

July 2, 2014

Mary Jo White
Chair, Securities and Exchange Commission

Keith Higgins
Director, Corporate Finance Division, Securities and Exchange Commission

Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549
Re: Disclosure Effectiveness Review

Dear Chair White and Director Higgins:

We, the undersigned organizations, welcome the opportunity to comment on the ongoing review of disclosure undertaken by your agency following the Commission-issued staff report to Congress on its disclosure rules for U.S. public companies. The report, mandated by the Jumpstart Our Business Startups (JOBS) Act, offered an overview of Regulation S-K, which provides requirements for public company disclosure and the staff's preliminary conclusions and recommendations about disclosure reform. We welcome the chance to build on those preliminary recommendations as the Division of Corporation Finance reviews the disclosure requirements in Regulation S-K and Regulation S-X, which provides requirements for financial statements.

The Corporate Reform Coalition is a group of more than 80 organizations including investors, corporate governance experts, civil society organizations, and more. As a group we are focused on the evolving need of investors to more fully understand the political activities (and the risks those activities present) of companies they invest in. It is through that lens that some of our members and allies offer our perspective on the review process.

The opportunity to weigh in on and help improve the effectiveness of the disclosure system is an important one for both investors and the public.

We agree with the objective of the disclosure review (hereinafter, "the review")—to improve the disclosure process--and appreciate the objective of providing critical information concerning public companies to investors via required disclosures. However, two notes of caution. First, we hope that this endeavor can be undertaken without in any way detracting from the ongoing rulemaking duties of the agency. In particular our groups look forward to strong new corporate governance rules as required under Dodd-Frank, including the new required disclosures concerning executive compensation.

Second, as the agency undertakes this review we urge that it be a balanced one. The initial comments around this review could lead to speculation that it would be focused solely on cutting back on disclosure requirements to the benefit of issuers. We hope that the review instead is truly focused on the effectiveness of disclosure, and the needs in this area of both

investors and issuers, which should result in clear recommendations that take into account the broad-based demands of investors occurring due to the changing environment around corporate political spending and other risk-related topics.

The resources of the SEC are required to write numerous rules, police the markets, and react to changes in company structure. In order to enact its mandate to protect investors the SEC needs to require material disclosures of critical business information for investors, and this includes being able to react quickly to the changing practices and priorities of corporate entities.

Political Spending at Public Companies

The Corporation Finance staff of the agency closed its report with recommendations for a comprehensive overview, while acknowledging that this would be more resource-intensive. We agree with this approach, and believe that a comprehensive review, as recommended by the staff, will enable the agency to look more closely at how best to provide information to investors, and should also enable the agency to be flexible to react to a changing environment and to new demands by investors.

As stated, our organizations have a keen interest in the agency proceeding with rulemaking requiring disclosure of political spending information from public companies. Reflecting the intense investor interest in enhanced political spending disclosure, the rulemaking petition filed at the Commission on political spending disclosure by 10 prominent securities law professors has attracted a record level of support for SEC rulemaking. Nearly 1 million comment letters have been submitted – the vast majority in support of increased disclosure. Those in favor include retail investors, institutional investors, state Treasurers, and the public.^[1]

Information about corporate political spending is a clear gap that investors are looking to their regulator to fill. Requests by shareholders provide important insight into this demand; a 2014 report by Glass Lewis found that in 2013 resolutions relating to political spending of a company were the most common shareholder proposal put forth during the proxy season for the third consecutive year.^[2]

Additionally, analysis looking across the last four shareholder seasons from the Sustainable Investments Institute shows that from 2011 to 2014, corporate political activity was the most popular topic for shareholder proposals. In 2010-14, 274 shareholder proposals were filed which call for increased disclosure of company political spending or lobbying expenditures. Of the proposals that came to a vote, the average vote in favor was 28.1 percent. During that same time 134 proposals were withdrawn because the companies

¹ File No. 4-637, *Petition to Require Public Companies to Disclose to Shareholders the Use of Corporate Resources for Political Activities*. <https://www.sec.gov/rules/petitions/2011/petn4-637.pdf>. 2011.

² "Political Contributions – A Glass Lewis Issue Report," *Glass Lewis*, 2014.

³ *Citizens United*, 558 U.S., at 370 (quoting *McConnell v. FEC*, 540 U.S. 93, 260 (2003)) (Scalia, J. dissenting in part)

⁴ *Citizens United*, [540 U.S. at 259](#) (Kennedy, J. for the majority opinion)

reached an agreement with the filer to provide more information about the political activities.

These figures demonstrate clear and ongoing demand from investors for this information. We infer from the voting results, and the negotiated policy changes, that there is strong agreement with the observation made in the initial rulemaking petition: “Absent disclosure, shareholders are unable to hold directors and executives accountable when they spend corporate funds on politics in a way that departs from shareholder interests.”^[3]

Undisclosed corporate political spending can encourage behavior that poses legal, reputational and operational risks to companies and systemic risks to the economy. The Supreme Court has stated that complete real-time disclosure of public company political spending allows shareholders to “determine whether their corporation’s political speech advances the corporation’s interest in making profits.”^[4] Corporations use treasury funds to make a variety of political expenditures, including direct contributions to state-level political candidates, political parties, judicial races, ballot initiatives, and a range of tax-exempt entities such as trade associations and 527 organizations that engage in political activity. Corporations may also contribute funds to finance political advertising on public policy issues or to advocate for or against the election of particular candidates.

These activities are subject to a variety of state and federal laws. But because there are no current rules that require that companies disclose this spending to their shareholders, it is essentially impossible for an investor to obtain a full picture of any individual company’s political spending unless the company chooses to disclose. Without an SEC rule requiring full disclosure for all public companies, shareholders have no uniform means to monitor these activities, or assess the risks of corporate political spending. Voluntary disclosure has led to a patchwork of understanding which makes it impossible for investors to manage, and potentially mitigate, the full range of risks presented by corporate political spending.

From an issuer’s perspective, a disclosure mandate would level the playing field by relieving concern that disclosing activities could disadvantage the issuer’s standing or competitiveness.

Conclusion

We appreciate that the agency has opened the process around the review for comment. We call on the agency to live up to the mandate found in the agency’s mission, “to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation.” If the agency is true to this directive, then we have complete confidence that the rulemaking to provide the so-demanded comprehensive information on corporate political spending to investors will be included by name in the recommendations that come out of the review.

Sincerely,

Alliance for a Just Society

Amazon Watch

Boston Common Asset Management

Center for Responsive Politics

Citizen Works

Clean Yield Asset Management

Common Cause

Community Organizations in Action

Citizens for Responsibility and Ethics in Washington

Domini Social Investments LLC

Green Century Capital Management

Greenpeace

Interfaith Center on Corporate Responsibility

International Brotherhood of Teamsters

Main Street Alliance

National People's Action

New Economy Project

New Progressive Alliance

Pax World Management, LLC

Public Citizen

RootsAction.org

Social Equity Fund

The Sustainability Group of Loring, Wolcott & Coolidge, LLP

U.S. Public Interest Research Group

US SIF: The Forum for Sustainable and Responsible Investment

Walden Asset Management

West Virginia Citizen Action Group

Zevin Asset Management, LLC