



Vanessa A Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, Northeast
Washington, D.C. 20549

VIA ELECTRONIC DELIVERY

September 29, 2023

Re: Petition for rulemaking: Tobacco and Nicotine (“Tobacco”) disclosure for retailers

Dear Ms. Countryman:

Pella Funds Management (“Pella”) respectfully submits this petition to the Securities and Exchange Commission (the “Commission” or “SEC”), pursuant to Rule 192(a) of the SEC’s Rules of Practice. We ask that the Commission develop rules to require public companies operating in the retail sector¹ that are involved in selling tobacco products to disclose their revenue from the sale of products that contain tobacco.

The Need for Prompt SEC Action on Tobacco-Related Revenues

Investors are concerned about a company’s tobacco-related revenue for commercial reasons and values-based reasons.

Increased regulation around tobacco products, due to its health risks², have contributed to declining tobacco sales in the USA.³ This creates risk for companies that rely on tobacco-related revenues. In response, several of the largest retailers of tobacco products limit discussion about their exposure to tobacco products and make no mention of their revenue from those products. These omissions impact the ability of investors to assess the risk faced by those retailers from the continuing decline in tobacco sales.

¹ For example, companies operating within the following SIC Codes - 5331 (Retail-Variety Stores), 5411 (Retail-Grocery Stores), 5500 (Retail-Auto Dealers & Gasoline), 5912 (Retail-Drug Stores and Proprietary).

² For example: Consolidated Appropriations Act of 2020, Amending the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act; Family Smoking Prevention and Tobacco Control Act of 2009; Pro-Children Act of 1994; Synar Amendment to the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA) Reorganization Act of 1992; Public Law 101-164 (1989); Public Law 100-202 (1987); Comprehensive Smokeless Tobacco Health Education Act of 1986.

³ According to CDC data, cigarette smoking rates for adults declined from 42.4% in 1965 to 13.7% in 2018, Centers for Disease Control and Prevention. National Center for Health Statistics. National Health Interview Survey 1965-2018. Analysis for years 1997-2018 by the American Lung Association Research Team using SPSS software.

CVS Health Corp (“CVS”) provides insight of the impact from declining tobacco sales. On 5 February 2014 CVS announced that it would cease selling tobacco products at pharmacy stores across the US⁴.

At the time of the announcement CVS estimated that this decision would cost it approximately 17c in lost EPS, which Pella calculates equates to 1.6% and 4.5% of the prior year’s (FY13) revenue and EPS, respectively. In its FY15 Report 10-K (“10-K”), CVS reported that the absence of tobacco and the estimated associated basket sales reduced front store same store sales by approximately 5.2%, while Pella calculates tobacco products accounted for less than 3% of that segment’s sales. These figures demonstrate that tobacco-related products influence the sale of other products, which in aggregate have a material impact on certain retailers’ results.

It is well understood that investing in a company means being an owner of that company. This necessitates an understanding of whether an investment candidate aligns with investors’ values. Profiting from tobacco may be unaligned with some investors’ values. Reporting revenue from tobacco sales will allow investors to assess whether an investment is suitable for their portfolio, based on their values.

Using the ‘As You Sow’ (“AYS”) database, which sources data from Morningstar, Pella calculates there are 397 mutual funds with \$615Bn in assets, a sustainability mandate, and the highest two AYS tobacco grade of ‘A’ or ‘B’, offered in USA as of September 24, 2023⁵. Many, if not most, of those funds have a stated objective to avoid investing in tobacco-related businesses.

For example, one of the largest funds in the sample, Putnam Sustainable Leaders Fund, excludes companies that generate more than 10% of their revenue from tobacco⁶. As of June 30, 2023⁷ that fund was invested in Dollar General, a company that generates an undisclosed percentage of its revenue from cigarettes. This is not a criticism of Putnam, which is a highly reputable fund manager and would have researched Dollar General’s tobacco-related revenue. However, the fact remains that under the current reporting regime it is impossible to entirely substantiate Dollar General’s exposure to tobacco-related revenue. This is a considerable concern for the huge number of investors seeking to limit their exposure to tobacco-related products.

Current Reporting

Figure 1 is a non-exhaustive list of companies that are likely to be impacted by the proposed petition. It includes all companies with a market capitalisation greater than or equal to \$100m and operate in the Security Industry Classifications codes 5141, 5331, 5339, 5411, 5499, 5541, and 5912, and are positioned to have tobacco-related products in their merchandise mix.

Some of Pella’s key observations from the table include:

⁴ [CVS Caremark, Form 8-K, February 5, 2014](#)

⁵ [As You Sow, Invest Your Values Spreadsheets](#)

⁶ [Putnam, Sustainable Leaders Fund, Sustainability and impact report: A dialogue with investors](#)

⁷ [Putnam, Sustainable Leaders Fund, Full portfolio as of June 2023](#)

- Most companies that sell tobacco products make some mention of selling those products in their 10-K, suggesting that most companies already recognise that selling tobacco-products is a reportable activity.
- Some companies (Albertsons, BJ's Wholesale Club, Kroger Co., PriceSmart, Village Super Market, Weiss Markets) that are reported to sell tobacco products by online sources do not make any mention of selling tobacco products in their 10-K.
- Only one company (Murphy USA) provided guidance of the amount of revenue generated from tobacco-related products.

Figure 1 - Companies likely impacted by the proposed petition

Name	SIC Code	Sell Tobacco products	Mentioned in 10-K	% revenue from tobacco
Albertsons Companies, Inc.	5411	Yes	No	No
BJ's Wholesale Club Holdings, Inc.	5399	?	No	No
Casey's General Stores, Inc.	5541	Yes	Yes	No
Costco Wholesale Corp.	5411	Yes	Yes	No
CVS Health Corp.	5912	No	No	No
Dollar General Corp.	5331	Yes	Yes	No
Dollar Tree, Inc.	5331	Yes	Yes	No
Ingles Markets, Incorporated	5411	Yes	Yes	No
Kroger Co.	5411	Yes	No	No
Murphy USA, Inc.	5541	Yes	Yes	Yes
PriceSmart, Inc.	5331	Yes	No	No
SpartanNash Co.	5141	Yes	Yes	No
Target Corp.	5399	?	No	No
Village Super Market, Inc.	5411	Yes	No	No
Walgreens Boots Alliance, Inc.	5912	Yes	Yes	No
Walmart Inc.	5399	Yes	Yes	No
Weis Markets, Inc.	5499	Yes	No	No

Source - Pella Funds Management

The absence of a requirement to report whether a company generates revenue from the sale of tobacco-related products is an obvious impediment to the above analysis. It creates uncertainty whether the absence of disclosing tobacco-related revenue is due to the company not selling those products or choosing not to disclose those sales.

Another issue is that without the requirement to report tobacco-related revenues, few companies will do so for competitive reasons. A reporting company might be providing its competitors with more information than what they receive in return. Pella was made aware of this issue previously when it requested its investee positions to disclose their revenue from tobacco-related products. Mandatory reporting will overcome this issue.

* * *

Tobacco sales have been in structural decline for several decades and there appears to be no change in that trend. This is a risk to retailers of tobacco products. Further, there is an increasing demand from investors to ensure that the companies they invest in are aligned

with their values, which often includes the avoidance of exposure to tobacco. Meanwhile, there is no requirement for companies that sell tobacco products to disclose their revenue from those products.

For these reasons, we urge the Commission to initiate a rulemaking project to develop such rules. If the Commission or the Staff have any questions, or if we can be of assistance in any way, please contact Pella's Managing Director: Steven Glass on (+61 2) 9188-1508 or via electronic mail at steven.glass@pellafunds.com.

Sincerely,



Steven Glass
Managing Director & Investment Analyst
Pella Funds Management