risks due to the change in leadership in Washington, D.C.

On January 21, 2025, President Trump signed Executive Order 14,173 to end illegal discrimination and restore merit-based opportunity.[57] The order mandates all federal government agencies to terminate their discriminatory and illegal DEI policies.[58] In addition, President Trump also authorized the Attorney General and the heads of agencies to "identify up to nine potential civil compliance investigations of publicly

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[51] Proxy Statement, *supra* note 3, at 87.
[52] Form 10-K, *supra* note 7, at 14.
[53] *Apple's 2024 Pride Collection Shines Light on LGBTQ+ Communities*, APPLE, (May 6, 2024) https://perma.cc/D7HZ-AHGK.
[54] *Supplier Diversity,* APPLE, https://perma.cc/P6GJ-PVWL.
[55] *Id.*
[56] Proxy Statement, *supra* note 3, at 87.
[57] E.O. 14,173, 90 Fed. Reg. 8,633, *supra* note 16.
[58] *Id.*

traded corporations[.]”[59] Many prominent companies have abolished their DEI policies to comply with the Trump administration.[60] Apple should wisely follow these other companies’ actions because if the company continues to promote their illegal DEI policies in violation of both Title VII of the Civil Rights Act of 1964 and Executive Order 14173, the company will avail itself to “[l]itigation that would be potentially appropriate for Federal lawsuits, intervention, or statements of interest.”[61]

In addition, President Trump has made Andrea Lucas the Acting Chair of the EEOC. Lucas has already expressly signaled that the business community risks liability by screening job candidates based on race.[62] Continuing with race-conscious DEI-focused employment policies will likely put Apple at risk of an EEOC investigation.

Another example is Federal Communications Commission Chairman Brendan Carr’s recent announcement of an investigation into DEI practices at Comcast, the parent company of NBC News and Universal Studios.[63] The Board should take heed of these actions and fully disclose the risks to its shareholders of continuing with its DEI agenda.

IV. Conclusion

If Apple continues to proceed with its DEI policies without disclosing the potential risks of lawsuits and market backlash to its shareholders, Apple could face significant liability in the future. It is in the interest of Apple, its Board, and its shareholders to vote to abolish its DEI policies. At a minimum, the Board must fully disclose all of the risks attendant to its DEI policies in the current legal and political landscape.

Thank you in advance for your consideration. Please feel free to contact us if you have any questions.

Sincerely,

Andrew J. Block
America First Legal Foundation

Cc: Wanda Austin, Ph.D., Director

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[59] *Id.*

[60] Siladitya Ray, *Walmart Rolls Back DEI Policies Amid Conservative Backlash,* FORBES, https://perma.cc/CHM8-967B; Julian Mark, *McDonald’s Ending Some DEI Practices, Joining a Growing List of Companies,* WASH. POST (Jan. 7, 2025), https://perma.cc/S3UC-4LSZ; Naomi Nix, *Mark Zuckerberg says Corporate Culture was “Neutered” as Meta Scraps DEI,* WASH. POST (Jan. 10, 2025), https://perma.cc/JFW9-VCXF.

[61] E.O. 14,173, 90 Fed. Reg. 8,633, *supra* note 16.

[62] Andrea R. Lucas (@andrealucasEEOC), X (Feb. 11, 2025), https://perma.cc/HYJ5-GTQX.

[63] Benjamin Mullin, *F.C.C. Chair Orders Investigation Into Comcast’s D.E.I. Practices*, N.Y. TIMES (Feb. 12, 2025), https://perma.cc/4XP9-LAD4.

Alex Gorsky, Director
Andrea Jung, Director
Monica Lozano, Director
Ronald D. Sugar, Ph. D., Director
Susan L. Wagner, Director