

KELLOGG CO
Form DEF 14A
March 05, 2008

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**SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549**

**SCHEDULE 14A INFORMATION
PROXY STATEMENT PURSUANT TO SECTION 14(a)
OF THE SECURITIES EXCHANGE ACT OF 1934**

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
- Confidential, for use of the Commission Only (as permitted by Rule 14a-6(e)(2))
- Definitive Proxy Statement
- Definitive Additional Materials
- Soliciting Material Under Rule 14a-12

KELLOGG COMPANY

(Name of Registrant as Specified in its Charter)

Payment of Filing Fee (Check the appropriate box):

No fee required.

- Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11

(1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transaction applies:

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

- Fee paid previously with preliminary materials.
- Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the

form or schedule and the date of its filing.

(1) Amount Previously Paid:

(2) Form, Schedule or Registration Statement No:

(3) Filing party:

(4) Date Filed:

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KELLOGG COMPANY, BATTLE CREEK, MICHIGAN 49017-3534

Dear Shareowner:

It is my pleasure to invite you to attend the 2008 Annual Meeting of Shareowners of Kellogg Company. The meeting will be held at 1:00 p.m. Eastern Daylight Time on April 25, 2008 at the W. K. Kellogg Auditorium, 50 West Van Buren Street, Battle Creek, Michigan.

The following pages contain the formal Notice of the Annual Meeting and the Proxy Statement. Please review this material for information concerning the business to be conducted at the meeting and the nominees for election as Directors. Attendance at the annual meeting will be limited to Shareowners only. If you are a holder of record of Kellogg common stock and you plan to attend the meeting, please detach the admission ticket attached to your proxy card and bring it to the meeting.

If you plan to attend the meeting, but your shares are not registered in your own name or you receive our proxy materials electronically, please request an admission ticket by writing to the following address: Kellogg Company Shareowner Services, One Kellogg Square, Battle Creek, MI 49017-3534. Evidence of your stock ownership, which you may obtain from your bank, stockbroker, etc., must accompany your letter. **Shareowners without tickets will only be admitted to the meeting upon verification of stock ownership.**

Shareowners needing special assistance at the meeting are requested to contact Shareowner Services at the address listed above.

Your vote is important. Whether you plan to attend the meeting or not, I urge you to vote your shares as soon as possible. Please either sign and return the accompanying card in the postage-paid envelope or instruct us by telephone or via the Internet as to how you would like your shares voted. This will ensure representation of your shares if you are unable to attend. Instructions on how to vote your shares by telephone or via the Internet are on the proxy card or voting instruction card.

Sincerely,

David Mackay
President and Chief Executive Officer

March 3, 2008

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ELECTRONIC VOTING:

You may now vote your shares by telephone or over the Internet.

Voting electronically is quick, easy, and saves us money.

Just follow the instructions on your proxy card or voting instruction card.

ELECTRONIC DELIVERY:

Reduce paper mailed to your home and help lower our printing and postage costs!

We are pleased to offer the convenience of viewing proxy statements, Annual Reports to Shareowners, and related materials on-line. With your consent, we will stop sending paper copies of these documents unless you notify us otherwise.

To participate, follow the easy directions below.

You will receive notification when the materials are available for review.

ACT NOW. . . . IT S FAST AND EASY

Just follow these 2 easy steps:

1. Log on to the Internet at
www.icsdelivery.com/kelloggs.
2. Follow the instructions on the website.

IMPORTANT NOTICE REGARDING THE AVAILABILITY OF PROXY MATERIALS FOR THE ANNUAL MEETING OF SHAREOWNERS TO BE HELD ON APRIL 25, 2008:

This proxy statement and the accompanying annual report are available at: <http://investor.kelloggs.com/>

Among other things, this proxy statement contains information regarding:

- the date, time and location of the meeting;
 - a list of the matters being submitted to the Shareowners; and
 - information concerning voting in person at the meeting.
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**KELLOGG COMPANY
One Kellogg Square
Battle Creek, Michigan 49017-3534**

NOTICE OF THE ANNUAL MEETING OF SHAREOWNERS

TO BE HELD APRIL 25, 2008

TO OUR SHAREOWNERS:

The 2008 Annual Meeting of Shareowners of Kellogg Company, a Delaware corporation, will be held at 1:00 p.m. Eastern Daylight Time on April 25, 2008 at the W. K. Kellogg Auditorium, 50 West Van Buren Street, Battle Creek, Michigan, for the following purposes:

1. To elect three Directors for a three-year term to expire at the 2011 Annual Meeting of Shareowners;
2. To ratify the Audit Committee's appointment of PricewaterhouseCoopers LLP for our 2008 fiscal year;
3. To consider and act upon a Shareowner proposal to enact a majority voting requirement, if properly presented at the meeting; and
4. To take action upon any other matters that may properly come before the meeting, or any adjournments thereof.

Only Shareowners of record at the close of business on March 4, 2008 will receive notice of and be entitled to vote at the meeting or any adjournments. We look forward to seeing you there.

By Order of the Board of Directors,

Gary Pilnick
Senior Vice President,
General Counsel, Corporate Development and Secretary

March 3, 2008

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KELLOGG COMPANY

**ONE KELLOGG SQUARE
BATTLE CREEK, MICHIGAN 49017-3534
PROXY STATEMENT**

**FOR THE ANNUAL MEETING OF SHAREOWNERS
TO BE HELD ON FRIDAY, APRIL 25, 2008**

ABOUT THE MEETING

Solicitation of Proxy. This proxy statement and the accompanying proxy are furnished to Shareowners of Kellogg Company in connection with the solicitation of proxies for use at the 2008 Annual Meeting of Shareowners of Kellogg to be held at 1:00 p.m. Eastern Daylight Time at the W. K. Kellogg Auditorium, 50 West Van Buren Street, in Battle Creek, Michigan, on Friday, April 25, 2008, or any adjournments thereof. **The enclosed proxy card is solicited by our Board of Directors, which we refer to as the Board.**

Mailing Date. Our Annual Report for 2007, including financial statements, the Notice of the Annual Meeting, this proxy statement, and the proxy, were first mailed to Shareowners on or about March 11, 2008.

Who Can Vote Record Date. The record date for determining Shareowners entitled to vote at the annual meeting is March 4, 2008. Each of the approximately 383,469,359 shares of Kellogg common stock issued and outstanding on that date is entitled to one vote at the annual meeting.

How to Vote Proxy Instructions. If you are a holder of record of Kellogg Company common stock, you may vote your shares either (1) by attending the meeting and voting in person, (2) over the telephone by calling a toll-free number, (3) by using the Internet or (4) by mailing in your proxy card. Shareowners who hold their shares in street name will need to obtain a voting instruction card from the institution that holds their shares and must follow the voting instructions given by that institution.

The telephone and Internet voting procedures have been set up for your convenience and have been designed to authenticate your identity, to allow you to give voting instructions, and to confirm that those instructions have been recorded properly. If you would like to vote by telephone or by using the Internet, please refer to the specific instructions on the proxy card. The deadline for voting by telephone or via the Internet is 11:59 p.m. Eastern Daylight Time on Thursday, April 24, 2008. If you wish to vote using the proxy card, complete, sign, and date your proxy card and return it to us before the meeting.

Whether you choose to vote by telephone, over the Internet or by mail, you may specify whether your shares should be voted for all, some or none of the nominees for Director (Proposal 1); whether you approve, disapprove or abstain from voting on the proposal to ratify the appointment of PricewaterhouseCoopers LLP as our independent registered public accounting firm for fiscal year 2008 (Proposal 2); and whether you approve, disapprove or abstain from voting on the Shareowner proposal to enact a majority voting standard requirement, which may be presented at the meeting (Proposal 3).

When a properly executed proxy is received, the shares represented thereby, including shares held under our Dividend Reinvestment Plan, will be voted by the persons named as the proxy according to each Shareowner's directions. Proxies will also be considered to be voting instructions to the applicable Trustee with respect to shares held in accounts under our Savings & Investment Plans.

If you do not specify how you want to vote your shares on your proxy card or voting instruction card, or voting by telephone or over the Internet, we will vote them For the election of all nominees for Director as set forth under Proposal 1 Election of Directors below, For Proposal 2 and Against Proposal 3, and otherwise at the discretion of the persons named in the proxy card.

Revocation of Proxies. If you are a holder of record, you may revoke your proxy at any time before it is exercised in any of three ways:

(1) by submitting written notice of revocation to our Secretary;

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(2) by submitting another proxy by telephone, via the Internet or by mail that is later dated and, if by mail, that is properly signed; or

(3) by voting in person at the meeting.

If your shares are held in street name, you must contact your broker or nominee to revoke and vote your proxy.

Quorum. A quorum of Shareowners is necessary to hold a valid meeting. A quorum will exist if the holders representing a majority of the votes entitled to be cast by the Shareowners at the annual meeting are present, in person or by proxy. Broker non-votes and abstentions are counted as present at the annual meeting for purposes of determining whether a quorum exists. A broker non-vote occurs when a nominee, such as a bank or broker, holding shares for a beneficial owner, does not vote on a particular proposal because the nominee does not have discretionary voting power for that particular item and has not received instructions from the beneficial owner. Under current New York Stock Exchange rules, nominees would have discretionary voting power for the election of Directors (Proposal 1) and for ratification of PricewaterhouseCoopers LLP (Proposal 2), but not for the Shareowner proposal (Proposal 3).

Required Vote. Our Board has adopted a majority voting policy which applies to the election of Directors. Under this policy, any nominee for Director who receives a greater number of votes withheld from his or her election than votes for such election is required to offer his or her resignation following certification of the Shareowner vote. Our Board's Nominating and Governance Committee would then consider the offer of resignation and make a recommendation to our independent Directors as to the action to be taken with respect to the offer. This policy does not apply in contested elections. For more information about this policy, see Corporate Governance Majority Voting for Directors; Director Resignation Policy.

Under Delaware law, a nominee who receives a plurality of the votes cast at the annual meeting will be elected as a Director (subject to the resignation policy described above). The plurality standard means the nominees who receive the largest number of for votes cast are elected as Directors. Thus, the number of shares not voted for the election of a nominee (and the number of withhold votes cast with respect to that nominee) will not affect the determination of whether that nominee has received the necessary votes for election under Delaware law. However, the number of withhold votes with respect to a nominee will affect whether or not our Director resignation policy will apply to that individual. If any nominee is unable or declines to serve, proxies will be voted for the balance of those named and for such person as shall be designated by the Board to replace any such nominee. However, the Board does not anticipate that this will occur.

The affirmative vote of the holders representing a majority of the shares present and entitled to vote at the annual meeting is necessary to ratify the appointment of PricewaterhouseCoopers LLP as our independent registered public accounting firm (Proposal 2) and to approve the Shareowner proposal (Proposal 3). Shares present but not voted because of abstention will have the effect of a no vote on Proposals 2 and 3. If you do not provide your broker or other nominee with instructions on how to vote your street name shares, your broker or nominee will not be permitted to vote them on non-routine matters (a broker non-vote) such as Proposal 3. Shares subject to a broker non-vote will not be considered as present with respect to Proposal 3 and will not affect the outcome on that proposal.

Other Business. We do not intend to bring any business before the meeting other than that set forth in the Notice of the Annual Meeting and described in this proxy statement. However, if any other business should properly come before the meeting, the persons named in the proxy card intend to vote in accordance with their best judgment on such business and on any matters dealing with the conduct of the meeting pursuant to the discretionary authority granted in the proxy.

Costs. We pay for the preparation and mailing of the Notice of the Annual Meeting and proxy statement. We have also made arrangements with brokerage firms and other custodians, nominees, and fiduciaries for forwarding proxy-soliciting materials to the beneficial owners of the Kellogg common stock at our expense. In addition, we have retained Georgeson Inc. to aid in the solicitation of proxies by mail, telephone, facsimile, e-mail and personal solicitation. For these services, we will pay Georgeson a fee of \$12,500, plus reasonable expenses.

Directions to Annual Meeting. To obtain directions to attend the annual meeting and vote in person, please contact Investor Relations at (269) 961-2800 or at investor.relations@kellogg.com.

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Five Percent Holders. The following table shows each person who, based upon their most recent filings or correspondence with the SEC beneficially owns more than 5% of our common stock.

| Beneficial Owner | Shares Beneficially Owned | Percent of Class on December 29, 2007 |
|---|----------------------------------|--|
| W. K. Kellogg Foundation Trust(1) c/o The Bank of New York Mellon Corporation One Wall Street New York, NY 10286 | 95,596,986 shares(2) | 24.5% |
| George Gund III 39 Mesa Street San Francisco, CA 94129 | 33,477,992 shares(3) | 8.6% |
| KeyCorp 127 Public Square Cleveland, OH 44114-1306 | 30,752,212 shares(4) | 7.9% |
| Capital Research Global Investors 333 South Hope Street Los Angeles, CA 90071 | 24,597,800 shares(5) | 6.3% |

(1) The trustees of the W. K. Kellogg Foundation Trust (the Kellogg Trust) are Jim Jenness, Sterling Speirn, Shirley Bowser and The Bank of New York. The W. K. Kellogg Foundation, a Michigan charitable corporation (the Kellogg Foundation), is the sole beneficiary of the Kellogg Trust. The Kellogg Trust owns 91,858,390 shares of Kellogg Company, or 23.6% of our outstanding shares on December 29, 2007. Under the agreement governing the Kellogg Trust (the Agreement), at least one trustee of the Kellogg Trust must be a member of the Kellogg Foundation's Board, and one member of our Board must be a trustee of the Kellogg Trust. The Agreement provides if a majority of the trustees of the Kellogg Trust (which majority must include the corporate trustee) cannot agree on how to vote the Kellogg stock, the Kellogg Foundation has the power to direct the voting of such stock. With certain limitations, the Agreement also provides that the Kellogg Foundation has the power to approve successor trustees, and to remove any trustee of the Kellogg Trust.

(2) According to Schedule 13G/A filed with the SEC on February 13, 2008, The Bank of New York Mellon Corporation (BONYMC), as parent holding company for The Bank of New York, and The Bank of New York (BONY), as trustee of the Kellogg Trust, shares voting and investment power with the other three trustees with respect to the 91,858,390 shares owned by the Kellogg Trust. The remaining shares not owned by the Kellogg Trust that are disclosed in the table above represent shares beneficially owned by BONYMC, BONY and the other trustees unrelated to the Kellogg Trust. BONYMC has sole voting power for 1,710,583 shares, shared voting power for 91,999,407 shares (including those shares beneficially owned by the Kellogg Trust), sole investment power for 2,143,717 shares and shared investment power for 92,022,433 shares (including those shares beneficially owned by the Kellogg Trust).

- (3) According to Schedule 13G/A filed with the SEC on February 13, 2008, George Gund III has sole voting power for 161,950 shares, shared voting power for 33,316,042 shares, sole investment power for 161,950 shares and shared investment power for 5,993,788 shares. Of the shares over which Mr. Gund has shared voting and investment power, 2,691,096 shares are held by a nonprofit foundation of which Mr. Gund is one of eight trustees and one of twelve members. Mr. Gund disclaims beneficial ownership as to all of these shares. Gordon Gund, a Kellogg Director, is a brother of George Gund III and may be deemed to share voting or investment power over the shares shown as beneficially owned by George Gund III, as to which shares Gordon Gund disclaims beneficial ownership.
- (4) According to a Schedule 13G/A filed with the SEC on February 8, 2008, KeyCorp, as trustee for certain Gund family trusts included under (3) above, as well as other trusts, has sole voting power for 3,421,308 shares, shared voting power for 5,650 shares, sole investment power for 30,478,201 shares and shared investment power for 261,471 shares.
- (5) According to Schedule 13G filed with the SEC on February 12, 2008, Capital Research Global Investors has sole voting power for 15,048,300 shares and sole investment power for 24,597,800 shares.

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Officer and Director Stock Ownership. The following table shows the number of shares of Kellogg common stock beneficially owned as of January 15, 2008, by each Director, each executive officer named in the Summary Compensation Table and all Directors and executive officers as a group.

| Name | Shares(1) | Options(2) | Deferred Stock Units(3) | Total Beneficial Ownership(4) | Percentage |
|---|------------------|------------------|-------------------------|-------------------------------|-------------|
| Directors | | | | | |
| Benjamin Carson | 19,160 | 40,000 | 0 | 59,160 | * |
| John Dillon(5) | 19,581 | 38,750 | 0 | 58,331 | * |
| Claudio Gonzalez | 33,244 | 34,999 | 22,831 | 91,074 | * |
| Gordon Gund(6) | 50,479 | 30,548 | 50,828 | 131,855 | * |
| Jim Jenness(7) | 79,472 | 897,043 | 11,319 | 987,834 | * |
| Dorothy Johnson | 33,942 | 34,715 | 17,561 | 86,218 | * |
| Don Knauss(8) | 811 | 0 | 0 | 811 | * |
| Ann McLaughlin Korologos | 28,098 | 40,000 | 16,208 | 84,306 | * |
| Sterling Speirn(7)(9) | 2,407 | 781 | 0 | 3,188 | * |
| Robert Steele(10) | 1,746 | 4,110 | 0 | 5,856 | * |
| John Zabriskie | 28,650 | 36,800 | 20,323 | 85,773 | * |
| Named Executive Officers | | | | | |
| David Mackay | 273,710 | 1,340,703 | 0 | 1,614,413 | * |
| John Bryant | 128,012 | 597,801 | 0 | 725,813 | * |
| Jeff Montie | 124,219 | 409,004 | 0 | 533,223 | * |
| Tim Mobsby | 100,543 | 349,226 | 0 | 449,769 | * |
| Paul Norman | 34,497 | 204,135 | 0 | 238,632 | * |
| Brad Davidson | 30,496 | 154,139 | 0 | 184,635 | * |
| All Directors and executive officers as a group (23 persons)(11) | 1,248,262 | 5,196,651 | 139,070 | 6,583,983 | 1.7% |

* Less than 1%.

- (1) Represents the number of shares beneficially owned, excluding shares which may be acquired through exercise of stock options and units held under our deferred compensation plans. Includes the following number of shares held in Kellogg's Grantor Trust for Non-Employee Directors which are subject to restrictions on investment: Dr. Carson, 17,860 shares; Mr. Dillon, 15,331 shares; Mr. Gonzalez, 24,737 shares; Mr. Gund, 24,627 shares; Mr. Jenness, 9,614 shares; Ms. Johnson, 16,875 shares; Mr. Knauss, 811 shares; Ms. McLaughlin Korologos, 24,391 shares; Mr. Speirn, 2,407 shares; Mr. Steele, 1,746 shares; Dr. Zabriskie, 21,450 shares; and all Directors as a group, 159,849 shares.
- (2) Represents shares which may be acquired through exercise of stock options as of January 15, 2008 or within 60 days after that date.
- (3) Represents the number of common stock units held under our deferred compensation plans as of January 15, 2008. The deferred stock units, or DSUs, have no voting rights. For additional information, refer to 2007 Director Compensation and Benefits Elective Deferral Program and Compensation Discussion and

Analysis Elements of Our Compensation Program Base Salaries for a description of these plans.

- (4) None of the shares listed have been pledged as collateral.
- (5) Includes 250 shares held for the benefit of a minor son, over which Mr. Dillon disclaims beneficial ownership.
- (6) Includes 10,000 shares owned by Mr. Gund's wife. Gordon Gund disclaims beneficial ownership of the shares beneficially owned by his wife and George Gund III.
- (7) Does not include shares owned by the Kellogg Trust, as to which Mr. Jenness and Mr. Speirn, as trustees of the Kellogg Trust as of the date of this table, share voting and investment power, or shares as to which the Kellogg Trust

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or the Kellogg Foundation have current beneficial interest. On January 31, 2007, Mr. Speirn assumed the position of trustee of the Kellogg Trust.

- (8) Mr. Knauss was elected to the Board effective December 6, 2007.
- (9) Mr. Speirn was elected to the Board effective March 1, 2007.
- (10) Mr. Steele was elected to the Board effective July 1, 2007.
- (11) Includes 12,500 shares owned by, or held for the benefit of, spouses; 1,194 shares owned by, or held for the benefit of, children, over which the applicable Director, or executive officer disclaims beneficial ownership; 22,564 shares held in our Savings & Investment Plans; and 317,276 restricted shares, which contain some restrictions on investment.

Section 16(a) Beneficial Ownership Reporting Compliance. Section 16(a) of the Securities Exchange Act of 1934 requires our Directors, executive officers, and greater-than-10% Shareowners to file reports with the SEC. SEC regulations require us to identify anyone who filed a required report late during the most recent fiscal year. Based on our review of these reports and written certifications provided to us, we believe that the filing requirements for all of these reporting persons were complied with, except that one Form 4 for each of Alan Andrews, Donna Banks, John Bryant, Celeste Clark, David Mackay, Jeff Montie, Gary Pilnick and Kathleen Wilson-Thompson was inadvertently filed late by Kellogg. A Form 4 was filed in March 2007 for each of these executive officers reporting this transaction.

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CORPORATE GOVERNANCE

Board-Adopted Corporate Governance Guidelines. We operate under corporate governance principles and practices that are designed to maximize long-term Shareowner value, align the interests of the Board and management with those of our Shareowners and promote high ethical conduct among our Directors and employees. The Board has focused on continuing to build upon our strong corporate governance practices over the years. The Board's current corporate governance guidelines include the following:

A majority of the Directors, and all of the members of the Audit, Compensation, and Nominating and Governance Committees, are required to meet the independence requirements of the New York Stock Exchange.

One of the Directors is designated a Lead Director, who approves proposed meeting agendas and schedules, may call executive sessions of the non-employee Directors and establishes a method for Shareowners and other interested parties to use in communicating with the Board.

The Board reviews succession planning at least once per year.

The Board and each Board committee have the power to hire independent legal, financial or other advisors as they may deem necessary, at our expense.

Non-employee Directors meet in executive session at least three times annually.

The Board and Board committees conduct annual self-evaluations.

The independent members of the Board use the recommendations from the Nominating and Governance Committee and Compensation Committee to conduct an annual review of the CEO's performance and determine the CEO's compensation.

Non-employee Directors who change their principal responsibility or occupation from that held when they were elected shall offer his or her resignation for the Board to consider continued appropriateness of Board membership under the circumstances.

Directors have free access to Kellogg officers and employees.

Continuing education is provided to Directors consistent with our Board Education Policy.

No Director may be nominated for a new term if he or she would be seventy-two or older at the time of election.

No Director shall serve as a Director, officer or employee of a competitor.

All Directors are expected to comply with stock ownership guidelines for Directors, under which they are generally expected to hold at least five times their annual cash retainer in stock and stock equivalents.

Majority Voting for Directors; Director Resignation Policy. In an uncontested election of Directors (that is, an election where the number of nominees is equal to the number of seats open) any nominee for Director who receives a greater number of votes withheld from his or her election than votes for such election shall promptly tender his or her

resignation to the Nominating and Governance Committee (following certification of the Shareowner vote) for consideration in accordance with the following procedures.

The Nominating and Governance Committee would promptly consider such resignation and recommend to the Qualified Independent Directors (as defined below) the action to be taken with respect to such offered resignation, which may include (1) accepting the resignation; (2) maintaining the Director but addressing what the Qualified Independent Directors believe to be the underlying cause of the withheld votes; (3) determining that the Director will not be renominated in the future for election; or (4) rejecting the resignation. The Nominating and Governance Committee would consider all relevant factors including, without limitation, (a) the stated reasons why votes were withheld from such Director; (b) any alternatives for curing the underlying cause of the withheld votes; (c) the tenure and qualifications of the Director; (d) the Director's past and expected future contributions to Kellogg; (e) our Director criteria; (f) our Corporate Governance Guidelines; and (g) the overall composition of the Board, including whether accepting the resignation would cause Kellogg to fail to meet any applicable SEC or NYSE requirement.

The Qualified Independent Directors would act on the Nominating and Governance Committee's recommendation no later than 90 days following the date of the Shareowners' meeting where the election occurred. In considering the Nominating and Governance Committee's recommendation, the Qualified Independent Directors would consider the

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factors considered by the Nominating and Governance Committee and such additional information and factors the Board believes to be relevant. Following the Qualified Independent Directors' decision, Kellogg would promptly disclose in a current report on Form 8-K the decision whether to accept the resignation as tendered (providing a full explanation of the process by which the decision was reached and, if applicable, the reasons for rejecting the tendered resignation).

To the extent that any resignation is accepted, the Nominating and Governance Committee would recommend to the Board whether to fill such vacancy or vacancies or to reduce the size of the Board.

Any Director who tenders his or her resignation pursuant to this provision would not participate in the Nominating and Governance Committee's recommendation or Qualified Independent Directors' consideration regarding whether to accept the tendered resignation. Prior to voting, the Qualified Independent Directors would afford the Director an opportunity to provide any information or statement that he or she deems relevant. If a majority of the members of the Nominating and Governance Committee received a greater number of votes withheld from their election than votes for their election at the same election, then the remaining Qualified Independent Directors who are on the Board who did not receive a greater number of votes withheld from their election than votes for their election (or who were not standing for election) would consider the matter directly or may appoint a Board committee amongst themselves solely for the purpose of considering the tendered resignations that would make the recommendation to the Board whether to accept or reject them.

For purposes of this policy, the term "Qualified Independent Directors" means: