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Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090
Attn: Secretary

**Re: File No. S7-05-19
Amendments to Financial Disclosures about Acquired and Disposed Businesses
Proposed Rule – Release No. 33-10635**

Submitted via email to rule-comments@sec.gov

Affiliated Managers Group, Inc. (NYSE: AMG) is a global asset management company with equity investments in leading boutique investment management firms, which we refer to as our “Affiliates.” Through our Affiliates, we provide a comprehensive and diverse range of active, return-oriented strategies designed to assist institutional, retail and high net worth clients worldwide in achieving their investment objectives. As of December 31, 2018, AMG’s aggregate assets under management were approximately \$736 billion in more than 500 investment products across a broad range of active, return-oriented strategies.

AMG is committed to providing high-quality financial reporting and improving for investors the financial information about our investments in our Affiliates, including investments in Affiliates accounted for under the equity method. As such, AMG supports the Securities and Exchange Commission’s (“SEC”) initiative to improve the “significance tests” under Regulation S-X and believes that the proposed changes in Release No. 33-10635 (the “Release”) are an improvement over the current rule. However, there are certain aspects of the proposed rule changes that we believe are inconsistent with the stated goals of the Release, and we are submitting this letter to highlight those areas and to suggest alternate approaches that we believe would better align the rules with those goals.

Background on AMG’s Structure and Relationship with Affiliates

AMG holds meaningful equity interests in each of our Affiliates and each Affiliate’s management team retains a significant equity interest in their own firm. Each of our Affiliates operates through distinct legal entities, which affords us the flexibility to design a separate operating agreement for each Affiliate that reflects our customized arrangements with respect to governance, economic participation, equity incentives and the other terms of our relationship. The entity types that we use for these arrangements are typically limited partnerships, limited liability companies or non-U.S. equivalents, which typically have pass-through tax treatment and, therefore, are not subject to U.S. corporate income taxes.

Although the percentage varies over time, a significant portion of our Affiliates are accounted for under the equity method, because we do not own a controlling interest in the Affiliate but have determined that we have

“significant influence.” We regularly test our equity method Affiliates, individually and in the aggregate, to determine whether they are significant and whether we are required to include additional disclosures, including possibly audited financial statements, in our periodic reports filed with the SEC. In each of the last five years, we have filed equity method Affiliate audited financial statements on a Form 10-K/A as a result of the application of Rule 3-09 of Regulation S-X. Other registrants with significant equity method investments will have the same general accounting approach for their equity method investees and regularly test significance under Rule 3-09.

Impact of Proposed Changes to Rule 1-02(w)

The Release includes a proposal to change Rule 1-02(w) of Regulation S-X, which would impact the tests used to measure the significance of a registrant’s subsidiaries in order to “*improve their application and to assist registrants in making more meaningful significance determinations.*”¹ The Release focuses on the application of Rule 3-05 of Regulation S-X, used for determining the significance of recently (or soon to be) acquired businesses. However, the proposed changes to Rule 1-02(w) would also impact the significance tests used to measure a registrant’s equity method investees under Rule 3-09, which is the focus of this letter.

Income Test

Section II.A.1(b) of the Release includes proposed amendments to the Income Test under Rule 1-02(w)(3), which would (i) change the net income component of the test by requiring registrants to use after-tax net income of an equity method investee to test significance; (ii) change the “averaging” feature of the net income component of the test, which permits registrants to use the five-year average net income of the registrant in certain circumstances; and (iii) add a new component to the test focused on revenue, whereby the relevant equity method investee would need to exceed specified significance thresholds based both on net income and revenue to be considered significant.

Proposal to Use After-Tax Net Income

Under the current Income Test, registrants compare their proportionate share of the net income of the relevant equity method investee to the registrant’s reported net income, both on a pre-tax basis. The proposed amendments would modify this calculation to use after-tax net income for both the equity method investee and the registrant. The staff of the SEC (the “Staff”) has requested comments on this proposal.²

For registrants with equity method investees using pass-through tax structures, this change to the test would increase the resulting significance under Rule 3-09 of these equity method investees solely as a result of the entity’s tax status. This would likely expand the instances in which registrants are required to file financial statements for equity method investees, to include those that would otherwise not be considered significant to investors.

¹ Release, Section II.A.1 (page 16).

² See the Release, Section II.A.1, Request For Comment #12 (page 28), asking specifically whether “*the proposed revision to use after tax net income and absolute values [would] simplify the determination while still accurately identifying significance*” and whether to “*retain use of pre-tax net income.*”

When AMG tests its equity method Affiliates for significance under Rule 3-09, we use our proportionate share of the pre-tax net income of the equity method Affiliate as the numerator and our consolidated pre-tax Net income (controlling interest) as the denominator. Under the proposed rule amendments, we would be required to use after-tax income for both AMG and the equity method Affiliate; however, since our Affiliates are typically structured using limited partnerships or other entities with pass-through tax treatment, our proportionate share of the net income of the equity method Affiliate is generally the same whether or not calculated on a pre-tax or after-tax basis. This is in contrast to the net income of AMG, which is subject to U.S. corporate income tax. The result – for AMG as well as for any registrant with equity method investees using pass-through structures – is that the proposed rule change will generally decrease the denominator, and not the numerator, and the resulting percentage indicating the significance of the equity method investment will, therefore, increase materially. This is in contrast to registrants with investments in equity method investees that use corporate or other non-pass through structures, where the change will generally impact both the numerator and the denominator, and thus the significance of the equity method investee will generally remain the same.

The following is an illustrative example, showing the impact of the proposed rule change on a hypothetical equity method investee tested under Rule 3-09:

<u>Pass-Through Equity Method Investee</u>		<u>Corporate Equity Method Investee</u>	
Current Rule			
Registrant's Share of Pre-tax Net Income	\$ 125.0	Registrant's Share of Pre-tax Net Income	\$ 125.0
Registrant's Pre-tax Net Income	<u>750.0</u>	Registrant's Pre-tax Net Income	<u>750.0</u>
Significance %	<u>16.7%</u>	Significance %	<u>16.7%</u>
Proposed Rule			
Registrant's Share of After-tax Net Income	\$ 125.0	Registrant's Share of After-tax Net Income	\$ 93.8
Registrant's After-tax Net Income	<u>562.5</u>	Registrant's After-tax Net Income	<u>562.5</u>
Significance %	<u>22.2%</u>	Significance %	<u>16.7%</u>

(Assumes a 25% tax rate for both the Registrant and the Equity Method Investee)

As illustrated, there is a strong possibility that equity method investees that were previously well below the initial 20% threshold of the Income Test would, upon the application of the proposed rule, be above this threshold and considered “significant” solely based on the entity’s tax status – not its actual financial contribution to the registrant. While applying after-tax net income may be convenient for some registrants, it increases the resulting significance under this test for registrants with equity method investees using pass-through tax structures, resulting in an inconsistent application of the test. We believe this result is not one that the Staff intended.

The impact of requiring financial statements for additional equity method investees can be significant to both the registrant and the equity method investee. Considerable corporate resources are involved for the equity method investee to prepare audited financial statements for inclusion in the registrant’s periodic reports filed with the SEC, which for many equity method investees may result in an audit under a public company accounting standard that they would otherwise not be subject to. Further, both the registrant and the equity method investee could have considerable legal and audit fees relating to the additional SEC filing.

We suggest leaving the net income component of the Income Test as it is currently or including clarifying language in the amended rule to allow registrants with equity method investees using pass-through tax structures to continue to use pre-tax net income for both the equity method investee and the registrant, so that the test is applied consistently among registrants and accurately reflects the significance of equity method investees.

Proposed Change to the Net Income “Averaging” Provision

Section II.A.1(b) of the Release also includes a change to the “averaging” feature of the current Income Test, which permits registrants to use a five-year average of net income, in situations in which the prior year net income is less than 10% of the five-year average. For purposes of calculating the five-year average under the current rule, years with negative net income are included at zero. The proposed rule would use the absolute value, instead of zero, for years with negative net income, to make the test more indicative of relative significance. The proposed rule would also limit the ability to use the averaging feature to situations where either the registrant or the equity method investee does not have recurring revenue and, therefore, the registrant can only use the net income component of the Income Test. The Staff has requested comments on this proposal.³

We agree with the Staff that calculating average income using the absolute value will result in a better indicator of relative significance under the net income component of the Income Test. However, we believe the ability to use a five-year average should be available in all instances where prior year net income is less than 10% of the five-year average, regardless of whether the registrant or the equity method investee has recurring revenue and, therefore, whether the revenue component of the Income Test is available to the registrant.

All entities can experience years in which one-time events, such as tax reform or other anomalous events triggering accounting charges, could result in a significantly reduced level of net income in a particular year. This can inflate the results of the significance test for reasons unrelated to the equity method investee’s actual contribution to the registrant. We believe the net income component of the Income Test, including the ability to calculate average net income using absolute value, is a critical part of the significance test, and suggest that the “averaging” provision be extended to all registrants regardless of whether they or the equity method investee have recurring revenue, and believe that doing so would be consistent with the SEC’s stated goals in the Release.

We suggest that the net income component of the Income Test permitting the use of five-year average net income when prior year net income is less than 10% of the five-year average (and using the proposed absolute value approach) be available regardless of whether the registrant or the equity method investee have recurring revenue in prior years, in order to streamline disclosure, reduce registrant costs and expenses, and reduce disclosures that are unlikely to be significant to investors.

³ See the Release, Section II.A.1, Request For Comment #13 (page 29), asking specifically whether “*calculating average income using the absolute value . . . [will] result in a better indicator of relative significance*” and whether there are “*other ways to modify the calculation of average income to be a better indicator of relative significance.*”

Proposed New Revenue Component to the Income Test

The second part of the proposed changes to the Income Test in Section II.A.1(b) of the Release is the addition of a new component focused on revenue, converting the test to a two-pronged analysis whereby the relevant equity method investee must trigger significance under both the proposed net income test and a new revenue component of the test. As proposed, this new revenue component would compare the registrant’s and its other subsidiaries’ “proportionate share” of the equity method investee’s GAAP revenues to the registrant’s GAAP revenues, in each case for the most recently completed fiscal year. The Staff has requested comments on this proposal.⁴

We believe that adding a second component to the Income Test based on revenue would be a significant improvement over the current rule, and support this proposed change and agree that it should achieve the Staff’s goal of promoting more meaningful significance determinations. There are a few technical aspects of this portion of the proposed rule that we believe the Staff should consider revising, which are described below.

Proportionate Share Calculation

The proposed rule suggests that the equity method investee’s significance to the registrant be determined based on the registrant’s proportionate share of the equity method investee’s GAAP revenue compared to the registrant’s GAAP revenue. Similar to other registrants with equity method investments, AMG has invested in Affiliates that produce significant revenue that (under accounting rules for equity method investments) is not included in our GAAP revenue because those Affiliates are not consolidated. The proposed revenue component of the test, therefore, is not a fully congruous comparison because the calculation excludes the equity method investee’s GAAP revenue from the total revenue against which it is being compared (i.e., the denominator in the calculation). The illustration below shows the material variances in the significance that results between the proposed rule and what we believe is a more conventional comparison approach that incorporates the equity method investee’s GAAP revenue with the registrant’s GAAP revenue.

<u>Proposed Rule</u>		<u>Alternative Approach</u>	
Equity Method Investee's GAAP Revenue	\$ 1,300	Equity Method Investee's GAAP Revenue	\$ 1,300
Registrant's Proportionate Share	40%	Registrant's Proportionate Share	40%
Registrant's Share of Equity Method Revenue	\$ 520	Registrant's Share of Equity Method Revenue	\$ 520
Registrant's GAAP Revenue	2,500	Registrant's GAAP Revenue	\$ 2,500
		Equity Method Investee's GAAP Revenue	1,300
		Total GAAP revenue	\$ 3,800
Significance percentage	21%	Significance percentage	14%

We suggest modifying the calculation of the registrant’s “proportionate share” of revenue, used for the proposed revenue component of the Income Test, to add equity method investee GAAP revenue to the registrant’s GAAP revenue for purposes of the comparison, given that equity method investee GAAP

⁴ See the Release, Section II.A.1, Request For Comments #5-10 (pages 26-27), asking specifically whether the proposed approach would “more accurately reflect the significance of the acquisition” or “reduce incidents of otherwise insignificant acquisitions being deemed significant.”

revenue is not incorporated in a registrant's GAAP revenue and excluding it from the calculation will produce incongruous comparisons.

Proportionate Share Determination

We believe that the final rule should provide further clarity regarding how registrants should determine the “proportionate share” of an equity method investee’s GAAP revenue, and whether the registrant should compare that amount to its consolidated revenues as reported in its GAAP financial statements, or to some other measure of revenue.

Specifically, the proposed rule does not provide guidance on how to calculate “proportionate share” in situations where a registrant may receive a share of revenue from an equity method investee that is different from the percentage of equity that the registrant may own. Investment structures with these types of variation are commonly used in asset management and other industries. AMG, for example, derives substantially all of our earnings from the operations of our Affiliates. Each Affiliate operates through a distinct legal entity that reflects our customized arrangements with respect to governance, economic participation, equity incentives and the other terms of our relationship. In some cases, we use structures in which we contractually share in the Affiliate’s revenue without regard to expenses, with the Affiliate allocating a specified percentage of its revenue to us, and in other cases we share in the revenue less agreed-upon expenses. In both cases, over time, we may make adjustments to our allocation of revenue or our share of expenses. As a result of these varied and tailored arrangements, AMG may receive a share of an Affiliate’s revenue that is different from the percentage of equity we own in the Affiliate.

Additionally, in the investment and asset management industries, many registrants have subsidiaries that may be required under GAAP to consolidate an investment fund that is managed by the subsidiary, even though the assets of that fund are primarily owned by third-party investors. This is a common issue; however, here it could result in further distorting the outcome of the proposed revenue test by leaving open whether consolidated investment funds should be included in the subsidiary’s revenue for purposes of calculating “proportionate share.” The decision of whether or not to include the consolidated fund in the proportionate share would have a material impact on the outcome of the test.

We believe that providing registrants with guidance and/or discretion to address these issues would help achieve the goals of promoting more meaningful significance determinations for impacted registrants and reduce incidents of otherwise insignificant acquisitions being deemed significant.

Given the variety of arrangements registrants may have with equity method investees regarding revenue sharing, and the potential impact of consolidated investment funds on reported revenue, we suggest that the Staff provide further clarity on how to calculate “proportionate share” and include some level of discretion to allow registrants to use a method reasonably calculated to reflect the economic benefit the registrant receives relative to the equity method investee’s GAAP revenue.

Investment Test

Section II.A.1(a) of Release includes a proposal to change the Investment Test under Rule 1-02(w)(1). Under the current rule, the Investment Test compares (i) the amount of the registrant’s investment in the relevant

equity method investee, which is the carrying value of the equity method investee, with (ii) the total assets of the registrant as of the end of the most recently completed fiscal year. The proposed rule change would substitute the total assets component with the “aggregate worldwide market value” of the registrant’s voting and non-voting common equity, which for a publicly traded company will be based on the trading price of its stock in the public markets. The Staff has requested comments on this proposal.⁵

We believe this proposed rule change would lead to unpredictable and anomalous results driven by market factors external to both the registrant and the equity method investee. Given the volatility of the public markets, the test could produce widely varying results from quarter-to-quarter and year-to-year. Factors external to a registrant’s business often impact the public securities markets in ways that can cause significant fluctuations in the registrant’s market value. These fluctuations may, in some cases, be indicative of an actual anticipated impact on the registrant, but in many cases are the result of unrelated market trends, market sentiment or trading on short-term investor outlooks. Further, a leveraged registrant may experience an artificially low trading price compared to the amount of its investment in the equity method investee, leading to an inconsistent application of the test among registrants with different leverage models.

We believe that this proposed change, which results in a comparison of a value based on historical cost (for the equity method investee) with a value based on public markets (for the registrant), is counter to the Staff’s goals of improving the application of the rule and assisting registrants in making more meaningful significance determinations. In the Release, the Staff posed a number of questions asking for input on how a registrant should calculate its aggregate worldwide market value, leaving open a number of potential solutions that could add further complexity to the interpretation of this rule.

We suggest leaving the Investment Test as it is currently, to avoid introducing market volatility into a recurring significance test and varying treatment for registrants without a discernable worldwide market value.

Asset Test

Lastly, although the Release does not propose any changes to the Asset Test set forth in Rule 1-02(w)(2), we believe the SEC should revisit this section of the rule during this process.⁶ The current Asset Test compares the registrant’s and its other subsidiaries’ “proportionate share” of the total assets (after intercompany eliminations) of the relevant equity method investee to the total assets of the registrant and its subsidiaries consolidated as of the end of the most recently completed fiscal year. As described above in our commentary to the Revenue Test, the determination of “proportionate share” for partnerships and other structures is unclear, particularly where the sharing of earnings, revenue and expenses is allocated in a way that differs from equity ownership percentages. Under the current rule, AMG has requested relief from the SEC on multiple occasions where the application of the Asset Test has produced unintended results that inflate the significance of an equity method

⁵ See the Release, Section II.A.1, Request For Comments #2-4 (pages 24-25), asking specifically whether “*there [are] particular types of transactions for which these measures would lead to a less-informative indicator of significance*”, and whether the “*proposed use of aggregate worldwide market value in the Investment Test more closely reflect[s] the relative significance of the acquisition to the registrant*” or if there is “*a better proxy that we could use for fair value in the Investment Test.*”

⁶ See the Release, Section II.A.1, Request For Comment #14 (page 29), asking whether there are “*other revisions to the Investment Test, Income Test or Asset Test that we should consider.*”

investee. The SEC has routinely granted the requested relief, but the process creates significant work for registrants, and does not result in any increased information to investors. Clarifications to the Asset Test to better define “proportionate share” would reduce complexity and disclosure costs, improve information provided to investors and reduce the burden of routinely seeking waivers.

Anticipated Burden of Potential Additional Financial Reporting

The impact of requiring financial statements for equity method investees can be significant to both the registrant and the equity method investee. Therefore, it is critical for the SEC to design a rule that can be applied uniformly and results in the disclosure of information that is likely to be significant to investors.

The preparation of equity method investee audited financial statements for inclusion in an SEC filing creates significant additional work, including the audit process itself which, for many equity method investees, may result in an audit under a public company accounting standard that they would otherwise not be subject to at all. Further, in addition to significant internal resources, both the registrant and the equity method investee could have considerable external costs relating to the additional SEC filing, including audit fees, fees for the review of SEC filings by legal and accounting advisors, and the cost of a financial printer or other Edgar filing services. The logistics of engaging an outside auditor and adhering to filing deadlines imposed by SEC rules can be particularly burdensome where the need for the audit fluctuates from year-to-year based on factors unrelated to the equity method investee’s business. Further, for registrants that wish to access the capital markets, there are additional costs for accounting firm comfort letters and consents, law firm legal opinions and underwriter due diligence processes. Importantly, these extra costs and resources are borne in large part by the registrant’s equity method investees, which could reduce the attractiveness of public companies as potential investors in these private firms.

These extra costs and resources may be justified where an equity method investee is in fact a significant contributor to the registrant’s financial results; however, as described above, the technical application of the proposed rules would likely trigger Rule 3-09 financial statements for reasons unrelated to the equity method investee’s actual significance to the registrant, and would capture information that we believe is inconsistent with the level of significance that the SEC has otherwise targeted under these rules. Further, this burden will fall disproportionately on registrants with investments in entities with pass-through tax structures and customized revenue sharing allocations.

* * *

As stated above, AMG supports the proposed rule changes in the Release and believes they are an improvement over the current rule, but also believes that there are aspects of the proposed changes that should be revisited and revised to better align with the SEC’s stated goals in the Release.

We appreciate the opportunity to provide our views on these matters, and are available to address any questions the Staff may have or to provide additional information.

Securities and Exchange Commission

July 29, 2019

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Sincerely,

/s/ Aaron Galis

Aaron M. Galis
Senior Vice President, Finance
Affiliated Managers Group, Inc.

cc: Thomas M. Wojcik, Chief Financial Officer
Dean Maines, Senior Vice President and Chief Accounting Officer
Louis T. Somma, Vice President and Senior Counsel