

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**Form 8-K**

**CURRENT REPORT**

Pursuant to Section 13 or 15(d) of  
The Securities Exchange Act of 1934

Date of report (Date of earliest event reported): **October 1, 2021**

**FactSet Research Systems Inc.**

(Exact name of registrant as specified in its charter)

**Delaware**

**1-11869**

**13-3362547**

(State or other jurisdiction of  
incorporation or organization)

(Commission  
File Number)

(I.R.S. Employer  
Identification No.)

**45 Glover Avenue  
Norwalk, Connecticut 06850**

(Address of principal executive offices) (Zip code)

Registrant's telephone number, including area code: **(203) 810-1000**

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§ 230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§ 240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbols(s)	Name of each exchange on which registered
Common Stock, \$0.01 Par Value	FDS	New York Stock Exchange LLC The Nasdaq Stock Market

### **Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year**

On September 27, 2021, the Board of Directors (the "Board") of FactSet Research Systems Inc. (the "Company" or "FactSet") amended the Company's Amended and Restated By-Laws (the "Bylaws") by adopting a new Article II, Section 11, Proxy Access (the "Proxy Access Provision"), to implement proxy access, effective immediately.

The Proxy Access Provision permits a stockholder, or a group of up to 20 stockholders, owning at least three percent of the Company's outstanding stock continuously for at least three years, to nominate and include in the Company's annual meeting proxy materials director nominees constituting up to the greater of two directors or twenty percent of the Board, provided that the stockholder(s) and nominee(s) satisfy all eligibility, procedural and disclosure requirements specified in the Bylaws. All director nominees submitted through the Proxy Access Provision must be independent and meet specified additional criteria.

The foregoing description is qualified in its entirety by reference to the full text of the Proxy Access Provision, which is attached hereto as Exhibit 3.1 and incorporated herein by reference.

### **Item 9.01 Financial Statements and Exhibits**

(d) Exhibits

<b>Exhibit No.</b>	<b>Description</b>
<a href="#">3.1</a>	FactSet Research Systems Inc. Amended and Restated By-Laws, Article II, Section 11, Proxy Access

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**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, hereunto duly authorized.

FACTSET RESEARCH SYSTEMS INC.  
(Registrant)

October 1, 2021

By: /s/ RACHEL R. STERN  
Rachel R. Stern  
Executive Vice President, Chief Legal Officer, Global Head of Strategic  
Resources and Secretary

**AMENDMENT TO THE BY-LAWS OF FACTSET RESEARCH SYSTEMS INC.**

**Effective September 27, 2021**

Article II of the By-Laws of FactSet Research Systems Inc. is hereby amended to include the following text:

**ARTICLE II**

Meetings of Stockholders

Section 11.

(a) *Proxy Access.* Subject to the provisions of this Section 11, the Corporation shall include in its proxy statement and on its form of proxy for an annual meeting of the stockholders at which directors are to be elected, the name of, and the Required Information (as defined below) relating to, any Stockholder Nominee who satisfies the eligibility requirements in this Section 11 (an “Eligible Stockholder Nominee”) and who is identified in a notice that complies with Section 11(e) and that is timely delivered pursuant to Section 11(f) (the “Stockholder Notice”) by a stockholder that satisfies, or by a group of no more than twenty (20) stockholders that satisfy, the ownership and other requirements of this Section 11 (such stockholder or group, including each member thereof to the extent the context requires, the “Eligible Stockholder”), and who expressly elects at the time of providing the Stockholder Notice to have such Eligible Stockholder Nominee included in the Corporation’s proxy materials pursuant to this Section 11. No stockholder may be a member of more than one group of stockholders constituting an Eligible Stockholder under this Section 11. In the event that the Eligible Stockholder consists of a group of stockholders, any and all requirements and obligations for an individual Eligible Stockholder that are set forth in this Section 11 shall apply to each member of the group; provided, however, that the Required Ownership Percentage (as defined in Section 11(b) below) shall apply to the ownership of the group in the aggregate.

For purposes of this Section 11, the “Required Information” that the Corporation will include in its proxy statement is: (i) the information concerning the Eligible Stockholder Nominee and the Eligible Stockholder that is required to be disclosed in the Corporation’s proxy statement by the applicable requirements of the Act, as amended, and the rules and regulations promulgated thereunder, and as required by any applicable listing standards, (ii) if the Eligible Stockholder so elects, the Statement (as defined in Section 11(i) below) and (iii) any other information that the Corporation or the Board of Directors determines, in their discretion, to include in the proxy statement relating to the nomination of the Eligible Stockholder Nominee, including, without limitation, any statement in opposition to the nomination and any of the information provided pursuant to this Section 11.

(b) *Eligible Stockholder Ownership Requirements.* To qualify as an “Eligible Stockholder” pursuant to this Section 11, a stockholder or group of stockholders must (i) own and have owned (as defined in Section 11(c) below) 3% or more (the “Required Ownership Percentage”) of the number of outstanding shares of the Corporation’s common stock entitled to

vote in the election of directors as of the most recent date for which such amount is given in any filing by the Corporation with the Securities and Exchange Commission prior to the submission of the Stockholder Notice (the “Required Shares”) continuously for at least three (3) years as of both the date the Stockholder Notice is delivered to the Secretary of the Corporation in accordance with this Section 11 and the record date for determining stockholders entitled to vote at the annual meeting of stockholders and (ii) thereafter continue to own the Required Shares through the annual meeting date.

For purposes of satisfying the ownership requirements of this Section 11(b), two or more funds that are (i) under common management and investment control, (ii) under common management and funded primarily by a single employer or (iii) a “group of investment companies,” as such term is defined in Section 14(d)(1)(G)(ii) of the Investment Company Act of 1940, as amended, (such funds together under each of (i), (ii) or (iii) comprising a “Qualifying Fund”) shall be treated as one stockholder for the purposes of determining the members of a group of stockholders comprising one Eligible Stockholder, provided that each fund comprising a Qualifying Fund otherwise meets the requirements set forth in this Section 11.

(c) *Definition of Ownership.* For purposes of this Section 11:

(i) an Eligible Stockholder shall be deemed to “own” only those outstanding shares of the Corporation’s common stock as to which the stockholder possesses both:

- (1) the full voting and investment rights pertaining to the shares and
- (2) the full economic interest in (including the opportunity for profit and risk of loss on) such shares; provided that the number of shares calculated in accordance with clauses (1) and (2) shall not include any shares:

(A) sold by such stockholder or any of its affiliates in any transaction that has not been settled or closed (including any short sale),

(B) borrowed by such stockholder or any of its affiliates for any purpose or purchased by such stockholder or any of its affiliates pursuant to an agreement to resell or

(C) subject to any option, warrant, forward contract, swap, contract of sale or other derivative or similar agreement entered into by such stockholder or any of its affiliates, whether any such instrument or agreement is to be settled with shares or with cash based on the notional amount or value of outstanding shares of the Corporation, in any such case which instrument or agreement has, or is intended to have, or if exercised by either party thereto would have, the purpose or effect of: (I) reducing in any manner, to any extent or at any time in the future, such stockholder’s or any of its affiliates’ full right to vote or direct the voting of any such shares, and/or (II) hedging, offsetting, or altering to any degree gain or

loss arising from the full economic ownership of such shares by such stockholder or affiliate; and

(ii) A stockholder “owns” shares held in the name of a nominee or other intermediary so long as the stockholder retains the right to instruct how the shares are voted with respect to the election of directors and possesses the full economic interest in the shares. A person’s ownership of shares shall be deemed to continue during any period in which (1) the person has loaned such shares, provided that the person has the power to recall such loaned shares on five (5) business days’ notice; or (2) the person has delegated any voting power by means of a proxy, power of attorney or other instrument or arrangement which is revocable at any time by such person; and

(iii) The terms “owned,” “owning” and other variations of the word “own” shall have correlative meanings. Whether outstanding shares of the Corporation are “owned” for these purposes shall be determined by the Board of Directors. The term “affiliate” or “affiliates” shall have the meaning ascribed thereto under the General Rules and Regulations under the Exchange Act, as amended.

(d) *Number of Eligible Stockholder Nominees.* The maximum number of Eligible Stockholder Nominees nominated by all Eligible Stockholders pursuant to this Section 11 (including individuals that were submitted by an Eligible Stockholder for inclusion in the Corporation’s proxy materials pursuant to this Section 11, but either are subsequently withdrawn or that the Board of Directors nominates as Board of Directors nominees) that will be included in the Corporation’s proxy materials with respect to an annual meeting of stockholders together with any nominees who were previously elected to the Board of Directors after being nominated pursuant to this Section 11 at any of the preceding two (2) annual meetings and who are re-nominated for election at such annual meeting by the Board of Directors, shall not exceed the greater of (i) two (2) or (ii) 20% of the total number of directors in office as of the last day on which a Stockholder Notice may be delivered to the Secretary pursuant to this Section 11, or if the number of directors calculated in this clause (ii) is not a whole number, the closest whole number below 20% (such greater number, the “Maximum Number”). In the event that one or more vacancies for any reason occurs on the Board of Directors after the last day on which a Stockholder Notice may be delivered to the Secretary pursuant to Section 11 with respect to an annual meeting, but before the date of the Corporation’s annual meeting, and the Board of Directors resolves to reduce the size of the Board of Directors in connection therewith, the Maximum Number of Eligible Stockholder Nominees nominated pursuant to this Section 11 included in the Corporation’s proxy materials shall be calculated based on the number of directors in office as so reduced.

Any Eligible Stockholder submitting more than one Eligible Stockholder Nominee for inclusion in the Corporation’s proxy materials pursuant to this Section 11 shall rank its Eligible Stockholder Nominees based on the order that such Eligible Stockholder desires such Eligible Stockholder Nominees to be selected for inclusion in the Corporation’s proxy materials in the event that the total number of Eligible Stockholder Nominees submitted by Eligible Stockholders pursuant to this Section 11 exceeds the Maximum Number of Eligible Stockholder Nominees

provided for in this Section 11. In the event that the number of Eligible Stockholder Nominees submitted by Eligible Stockholders pursuant to this Section 11 exceeds the Maximum Number of Eligible Stockholder Nominees provided for in this Section 11, the highest-ranking Eligible Stockholder Nominee who meets the requirements of this Section 11 from each Eligible Stockholder will be selected for inclusion in the Corporation's proxy materials until the Maximum Number is reached, going in order of the amount (largest to smallest) of shares of common stock of the Corporation each Eligible Stockholder disclosed as owned in its respective notice of a nomination submitted to the Corporation in accordance with the procedures set forth in this Section 11. If the maximum number is not reached after the highest-ranking Eligible Stockholder Nominee who meets the requirements of this Section 11 from each Eligible Stockholder has been selected, this process will continue as many times as necessary, following the same order each time, until the Maximum Number is reached. Following such determination, if any Eligible Stockholder Nominee who satisfies the eligibility requirements in this Section 11(i) thereafter withdraws from the election (or his or her nomination is withdrawn by the Eligible Stockholder) or (ii) is thereafter not included in the Corporation's proxy materials or is not submitted for director election for any reason (including the failure to comply with this Section 11) other than due to a failure by the Corporation to include such Eligible Stockholder Nominee in the Corporation's proxy materials in violation of this Section 11, no other nominee or nominees (other than any Eligible Stockholder Nominee already determined to be included in the Corporation's proxy materials who continues to satisfy the eligibility requirements of this Section 11) shall be included in the Corporation's proxy materials or otherwise submitted for director election in substitution thereof pursuant to this Section 11.

(e) *Contents of Stockholder Notice.* The inclusion of an Eligible Stockholder Nominee in the Corporation's proxy materials shall be subject to the delivery to the Secretary of, and the Stockholder Notice shall set forth, the following:

(i) as to the Eligible Stockholder (including, in the case of a group, each member thereof) giving the Stockholder Notice, (1) the name and address of each such stockholder or stockholders and (2) the class and number of shares of the Corporation which are owned of record and beneficially by such stockholder or stockholders;

(ii) as to each Eligible Stockholder Nominee whom the Eligible Stockholder proposes to nominate for election to the Board of Directors pursuant to this Section 11:

(1) the Required Information (other than the information specified in clause (iii) of the definition of Required Information);

(2) the Eligible Stockholder Nominee's written consent to being named in the Corporation's proxy materials as a nominee and to serving as a director if elected; and

(3) a written representation and agreement from such Eligible Stockholder Nominee that such Eligible Stockholder Nominee:

(A) is not and will not become a party to any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how such person, if elected as a director of the Corporation, will act or vote on any issue or question if such agreement, arrangement or understanding has not been disclosed to the Corporation, or if such agreement, arrangement or understanding could limit or interfere with such person's ability to comply, if elected as a director of the Corporation, with such person's fiduciary duties under applicable law,

(B) may not be, and may not become, a party to any compensatory, payment, indemnification or other financial agreement, arrangement or understanding with any person or entity other than the Corporation in connection with service or action as a director that has not been disclosed to the Corporation and

(C) will comply with all of the Corporation's corporate governance, conflict of interest, confidentiality and stock ownership and trading policies and guidelines, and any other Corporation policies and guidelines applicable to directors;

(iii) a copy of the Schedule 14N that has been filed with the Securities and Exchange Commission as required by Rule 14a-18 under the Exchange Act, as amended;

(iv) the written agreement of the Eligible Stockholder (including, in the case of a group, each member thereof) addressed to the Secretary, setting forth the following additional agreements, representations, and warranties:

(1) one or more written statements of the Eligible Stockholder setting forth and certifying to the number of shares of the Corporation it is deemed to own for purposes of this Section 11;

(2) one or more written statements from the record holder of the shares (and from each intermediary through which the shares are or have been held during the requisite three-year holding period) verifying that, as of a date within seven (7) calendar days prior to the date the Stockholder Notice is delivered to the Secretary, the Eligible Stockholder owns, and has owned continuously for the preceding three (3) years, the Required Shares, and the Eligible Stockholder's agreement to provide, within five (5) business days after the record date for the annual meeting of stockholders, written statements from the record holder and intermediaries verifying such Eligible Stockholder's continuous ownership of the Required Shares through the record date;

(3) that such Eligible Stockholder:



(A) acquired the Required Shares in the ordinary course of business and not with the intent to change or influence control at the Corporation, and does not presently have such intent;

(B) presently intends to maintain the Required Ownership Percentage of the Required Shares through the date of the annual meeting of stockholders;

(C) has not nominated and will not otherwise nominate for election to the Board of Directors at the annual meeting of stockholders any person other than the Eligible Stockholder Nominee(s) being nominated pursuant to this Section 11;

(D) has not engaged and will not engage in, and has not been and will not be a “participant” in another person’s, “solicitation” within the meaning of Rule 14a-1(l) under the Exchange Act, as amended, in support of the election of any individual as a director at the annual meeting of stockholders other than its Eligible Stockholder Nominee or a nominee of the Board of Directors;

(E) will not distribute to any stockholder any form of proxy for the annual meeting of stockholders other than the form distributed by the Corporation;

(F) will provide facts, statements and other information in all communications with the Corporation and its stockholders that are or will be true and correct in all material respects and do not and will not omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading;

(G) confirms that it will notify the Corporation of any defects in, and otherwise update and supplement, the information provided to the Corporation pursuant to this Section 11 as required by Section 11(h); and

(H) as to any funds purporting to be a Qualifying Fund, within five (5) business days after the date of the Stockholder Notice, will provide documentation reasonably satisfactory to the Corporation that demonstrates such funds satisfy the requirements of this Section 11 to be a Qualifying Fund; and

(4) that the Eligible Stockholder agrees to:

(A) assume all liability stemming from any legal or regulatory violation arising out of the Eligible Stockholder’s communications with the stockholders of the Corporation or out of the information that such Eligible Stockholder provided to the Corporation;

(B) comply with all other laws, rules, regulations and listing standards applicable to any solicitation in connection with the annual meeting of stockholders;

(C) indemnify and hold harmless the Corporation and each of its directors, officers and employees individually against any liability, loss or damages in connection with any threatened or pending action, suit or proceeding, whether legal, administrative or investigative, against the Corporation or any of its directors, officers or employees arising out of any nomination submitted by the Eligible Stockholder pursuant to this Section 11;

(D) file with the Securities and Exchange Commission any solicitation materials with the Corporation's stockholders relating to the annual meeting, one or more of the Corporation's directors or director nominees or any Eligible Stockholder Nominee, regardless of whether any such filing is required under Regulation 14A of the Exchange Act, as amended, or whether any exemption from filing is available for such solicitation or other communication under Regulation 14A of the Exchange Act, as amended; and

(E) intend to be present in person at the annual meeting (or virtually, if no in person meeting is held) or send a qualified representative in its place, to present its Eligible Stockholder Nominee at the meeting; and

(v) in the case of a nomination by a group of stockholders that together is an Eligible Stockholder, the designation by all group members of one group member that is authorized to act on behalf of all such members with respect to the nomination and matters related thereto, including any withdrawal of the nomination.

(f) *Timeliness of Stockholder Notice.* To be timely under this Section 11, the Stockholder Notice must be delivered to the Secretary at the principal executive offices of the Corporation not less than 120 calendar days nor more than 150 calendar days prior to the first anniversary of the date the Corporation's proxy statement was first mailed to stockholders in connection with the prior year's annual meeting of stockholders; provided, however, if no annual meeting was held in the previous year, or if the date of the applicable annual meeting is advanced by more than thirty (30) days or delayed by more than ninety (90) days from such anniversary date, the Stockholder's Notice must be delivered to the Secretary not later than 120 days nor more than 150 days prior to the current year's annual meeting or not later than the tenth (10th) calendar day following the date on which the Corporation makes a Public Announcement of the date of the applicable annual meeting. In no event shall any adjournment or postponement of an annual meeting, or the announcement thereof, commence a new time period (or extend any time period) for the delivery of the Stockholder Notice as described above.

(g) *Director Questionnaires and Requests for Additional Information.* At the request of the Corporation, the Eligible Stockholder Nominee must promptly, but in any event within five (5) business days of such request, sign, complete and submit to the Corporation all questionnaires required of directors of the Corporation and provide to the Corporation such other information as it may reasonably request. The Corporation may request such additional information as necessary to permit the Board of Directors to determine if each Eligible Stockholder Nominee is independent under any applicable listing standards, any applicable rules of the Securities and Exchange Commission and any publicly disclosed standards used by the Board of Directors in determining and disclosing the independence of the Corporation's directors.

(h) *Inaccuracies in Information Provided by Eligible Stockholders or Eligible Stockholder Nominees.* In the event that any information or communications provided by the Eligible Stockholder or the Eligible Stockholder Nominee to the Corporation or its stockholders ceases to be true and correct in all material respects or omits a material fact necessary to make the statements made, in light of the circumstances under which they were made, not misleading, each Eligible Stockholder or Eligible Stockholder Nominee, as the case may be, shall promptly notify the Secretary of any defect in such previously provided information and of the information that is required to correct any such defect, it being understood that providing any such notification shall not be deemed to cure any defect or limit the Corporation's rights to omit an Eligible Stockholder Nominee from its proxy materials pursuant to this Section 11.

(i) *Information Included in Proxy Statement.* The Eligible Stockholder may provide to the Secretary, at the time the Stockholder Notice is provided, a written statement for inclusion in the Corporation's proxy statement, not to exceed 500 words, in support of its Eligible Stockholder Nominee's candidacy (the "Statement"). Notwithstanding anything to the contrary contained in this Section 11, the Corporation may omit from its proxy materials any information or Statement that it, in good faith, believes is untrue in any material respect (or omits a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading) or would violate any applicable law, rule, regulation or listing standard. Nothing in this Section 11 shall limit the Corporation's ability to solicit against, and include in its proxy materials its own statements relating to, any Eligible Stockholder or Eligible Stockholder Nominee.

(j) *Exclusion of Eligible Stockholder Nominees from Proxy Materials.* The Corporation shall not be required to include, pursuant to this Section 11, any Eligible Stockholder Nominee in its proxy materials for any annual meeting of stockholders, and any such nomination shall be disregarded and no vote on such Eligible Stockholder Nominee will occur, notwithstanding that proxies in respect of such vote may have been received by the Corporation, if:

(i) the Secretary receives a notice (whether or not subsequently withdrawn) that an Eligible Stockholder nominating such Eligible Stockholder Nominee has nominated any person for election to the Board of Directors pursuant to the advance

notice requirements for stockholder nominees for directors set forth in Section 2 of these Bylaws,

(ii) the Eligible Stockholder Nominee (1) is, or has been within the three (3) years preceding the date the Corporation first mails to the stockholders its notice of meeting that includes the name of the Eligible Stockholder Nominee, an officer or director of a company that is a competitor, as defined in Section 8 of the Clayton Antitrust Act of 1914, of the Corporation, as determined by the Board of Directors, (2) is not independent, as determined by the Board of Directors, under any applicable listing standards, any applicable rules of the Securities and Exchange Commission or any publicly disclosed standards used by the Board of Directors in determining and disclosing the independence of the Corporation's directors, (3) who does not meet the audit committee independence requirements under any applicable listing standards, is not a "non-employee director" for the purposes of Rule 16b-3 under the Act, as amended (or any successor rule) or is not an "outside director" for the purposes of Section 162(m) of the Internal Revenue Code (or any successor provision), (4) is or becomes a party to any compensatory, payment or other financial agreement, arrangement or understanding with any person other than the Corporation that has not been disclosed to the Corporation, (5) is named a subject of a criminal proceeding (excluding traffic violations and other minor offenses) pending as of the date the Corporation first mails to the stockholders its notice of meeting that includes the name of the Eligible Stockholder Nominee or, within the ten (10) years preceding such date, has been convicted in such a criminal proceeding, (6) is subject to any order of the type specified in Rule 506(d) of Regulation D promulgated under the Securities Act of 1933, as amended or (7) upon becoming a member of the Board of Directors would cause the Corporation to be in violation of these Bylaws, the Articles of Incorporation, any applicable listing standard or applicable state or federal law, rule or regulation;

(iii) the Eligible Stockholder Nominee or the Eligible Stockholder (including, in the case of a group, any member thereof) who has nominated such Eligible Stockholder Nominee has engaged in or is currently engaged in, or has been or is a "participant" in another person's, "solicitation" within the meaning of Rule 14a-1(l) under the Exchange Act, as amended, in support of the election of any individual as a director at the meeting other than such Eligible Stockholder Nominee or a nominee of the Board of Directors;

(iv) the Eligible Stockholder Nominee or the Eligible Stockholder (including, in the case of a group, any member thereof) shall have provided information to the Corporation in respect of such nomination that was untrue in any material respect or omitted to state a material fact necessary in order to make the statement made, in light of the circumstances under which it was made, not misleading; or

(v) if the Eligible Stockholder (including, in the case of a group, any member thereof) or applicable Eligible Stockholder Nominee otherwise shall have breached or

contravened any of its or their agreements, representations or undertakings or failed to comply with this Section 11.

(k) *Invalid Nominations.* Notwithstanding anything to the contrary set forth in this Section 11, the Board of Directors or, during the annual meeting of stockholders of the Corporation, the chairman of the annual meeting of stockholders shall declare a nomination by a Eligible Stockholder to be invalid, and such nomination shall be disregarded notwithstanding that proxies in respect of such vote may have been received by the Corporation, if: (i) the Eligible Stockholder (including, in the case of a group, any member thereof) or the applicable Eligible Stockholder Nominee shall have breached its or their obligations under this Section 11, including, but not limited to, a breach of any representations, agreements or undertakings required under this Section 11, (ii) such Eligible Stockholder Nominee or the applicable Eligible Stockholder (including, in the case of a group, any member thereof) shall have provided information to the Corporation in respect of such nomination that was untrue in any material respect or omitted to state a material fact necessary in order to make the statement made, in light of the circumstances under which it was made, not misleading or (iii) the Eligible Stockholder (or a qualified representative thereof) does not appear in person at the annual meeting of stockholders (or virtually, if no in person meeting is held) to present any nomination pursuant to this Section 11.

(l) *Ineligibility of Certain Eligible Stockholder Nominees.* Any Eligible Stockholder Nominee who is included in the Corporation's proxy materials for a particular annual meeting of stockholders shall be ineligible to be a Eligible Stockholder Nominee pursuant to this Section 11 for the next two (2) annual meetings of stockholders if such Eligible Stockholder Nominee (i) withdraws from or becomes ineligible or unavailable for election at the annual meeting or (ii) does not receive at least 25% of the votes cast in favor of the Eligible Stockholder Nominee's election.

(m) *Exclusive Method of Proxy Access.* This Section 11 shall be the exclusive method for stockholders (including beneficial owners of stock) to include nominees for director election in the Corporation's proxy materials.