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June 12, 2015

Via email to rule-comments@sec.gov

Brent J. Fields
Secretary
U.S. Securities and Exchange Commission
100 F. Street, N.E.
Washington, D.C. 20549-1090

RE: File No. S7-07-15
Release No. 34-74835 – Pay for Performance (the "Proposing Release")

Dear Mr. Fields:

Thank you for the opportunity to comment on the Securities and Exchange Commission's (the "Commission") proposed amendment to Item 402 of the Commission's Regulation S-K and Schedule 14A (the "Proposal") to implement Section 953(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Action of 2010 (the "Dodd-Frank Act"). Section 953(a) amends Section 14 of the Securities Exchange Act of 1934 (as amended, the "Exchange Act") to add thereto:

> "(i) Disclosure of Pay Versus Performance.—
> The Commission shall, by rule, require each issuer to disclose in any proxy or consent solicitation material for an annual meeting of the shareholders of the issuer a clear description of any compensation required to be disclosed by the issuer under section 229.402 of title 17, Code of Federal Regulations (or any successor thereto), including information that shows the relationship between executive compensation actually paid and the financial performance of the issuer, taking into account any change in the value of the shares of stock and dividends of the issuer and any distributions. The disclosure under this subsection may include a graphic representation of the information required to be disclosed."

Executive Summary

We believe that the Commission should adopt a simple, principles-based rule to implement Section 953(A) of the Dodd-Frank Act. There is nothing in the statute that requires the level of disclosure and complexity that is included in the Proposal.

If the Commission chooses to adopt a prescriptive rule, then we have the following suggestions:

- Total Shareholder Return ("TSR") should not be the sole performance metric used to judge "financial performance."

- "Compensation actually paid" should not be defined by reference to equity awards vesting during a measurement period. There is no correlation between the accounting value of awards vesting in a particular measurement year and the registrant's performance in that year.

- The TSR of a company peer group should not be included in the disclosure. There is no comparability among peer groups for companies and thus the disclosure is misleading at best.
- Disclosures should be limited to PEOs (and other executive officers should not be included); the compensation of multiple PEO's in the same measurement period should not be aggregated.
- Proxy statement data, including any new required disclosures, should not be XBRL tagged.

Specific Comments on the Proposal

Below we respond to several of the questions posed by the Commission in the Proposing Release. Parenthetical page references are to the Proposing Release. We also provide other comments on the Proposal.

1. The final rules should adopt a principles-based approach to compliance with the Dodd-Frank Act independent of the CD&A.

(a) Use a principles-based approach

The Proposing Release asks: *Instead of our proposal, should we permit a principles-based approach that would allow registrants to determine which elements of compensation to include, so long as they clearly disclosed how the amount was calculated? Why or why not? (Q24, P43)*

We urge the Commission to adopt a principles-based approach in the final rules adopted to implement Section 953(a), as suggested by two of the Commissioners.[1] The Proposal attempts to create in a simple format comparability across companies with respect to matters that are inherently unique to each company. This approach of the Proposal will lead to greater shareholder confusion and longer, more convoluted and thus less effective disclosure.

Just as there are multiple legitimate ways to view total compensation for executives, no singular definition of "financial performance" works for all companies and all executive compensation programs. We discuss below in more detail our concerns with forcing TSR on registrants and investors alike as the single measure of financial performance for this purpose. One result of using only that measure will be new information for shareholders to digest that will not describe the actual linkage of pay to performance for our company or, in our view, for most other companies. We will likely be forced to provide complicated supplemental disclosures that contrast to the tabular data required by the Proposal in order to more accurately explain to our shareholders our company's view of how pay is linked to performance. The combination of the tabular data and the necessary supplemental disclosures will take significant time and effort by us and our outside advisors to create for minimal gain to shareholders. We believe most other companies will be in a similar position (i.e., compelled to create additional narrative disclosures to offset potential shareholder confusions created by the tabular data.) As a result, the approach of the Proposal will result less meaningful disclosure.

We recognize that Section 953(a) requires the disclosure of the relationship between pay and financial performance taking into account any changes in the value of a company's stock and the dividends paid and other distributions made. However, taking a principles-based approach in the final rules would provide a more direct means to satisfy the statutory requirements of Section 953(a), and would minimize the potential for shareholder confusion. Rather than having to go through the effort of developing supplemental disclosures to explain and reduce confusion created by the tabular data, a principles-based

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[1] See Statement at Open Meeting on Pay versus Performance (Michael S. Piwowar, April 29, 2015), available at http://www.sec.gov/news/statement/statement-pay-versus-performance.html and Dissenting Statement at an Open Meeting Proposing Mandated Pay versus Performance Disclosures (Daniel M. Gallagher, April 29, 2015), available at http://www.sec.gov/news/statement/dissent-proposing-mandated-pay-versus-performance.html.

approach could more quickly disclose the linkage of pay and performance in the company's unique business context, and allow the company to choose those financial measures of performance most accurately reflecting the company's financial performance, especially in the context of the company's executive compensation program. Such a principles-based approach could include certain required parameters, such as covered time period, covered executives, etc., to provide a level of comparability across companies. Permitting issuers to craft their own disclosures within such a principles-based framework will provide better, more accurate disclosure to investors and result in less confusion on their part.

The Compensation Discussion and Analysis ("CD&A") section of the proxy statement already incorporates a principles-based approach to the discussion of compensation.[2] Registrants and compensation committees are comfortable with utilizing the principles-based approach to meet the disclosure requirements and to "tell their story" about compensation and its linkage to the registrant's financial performance. We think the CD&A has been a successful disclosure vehicle and serves as an effective example of the wisdom of a principles-based approach to an otherwise challenging topic.

(b) Do not include a table

The Proposing Release asks: *Should we require registrants to provide, as proposed, a table that includes the Summary Compensation Table total compensation, in addition to the values of the prescribed measures of executive compensation actually paid and registrant financial performance used for the pay-versus-performance disclosure? Why or why not? (Q5, P22)*

If the Commission rejects a principles-based approach, we recommend that the Commission not include a table as proposed.

First, the inclusion of both the Summary Compensation Table total compensation amount and an "actually paid" compensation amount will confuse investors.

Second, the inclusion of cumulative TSR performance against year-by-year "actually paid" adjusted compensation fails to meet the statutory objective of explaining pay and performance because, for our company (and we think likely for most of our peer companies), there is no direct link between TSR performance in a given year and adjusted compensation that would be attributable to the year as to which the TSR would be shown in the tabular data, as proposed. A company can perform well on core measures, such as revenue or earnings growth or cash flow that drive performance-based awards and yet the company may have peaks and valleys in its cumulative TSR for totally unrelated reasons, such as external market forces, investor expectations (reasonable or not) regarding future earnings potential, international economic policies and events, currency fluctuations, etc. The happenstance of TSR results measured at year-end will likely have little correlation to values of performance-based awards driven by non-TSR performance results and often vesting based on performance cycles not corresponding to the periods for which cumulative TSRs would be disclosed in the tabular data and vesting on different dates than the year-end TSR measurement dates as proposed.

Also, many companies grant equity awards at least in part by reference to an assessment of performance over one or more years, or with service-based vesting periods following the end of a performance period. The service-based vesting requirements serve primarily a retention purpose. Requiring "actual" compensation to include the values of equity-based awards at their future service-based vesting dates will not show the link to the performance that originally triggered the award, and as a result the compensation values at the vesting dates will not, by design, tie to company performance results. Any correlation to year-by-year cumulative TSR will likely be a product of random chance.

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[2] See SEC Release Nos. 33-8732A, 34-54302A (Aug. 29, 2006); Staff Observations in the Review of Compensation Disclosure, available at http://www.sec.gov/divisions/corpfin/guidance/execcompdisclosure.htm.

For these reasons, we think sophisticated investors will ultimately understand that the tabular data does not demonstrate any actual relationship between pay and company performance and therefore the data will not provide meaningful information to investors. On the other hand, less sophisticated investors may give greater weight to the tabular data than the more relevant financial performance measures when deciding how to vote on director elections and say-on-pay proposals.

(c) New disclosures should not be part of the CD&A

The Proposing Release asks: *Should the disclosure required by Exchange Act Section 14(i) be a separate requirement under Item 402 of Regulation S-K, as proposed? Alternatively, should we require the disclosure as part of the CD&A? If so, please explain why. (Q4, P22)*

We believe the disclosure required by Exchange Act Section 14(i) should be a separate requirement under Item 402 of Regulation S-K, as proposed, and not part of the CD&A. Keeping the Proposal's approach to have the disclosure as a separate requirement will provide registrants the flexibility to determine where it best fits within the proxy statement. Some issuers may prefer to weave it into the say-on-pay voting item. Others may seek to include it with the compensation tables. Still others may find it appropriate to include it as a separate disclosure before or following the executive compensation disclosures in the proxy statement. The desired approach for a particular registrant may vary over time. We think the CD&A, though, is likely not the best place for this disclosure because, as the rule is proposed, it will likely not reflect how the compensation committee actually considers the linkage of pay to company performance.

(d) Failing to use a principles-based approach will not provide disclosure balance

The Proposing Release asks: *Have we struck the appropriate balance between prescribing rules to satisfy the requirements of Exchange Act Section 14(i) and allowing registrants to disclose pay-versus-performance information most relevant to shareholders? ... Are there alternatives to the proposals we should consider that would satisfy the requirements of Section 14(i) of the Exchange Act? (Q53-54, P59)*

As noted above, we believe that requiring "one size fits all" tabular data as proposed will not provide the most relevant information to investors. Registrants will find it necessary and important to provide supplemental information to explain the tabular data in light of other performance data and the particulars of the company's compensation program design and why the tabular data is not reflective of the link between the company's executive compensation and its financial performance. Those registrants faced with such a necessity will be forced into the position of explaining why a certain part of their disclosure in a proxy statement is not an accurate depiction of the linkage between pay and performance, a result the Commission can avoid by employing a principles-based approach in the final rule. For the reasons noted above, we strongly urge a principles-based approach.

2. The final rules should provide a reasonable approach to disclosure of financial performance of the issuer

(a) TSR should not be the required performance measure

The Proposing Release asks: *Should we require registrants to use TSR as the performance measure? ... (Q34, P47)* The Proposing Release also asks: *Should we allow registrants flexibility in choosing the relevant measure of performance they are required to disclose? ... (Q35, P47)*

We believe that issuers should have flexibility in determining the relevant measure of "financial performance" to disclose under a principles-based approach. Section 14(i) requires information about the relationship of pay to "financial performance of the issuer," taking into consideration the changes in the value of a company's stock and dividends and other distributions. TSR does not measure "financial performance". In addition, TSR is not the sole, or even the primary, measure of performance used by investors in measuring the value of their investment or whether to buy or sell. TSR is rarely used as an exclusive performance measure driving compensation results. We have concluded, based on conversations with investors holding more than 50% in the aggregate of our shares, that our investors are more interested in tangible financial metrics that should drive returns and align management with shareholders than TSR.

In addition, in our experience, TSR has certain inherent challenges as a sole measure of company financial performance. While it is relatively simple to understand, the view of cumulative TSR performance over a given measurement period is highly dependent on the starting point. If the starting point happens to be at a stock price peak, the cumulative TSR performance results measured from that point can look poor, and the converse is true if the starting point happens to be in a valley. The relative peer group view can likewise be skewed by the starting point. A steady performing company with solid, consistent earnings growth and less volatile TSR can actually appear as if it performed poorly viewed solely through the lens of relative TSR if its peer companies happened to have been in a TSR valley at the snapshot starting point of the TSR measurement period.

Investors have the ability to time the beginning and end points of their respective TSR when they buy and sell our stock. Under the Proposal, however, registrants are required to use calendar years as the bookends for computing TSR. This is likely to encourage short-term actions at the expense of long-term investment, the kind of conduct the Dodd-Frank Act was trying to curb. For example, share repurchases are likely to improve TSR in the short-run while investment in plant, machinery and technology are likely to increase TSR over longer time frames. We believe the Proposal is overly restrictive in specifying an annual and 5-year cumulative TSR disclosure, more prescriptive than Congress intended or required and less stockholder friendly than is needed.

While we think a principles-based approach could allow TSR as one measure to show stock price performance over a time period, the final rules should also allow companies to include other measures of company financial performance to enhance the disclosure and provide more meaningful information to investors. Further, registrants should be permitted to determine the relevant period of the presentation.

(b) Registrants should be permitted to provide supplemental information concerning financial performance

The Proposing Release asks: *Does TSR, standing alone, provide sufficient information about a registrant's performance such that a registrant would provide only the information that would be mandated by this rule? Will registrants opt to provide additional information based on their own calculations or metrics to provide additional context for investors to consider the alignment of pay versus performance?... (Q37, P48)*

As discussed above, if the final rules follow the Proposal and do not adopt a principles-based approach, not only do we believe that supplemental information should be permitted, but we believe that it will likely be necessary in order to accurately explain to our shareholders our company's view as to how pay is linked to performance, in contrast to any "relationship" shown in the tabular data. We will likely need to tailor that supplemental information to better explain our view of company financial performance over the applicable period to supplement the cumulative TSR view of performance. We will then need to explain why long-term equity compensation award values measured at vesting dates is not necessarily linked to performance, but how the compensation program does in fact link specific compensation payments to performance results. We will likely need to develop supplemental graphics that visually display our view as to the sensitivity of pay results to our long-term financial performance.

We do not think that TSR, standing alone, provides sufficient information about financial performance. We note that many investors have criteria other than TSR for making investment decisions to purchase or sell our stock and for determining whether the past efforts of our executives have created shareholder value that is likely to be realized in the future. These may include our technology, our ability to capitalize on opportunities, our ability to generate earnings and cash flow, and our ability to remain more stable (in terms of earnings performance and/or stock price) than other companies. In addition, there may be many factors that have contributed to a particular pay package for a PEO and companies should have the ability to explain that in the context of company performance.

3. The final rules should require disclosure solely concerning the PEO and should make special provision for the occurrence of multiple PEOs in a single fiscal year.

(a) The new disclosures should apply only to Principal Executive Officers ("PEOs")

The Proposing Release asks: *Should we require disclosure for only the PEO? (Q20, P30)*

We believe that the disclosure required by Exchange Act Section 14(i) should be limited to the PEO. Most investors and the proxy advisory firms currently focus on the compensation of the PEO and not the other named executive officers. This is in part due to the varied compensation plans the results of which determine which executive officers are included in proxy statements as named executive officers. We think the information about other named executive officers is unlikely to be utilized by investors and dilutes the message about the relationship between company performance and PEO pay.

There are also likely to be more anomalies in using the other named executive officers, even if averaged, which is another reason that such information is likely not going to be valued by investors. For example, there are often more transitions in the other named executive officers, which can trigger higher initial pay (because of sign-on awards necessary for recruitment) or vesting of equity awards (for departing executives depending on the award design), which can cause anomalous results. Finally, for named executive officers who lead business segments, often they have significant performance-based compensation opportunities based on business segment financial performance results which will not necessarily tie to company-wide TSR results, so that alignment of compensation with year-by-year cumulative TSR performance is even less meaningful than for the PEO.

(b) The new disclosures should not add total adjusted compensation of two PEO's in a single fiscal year

The Proposing Release provides that if there are two PEOs in the same fiscal year then the total adjusted compensation for such individuals should be aggregated and treated as a single PEO line item entry in the table. Because in-coming PEO's often receive sign-on bonuses and other front-end inducement awards, and exiting PEO's often have previous-year awards that vest in connection with their departure in accordance with the standard terms of the awards, we think that adding the two adjusted compensation amounts together could significantly overstate that compensation related to the PEO position, potentially confusing investors and requiring further supplemental explanations, and, absent chance, will likely not be correlated to company TSR performance for that fiscal year. At the least, registrants should be permitted to adjust the multiple PEO's compensation to exclude sign-on and other front-end awards and severance/separation awards from the calculation of actual compensation.

4. The final rules should provide a reasonable approach to defining compensation actually paid

(a) The Proposal's definition of compensation actually paid does not link pay to performance

The Proposing Release asks: *Does our proposed definition appropriately capture the concept of "executive compensation actually paid?" Why or why not? (Q21, P42)*

We are concerned that including accounting fair values for all equity awards vesting during the measurement period is not within the spirit of the "pay for performance" directive of Section 953(a). Depending upon a registrant's long-term equity program, executives may have from one to many equity awards vesting in a particular year, that may have been granted as early as that year and as late as five years earlier. It is hard to see how the accounting value on the vesting date will have any correlation to the company's performance in the year of vesting. Further, equity awards may vest at varied dates during the year and the accounting value will necessarily take into account the stock price on those vesting dates. However, those vesting dates may be far away (and thus potentially disparate) from the calendar year end, when the required TSR is computed. Congress did not provide a definition of "actually paid," so we believe there is appropriate regulatory flexibility to design a definition that best fits the purpose of Section 953(a). What has been proposed does not fit the purpose of the statute.

(b) The Proposal's treatment of equity award values does not link pay to performance

The Proposing Release asks: *Should we value equity awards at vesting date fair value as proposed? Should we instead value equity awards at grant date fair value as currently required by Item 402(c) (2) (v) and (vi) or fair value at some other point in time? If so, why? Should we require disclosure of vesting date valuation assumptions if they are materially different from those disclosed in a registrant's financial statements as of the grant date, as proposed? Would the disclosure of these assumptions provide meaningful information to shareholders? ...What concerns, if any, are presented if we require equity awards to be valued at vesting date fair value as opposed to grant date fair value? Would any concerns be mitigated by the inclusion in the table of the total compensation amount as provided in the Summary Compensation Table? (Q29-30, P44)*

We believe that it is inappropriate to attribute to the computation of "compensation actually paid" a current date fair value to stock options that have vested during a fiscal year but have not been exercised. We do not believe that mathematical models of option values, such as Black-Scholes, work well for options that are significantly underwater or in the money. Intrinsic value of options is used for other disclosure purposes, such as the value of accelerated vesting of awards in the disclosure regarding potential payments upon termination or change in control. The intrinsic value represents the value actually realizable by the executive if the option is exercised immediately at vesting. Any future appreciation after vesting that is not realized until later exercise represents an executive's choice, not a company compensation decision. Therefore, if the Proposal continues to use a vesting date compensation value for options, we recommend that intrinsic value be used since it is readily understandable, requires no additional and potentially confusing disclosures about valuation assumptions, and is already used for other compensation disclosure purposes.

Because equity grant practices vary among companies, equity awards will necessarily be granted at different times of the year (when stock prices and/or grant date values will be different), especially with cyclical industries. Thus the Proposal inherently will not provide comparability among companies.

5. The final rules should not require XBRL or similar tagging as proposed.

(a) The required new disclosures should not be tagged in XBRL format

The Proposing Release asks: *Should we require that the tabular and footnote data be tagged in XBRL format, as proposed? (Q13, P24)*

We believe that requiring registrants to tag in XBRL format any part of the proxy statement will impose an additional time burden and delay on issuers in completing their proxy statements and filing them in accordance with the strict filing deadlines (e.g., 40 calendar days prior to the meeting date if the notice and access protocol is utilized). XBRL format tagging works best when there is an established list of defined tags. We do not believe that such a list currently exists and the Commission would need to develop one to cover the information in the table. Also, to accurately describe the tabular data, the registrants would need to create extensions of GAAP tags and dimensionalize the table by layering all of the different types and vesting terms of equity awards that contributed to "compensation actually paid". It is unlikely that the details of such awards contained in the requisite tagging will have any comparability among peers. Therefore, we believe the tagging will provide little or no benefit to investors.

The Proposal also requires tagging of information in footnotes and in the broader narrative explanation for which there may not be comparability among registrants. Therefore, the benefits to be derived from tagging will be lost if issuers are free to use non-standard tagging. Further, it is submitted that the benefits to investors by providing information tagged in XBRL format are outweighed by the cost and time to registrants in complying.

(b) Neither preliminary nor definitive proxy statements should be tagged in XBRL format

The Proposing Release asks: *Should we require that the data be tagged in preliminary proxy statements and information statements, as well as in definitive proxy statements and information statements? Why or why not? (Q14, P25)*

We believe that neither preliminary nor definitive proxy statements should be required to contain XBRL format tagged information. However, if the Commission ultimately requires that data included in response to Section 953(a) be tagged in definitive proxy materials, we do not think that they should also be tagged in preliminary proxy material. The timing challenges inherent in submitting preliminary proxy material to the Commission would be further exacerbated by requiring that such data be XBRL tagged.

6. Other comments on the Proposal.

(a) The five-year disclosure period is too long

The Proposing Release asks: *Does a five-year disclosure period (for registrants other than smaller reporting companies) and a three-year disclosure period (for smaller reporting companies), as proposed, provide meaningful pay-versus-performance disclosure? Should the timeframes be shorter or longer? For example, should we require only three years of disclosure for all registrants consistent with the time period required by the Summary Compensation Table for registrants other than smaller reporting companies? What impact would a different time period have on the disclosure and its usefulness to shareholders? (Q42, P52)*

We believe that a five-year disclosure approach is too long and inconsistent with the other approaches taken in the proxy statement. For example, the CD&A focuses on pay decisions for the most recently completed fiscal year. Comparatively, the Summary Compensation Table includes information for the three most recently completed fiscal years. To the extent that the new required table requires five years of data it will now be providing information that is not included in the summary compensation table in the same proxy statement and information for fiscal years not discussed in the CD&A. We recommend limiting that disclosure to three years. This approach allows for an appropriate time horizon while balancing the costs of compliance.

(b) Comparative TSR

The Proposing Release requires registrants to include comparative TSRs for the peer group. That information is not required by Section 953(a) and the Commission's inclusion of that requirement not only creates more work and expense for registrants, but also creates the potential of misleading investors. Although many companies establish "peer groups" for the purpose of referencing target pay, each company is different and there is no one set of "peers" that is comparable to the company in terms of industry, performance, compensation plan design, etc. Therefore, required use of comparative TSR for some peer group under the Proposal will not provide valuable information to investors.

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We appreciate the opportunity to participate in this process, and would be pleased to discuss our comments or any questions the Commission or its staff may have, which may be directed to the undersigned.

Sincerely,

Celanese Corporation

James R. Peacock III

Vice President, Deputy General Counsel and
Corporate Secretary