NEW AMERICA

The Responsible Asset Allocator Initiative at New America

New America, Responsible Asset Allocator Initiative

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Vanessa A. Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

March 3, 2022

RE: File Number S7-07-15
Attention: Reopening of Comment Period for Pay Versus Performance

Dear Secretary Countryman:

We appreciate this opportunity to provide comments for the Securities and Exchange Commission ("Commission") proposal to implement Section 953(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 ("Dodd-Frank Act"), originally proposed in 2015, to amend the current executive compensation disclosure rule to require a description of how executive compensation actually paid by a registrant relates to the financial performance of that company ("Proposed Rules").

New America is a not-for-profit, independent public policy institute that is committed to non-partisan and intellectual independence. The Responsible Asset Allocator Initiative (RAAI) at New America is focused on mobilizing capital from the world's largest institutions, sovereign wealth, and public pension funds, to advance systemic change for a more sustainable world. In partnership with **The Fletcher School** at Tufts University, the RAAI publishes the **RAAI Index and Leaders List Report,** which rates and ranks the world's largest 251 asset allocators, with assets of over $26 trillion, and provides programming that supports investors as they think through the next phases of responsible investing.

We support the proposed rule change and believe a more detailed level of disclosure linking company performance to executive pay will help shareholders understand if executive pay is commensurate with value creation, both short and long-term, at the company. Our colleagues at the Predistribution Initiative have submitted separate commentary discussing financial disclosure metrics that we support and to which we have added our signature. Below we focus our comments on the provision of the proposed rule change that would allow companies to report additional measures of their own choosing. We believe that companies should use this flexibility to report ESG factors that are material to their business and that are already widely used as part of compensation packages for executives.[1] Our

[1] There is a growing body of evidence suggesting that as companies pursue financial and economic performance, they may contribute to externalities and systematic risks. This challenge is partially addressed through recommendations made by the Predistribution Initiative response filed independently to this comment and

colleagues at the Predistribution Initiative support this commentary and have added their signature below. Following we present arguments supporting our views.

1. **Academic evidence indicates companies that perform well on ESG metrics material to their business tend to show better economic and financial performance. This makes a compelling argument for companies to incentivise performance by including ESG measures in executive compensation schemes and reporting progress to shareholders.** There has been enormous growth in ESG investing over the last decade, leading to increased demand from shareholders for standard setting, quantitative studies, and integration of ESG into corporate reporting. This should be extended to reporting measures for executive "pay versus performance."

   There also is a vast body of empirical evidence validating the benefits of ESG including quantitative and qualitative academic studies and surveys. While it is beyond the scope of this comment to lay out the basis for why ESG is critical to company financial and economic performance, we note several academic studies that support this view. For example, a mega study published in 2016 that reviewed more than 2000 academic papers on ESG found that 90% of the studies showed a non-negative relationship between ESG and corporate financial performance and the large majority of studies reported positive findings.[2] A recent study by Rockefeller Capital Management found that companies which improve on ESG metrics tend to outperform their peers.[3] An award-winning paper from the University of Augsburg and Queens University, published by the Federal Reserve Bank of San Francisco, shows that the transition from a high-carbon to a low-carbon economy, as we are experiencing today, significantly impacts company valuations and risk profiles.[4]

   Most corporate CEOs and Boards agree that incorporating ESG into business operations is critical to the company's performance and outlook. A 2020 survey published by Willis Towers Watson of 170 Board members and senior executives from leading companies around the world found 78% of executives agreed that ESG performance is a key contributor to creating organizational value and stronger financial performance. The study also found executives agreeing that ESG helps the company to address the needs of other stakeholders

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which we support. We note that linking performance on ESG metrics to executive compensation does not necessarily address the challenge of measuring contributions to systemic risks. It may be possible to reduce environmental and social externalities by improving ESG disclosures and incentives going forward but given the nascent stage of tools in the market to measure and manage externalities at this time, we do not make any specific recommendations in this letter. We encourage the SEC to continue to investigate how companies can measure and manage contributions to externalities, which can result in instability for the economy and for capital markets overall.

[2] Friede, Gunnar, Timo Busch and Alexander Bassen. "ESG and Financial Performance: Aggregated Evidence from More than 2000 Empirical Studies."Journal of Sustainable Finance and Investment, Vol 5, Issue 4, pages 210-233, Dec 2015

[3] Clark, Casey, Harshad Lalit, Ph. " ESG Improvers: An Alpha Enhancing Factor 8-Oct-21, https://rcm.rockco.com/insights_item/esg-improvers-an-alpha-enhancing-factor/.

[4] Görgen, Maximilian, Andrea Jacob, Martin Nerlinger, Ryan Riordan, Martin Rohleder, Marco Wilkens. "Carbon Risk." University of Augsburg, Queen's University. first version: 10-Mar-17, current draft: 24-Jun-19, https://www.frbsf.org/economic-research/events/2019/november/economics-of-climate-change/files/Paper-6-2019-11-8-Riordan-1PM-2nd-paper.pdf

such as customers, suppliers, employees, vendors, and the community, reducing risks that could threaten business sustainability and be detrimental to shareholders. Thus, executives made it clear that reducing systemic risks is an important aspect of value creation.[5]

Nearly half of executives indicated they had already incorporated ESG into/across all aspects of their organizations — business strategy, operations, and product and service offerings. Institutional investors also agree on the importance of including ESG in company reporting. A report published by the IFC in 2019 contained survey results indicating that over 90% of 230 Public Pension Funds and Sovereign Wealth Funds polled in 2017–18 felt that ESG "is neutral-to-positive for risk-adjusted returns."[6]

Given evidence that ESG performance is critical to corporate value creation and risk mitigation, and that both business executives and institutional investors accept and agree with this proposition, it makes sense that the additional corporate measures of performance proposed under the SEC rule change should include ESG reporting. Linking pay to performance on material ESG metrics will help shareholders to understand if the executives are adding value over the short and long-term.

2. **More than half of large cap companies in the US already include ESG factors in executive compensation schemes and evidence suggests adoption is growing. Shareholders deserve greater transparency on how this is working.** There is abundant evidence that companies already are including ESG in executive compensation packages and that the practice is growing. According to the 2020 Willis Towers Watson survey noted in the above section, just over half (51%) of S&P 500 companies use ESG metrics in their executive incentive plan today, with 50% including it in short-term (annual) incentive programs (STIP). The study indicates that on average 15-18% of executive compensation schemes are tied to ESG metrics. Only 4% of S&P 500 companies included ESG in long-term incentive plans (LTIP) but 41% indicated they intend to add ESG targets to LTIP over the next three years.

   The Willis Towers Watson survey builds on past surveys that have demonstrated a consistently growing trend of ESG adoption into executive compensation schemes, particularly on environmental concerns. For example, EY found that at 21% of the large-cap companies it surveyed in 2013, "the leadership team's compensation was driven in part by sustainability performance." [7] Likewise, 24% of the large-cap firms studied by Ceres in 2014 linked executive pay to sustainability metrics.[8] Currently, the Willis Towers Watson survey

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[5] Willis Towers Watson. "2020 ESG Survey of Board Members and Senior Executives," Dec 2020. https://www.wtwco.com/en-US/Insights/2020/12/2020-esg-survey-of-board-members-and-senior-executives

[6] IFC, Creating Impact: The Promise of Impact Investing, April 2019, page 65. https://www.ifc.org/wps/wcm/connect/publications_ext_content/ifc_external_publication_site/publications_listing_page/promise-of-impact-investing.

[7] "Six Growing Trends in Corporate Sustainability, EYGM Limited, 2013" http://www.ey.com/Publication/vwLUAssets/Six_growing_trends_in_corporate_sustainability_2013/%24FILE/Six_growing_trends_in_corporate_sustainability_2013.pdf

[8] "Gaining Ground: Corporate Progress on the CERES Roadmap for Sustainability, CERES, 2014" https://www.ceres.org/resources/reports/gaining-ground-corporate-progress-on-the-ceres-roadmap-for-sustainability/view

shows that over 40% of firms have prioritized sustainability, climate change and environmental issues to address in future executive pay schemes.

Evidence also suggests that by incorporating ESG metrics into executive compensation plans, companies can achieve better sustainability outcomes as well as better financial and economic performance. A study published in 2019 by Flammer et al shows that including ESG metrics in executive compensation "experience a significant increase in firm value, which foreshadows an increase in long-term operating profits. Furthermore, firms that adopt CSR ("ESG") contracting improve their environmental and social performance, especially with respect to the environment and local communities. Overall, our findings suggest that CSR contracting directs management's attention to stakeholders that are less salient but financially material to the firm in the long run."[9]

Finally, as major institutions, such as BlackRock and State Street, amend voting guidelines to recommend that companies pay more attention to ESG and communicate how they are incorporating it into governance practices, the stage is set for wider adoption of ESG metrics in executive pay plans. The groundbreaking 2019 message delivered by the Business Roundtable, that underscored a commitment to delivering value to customers, employees, suppliers and communities and shareholders, further supports this trend.

Given high and growing levels of adoption of ESG metrics in business operations and in executive pay, and the effectiveness of ESG compensations schemes in creating value, shareholders have a right to know how these metrics are being incorporated into STIP and LTIP in order to make informed decisions about their investments. Among other things, shareholders need to know which ESG issues have been identified for inclusion in compensation schemes, why those ESG metrics are material for the business, what targets are being used, and whether the Board has discretion in awarding compensation on those metrics.[10] From a governance perspective, shareholders should have the right to object to high levels of compensation for company executives that do not perform on such metrics.

3. **Linking executive compensation to ESG performance can help to reduce greenwashing and provide shareholders with important information that can help them to engage with companies and vote their proxies.** Disclosing how performance on ESG metrics is linked to executive pay can help to reduce greenwashing and provide shareholders with a method to check if executives are incentivized to accomplish goals that are aligned with the values and policies espoused by the company, including statements published in sustainability and responsible investing reports. It also helps shareholders understand if executives are

[9]Flammer, Caroline, Brian Hong and Dylan Minor. "Corporate Governance and the Rise of Integrating Corporate Social Responsibility Criteria in Executive Compensation: Effectiveness and Implications for Firm Outcomes." Strategic Management Journal, Volume40, Issue7, July 2019, Pages 1097-1122

[10]Information about how targets are set is critical to avoid greenwashing. For instance, companies may choose to set targets based on convenience, a desire to burnish ESG credentials relative to peers or for marketing purposes. Referencing widely accepted science-based targets, such as the World Resources Institute's (SBTi) Science Based Targets for climate, where relevant to the firm's business, can help to mitigate greenwashing and potentially help to reduce corporate contributions to externalities.

incentivized in a manner consistent with their core beliefs and the broader interests of stakeholders.

This information can lead to better engagement with company management and more informed proxy voting for shareholders. A good example is Glencore, Australia's biggest coal miner, which announced it would cap production in 2019. Announcing its new policy, Glencore stated, "We must invest in assets that will be resilient to regulatory, physical and operational risks related to climate change," and it specifically cited engagement by investors as a motivating factor.[11]

Another example was the stunningly successful effort by small investor Engine Number 1, to replace three Directors on Exxon's Board after determining that the company was not addressing climate change risks, threatening long-term shareholder value creation and contributing to broad systemic risks. "Engine No. 1's success aligned with a rapid shift in public sentiment on climate change. Companies have had to acknowledge their impact on the environment and publicly pledge to improve." The company was successful in recruiting other shareholders to join the campaign, thanks to an alignment of interests and a new awareness that "it all feeds to the bottom line."[12]

4. **Including ESG metrics in "pay versus performance" reporting will help company managements to balance short-and long-term objectives and benefit long-term value creation.** As a regulator and policy maker, the SEC has a duty of care in setting the tone for long-term investing and in preventing short-termism in financial markets. Too often, the pressures of short-termism – from quarterly earnings reports to investment vehicles valued daily or monthly, to management compensation incentive schemes – cause companies to neglect ESG issues, which, by their nature, tend to be more long-term oriented in the context of strategy and performance. Numerous studies confirm that ESG promotes long-termism, and shareholders need information that helps to identify how company executives are promoting long-term value creation.

   There is an element of uncertainty in quantifying the long-term impact of implementing ESG measures, just as there is uncertainty with respect to forecasting the impact of traditional financial strategies over the long-term. However, by requiring performance measures related to material ESG factors, the SEC can encourage company boards and executives to provide investors with vital information on how senior management is facing long-term risks and opportunities related to critical issues such as climate change, which may impact the future value of the business. By adopting language that encourages a long-term, risk-adjusted approach to the management of company operations, the SEC helps shareholders to assess if executives are making the right decisions to deliver returns over time.

[11] https://www.reutersevents.com/sustainability/divestment-isnt-badge-honour-its-failure-engagement
[12] https://www.nytimes.com/2021/06/09/business/exxon-mobil-engine-no1-activist.html

5. **Including reporting on ESG metrics in the proposed rule change is consistent with past work undertaken by the SEC to form a common, uniform disclosure framework for ESG considerations.** The SEC Investor Advisory Committee held three sessions on the topic of ESG disclosures in 2016, 2018 and 2019. The perspectives of a variety of market participants were reported and evaluated, including supporting documentation.[13] The SEC also held conversations with investment advisors, asset managers, asset owners, US and foreign issuers, third party data providers, NGO's, and proponents of third-party disclosure frameworks. The conclusion reached by the committee was that ESG disclosures are material to investors regardless of an issuer's business line, financial model, or geography.

   In May 2020, a recommendation issued by the **Investor-as-Owner Subcommittee** of the **SEC Investor Advisory Committee (the Subcommittee)** stated: "For close to 50 years, the SEC has periodically contemplated whether ESG disclosures are material and should be incorporated into its integrated disclosure regime for SEC registered Issuers. This recommendation asserts that the time has come for the SEC to address this issue. Addressing ESG disclosure now will (a) provide investors with the material, comparable, consistent information they need to make investment and voting decisions, (b) provide Issuers with a framework to disclose material, decision-useful, comparable and consistent information in respect of their own businesses, rather than the current situation where investors largely rely on third party ESG data providers, which may not always be reliable, consistent, or necessarily material, (c) level the playing field among all US Issuers regardless of market cap size or capital resources, (d) ensure the continued flow of capital to US Issuers, and (e) enable the SEC to take control of ESG disclosure for the US capital markets before other jurisdictions impose disclosure regimes on US Issuers and investors alike."[14]

   We believe that any rules proposed by the SEC related to reporting of compensation measures should include ESG metrics and be sensitive to the issues described above.

   In summary, we agree with the proposed rule to amend executive compensation disclosure to require a description of how executive compensation actually paid by a registrant is related to the financial performance of that company. We further agree with the proposal to include a Company-Selected Measure and to separately require registrants to provide a list of their five most important performance measures used to link compensation actually paid. In this regard, we suggest that these five measures, or several of them, be required to reflect ESG metrics that are used in executive compensation practices.

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[13] Petition for a rulemaking on environmental, social, and governance (ESG) disclosure authored by Osler Chair in Business Law Cynthia A. Williams, Osgoode Hall Law School, and Saul A. Fox Distinguished Professor of Business Law Jill E. Fisch, University of Pennsylvania Law School, and signed by investors and associated organizations representing more than $5 trillion in assets under management including the California Public Employees' Retirement System (CalPERS), New York State Comptroller Thomas P. DiNapoli, Illinois State Treasurer Michael W. Frerichs, Connecticut State Treasurer Denise L. Nappier, Oregon State Treasurer Tobias Read, and the U.N. Principles for Responsible Investment, October 1, 2018. https://www.sec.gov/rules/petitions/2018/petn4-730.pdf.

[14] Investor-as-Owner Subcommittee of the SEC Investor Advisory Committee, Recommendation Relating to ESG Disclosure (As of May 14, 2020). https://www.sec.gov/spotlight/investor-advisory-committee-2012/recommendation-of-the-investor-as-owner-subcommittee-on-esg-disclosure.pdf.

We note academic evidence suggests that incorporating material ESG metrics into company operations and into executive compensation plans leads to better financial and economic performance, enhanced ESG returns, and more strategic long-term value creation. We believe that this information is critical for shareholders to better understand if executives are being compensated appropriately for both short and long-term performance at the company. We further note that including ESG metrics in executive pay-for-performance calculations is consistent with recommendations published by the Investor-as-Owner Subcommittee of the SEC Investor Advisory Committee in May 2020.

We agree that companies should have discretion in deciding on which ESG metrics to report but in order to avoid greenwashing, the metrics should be material to the company and to its industry, as defined by internationally recognized standards setting organizations such as the Sustainability Accounting Standards Board (SASB), the Task Force on Climate Change Related Financial Disclosures (TFCD), and the Global Reporting Initiative (GRI). The methodology for setting ESG compensation targets should be transparent, as should be the level of discretion the firm has in allocating pay to executives for hitting or missing targets. Rolling one-, three- and five-year performance should be reflected, as possible, to avoid short-termism. While we don't recommend being overly prescriptive, we do think it may be helpful to give direction in reporting incentives across broad categories, such as the environment, health and safety, workers, local communities, customers, diversity, equity, and inclusion, and governance.

We recognize that standards for setting ESG compensation and performance targets are not fully developed, and that incentivizing ESG performance does not necessarily address the complicated challenge of mitigating company contributions to systemic risks. However, given that over half of US large cap companies already include ESG metrics in executive pay plans, and that this number is set to grow over time, shareholders deserve to have the information they need to analyze how these ESG plans are working, check if executives are being incentivized to achieve the right ESG targets and judge for themselves if executive compensation, including both traditional financial measurements and ESG metrics, is commensurate with performance.

Thank you for considering our views on the Proposal. We would be pleased to discuss our recommendations or any other matters that you believe would be helpful.

Sincerely,

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Chairman, *Sovereign Investor Institute at Institutional Investor*

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