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October 22, 2019

Vanessa Countryman
Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Re: Modernization of Regulation S-K Items 101, 103, and 105, File No. S7-11-19

Dear Ms. Countryman:

Teachers Insurance and Annuity Association of America ("TIAA") welcomes the opportunity to comment on the Securities and Exchange Commission's ("SEC" or the "Commission") proposed amendments (the "Proposal") to modernize Items 101, 103, and 105 of Regulation S-K. [1] We appreciate the SEC's willingness to examine and consider modifications to the Regulation S-K disclosure regime, particularly as decades have passed since portions of Regulation S-K were last updated. We also support the SEC's shift to a more principles-based approach to disclosure in the Proposal. However, we are concerned that the Proposal provides no guidance as to how the changes to Regulation S-K will apply to registrants' disclosures around climate change-related matters. To address this issue, we respectfully recommend that the Commission further revise Item 101(c)(2) to include climate change as a disclosure topic, to the extent such disclosures would be material to an understanding of the registrant's business. We discuss this recommendation in further detail below.

I. About TIAA

Founded in 1918, TIAA is the leading provider of retirement services for those in academic, research, medical, and cultural fields. Over our century-long history, TIAA's mission has always been to aid and strengthen the institutions, retirement plan participants, and retail customers we serve and to provide financial products that meet

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1 *Modernization of Regulation S-K Items 101, 103, and 105*, SEC Release Nos. 33-10668; 34-86614; File No. S7-11-19, 84 Fed. Reg. 44358 (Aug. 23, 2019), *available at:* https://www.govinfo.gov/content/pkg/FR-2019-08-23/pdf/2019-17410.pdf.

their needs. Our investment model and long-term approach aim to benefit the five million individual customers we serve across more than 15,000 institutions.[2] To carry out this mission, we have evolved to include a range of financial services, including asset management and retail services. TIAA's wholly-owned asset management subsidiary Nuveen, LLC ("Nuveen") is comprised of investment advisers that collectively manage over $1 trillion in assets, including in the Nuveen and TIAA-CREF registered fund complexes and in private funds and structured vehicles.[3]

Since 1970, TIAA has been a leader in responsible investing ("RI"). Drawing from TIAA's decades-long experience, Nuveen has implemented RI principles throughout the enterprise that support well-functioning markets in order to preserve financial, social, and environmental capital. Our extensive work in the RI space gives us a special understanding of the risks that climate change poses to registrants in virtually every sector of the economy. For many registrants, these risks are material – and for many investors (including TIAA), understanding the way a registrant recognizes and responds to these risks is a critical part of the investment decision-making process.

TIAA is also a supporter of the Task Force on Climate-Related Financial Disclosures ("TCFD"), a coalition organized by the Financial Stability Board for the purpose of developing voluntary, consistent climate-related financial risk disclosures for use by companies in providing information to investors, lenders, insurers, and other stakeholders. As such, we have devoted significant resources to considering the ideal disclosure framework for climate change-related risks. It is with this perspective that we offer recommendations to the Commission on how climate change disclosures can be better factored in to the Regulation S-K disclosure regime.

II. The benefits of climate change disclosure for registrants and investors

For many investors, understanding how registrants are impacted by climate change is a critical factor in the investment decision-making process.[4] To reach this understanding, investors need reliable, consistent, easily accessible data illustrating a registrant's climate risks and opportunities. In our experience, many registrants provide at least

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[2] Participant data are as of June 30, 2019.

[3] Asset data are as of June 30, 2019.

[4] *See* Ilhan, Emirhan, Laura Starks, Philipp Krueger, and Zacharias Sautner. "Institutional Investors' Views and Preferences on Climate Risk Disclosure" (Fig. 1). *Harvard Law School Forum on Corporate Governance and Financial Regulation* (Oct. 15, 2019), *available at*: https://corpgov.law.harvard.edu/2019/10/15/institutional-investors-views-and-preferences-on-climate-risk-disclosure/.

some disclosures around climate risk as part of their corporate social responsibility report – but these reports are often inconsistent across companies, and are not subject to the same standards and requirements as are disclosures under Regulation S-K. Without a more structured framework governing the method and format of disclosure, it is difficult for investors to obtain the data they need on the topic to make informed investment decisions.

We urge the Commission to consider our recommendation, discussed in more detail below, to add climate change as a disclosure item in Item 101(c) of Regulation S-K. By specifically including climate change in the Regulation S-K disclosure framework, the SEC can help both registrants and investors. Registrants will be encouraged to more thoroughly and consistently analyze the impacts of climate change on their business – which will arguably make them better able to address those impacts, as necessary. Investors, on the other hand, will better understand which companies are most at risk from climate change, and which are best positioned to respond to it – which will in turn allow them to make better, more informed investment decisions.

III. The SEC's 2010 guidance on climate change disclosure

TIAA appreciates that the SEC has previously addressed how various disclosure requirements under Regulation S-K may apply to climate change issues. Most notably, in 2010 the SEC issued interpretive guidance (the "2010 Guidance") to public companies discussing how the disclosure requirements in force at the time applied to climate change matters.[5] The 2010 Guidance has been instrumental in helping issuers understand how they might disclose certain information related to climate change in order to meet their SEC-mandated disclosure requirements. Now, given the Proposal's suggested changes to Items 101, 103, and 105 of Regulation S-K, we believe it would be appropriate for the SEC to illustrate how the modernized version of Regulation S-K might apply to climate-related disclosures.

In the 2010 Guidance, the SEC acknowledged that "business leaders are increasingly recognizing the current and potential effects on their companies' performance and operations, both positive and negative, that are associated with climate change and with efforts to reduce greenhouse gas emissions."[6] Since 2010, the risks posed by climate

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5 *Commission Guidance Regarding Disclosure Related to Climate Change,* SEC Release Nos. 33-9106; 34-61469; FR-82, 75 Fed. Reg. 6290 (Feb. 8, 2010), *available at*: https://www.govinfo.gov/content/pkg/FR-2010-02-08/pdf/2010-2602.pdf.

6 *Id*.

change have only grown; average temperatures have risen consistently, and extreme weather events have occurred with increasing frequency. Political developments related to climate change, such as the United States joining and subsequently withdrawing from the Paris Agreement, have had significant ramifications for many companies around the globe.[7] As a result, we believe many business leaders and investors are even more eager to understand the risks posed by climate change today than they were when the SEC released the 2010 Guidance. The proposed modernization of Regulation S-K provides an ideal opportunity for the SEC to once again explain how climate change-related matters should be incorporated in issuers' mandated disclosures.

IV. TIAA recommends that the SEC further revise Item 101(c)(2) of Regulation S-K to include climate change as a disclosure topic

The 2010 Guidance has helped to illustrate the ways in which climate change may present a registrant with both risks and opportunities, and to identify the various provisions throughout Regulation S-K under which it may be appropriate for a registrant to disclose information about the impacts of climate change. But given the climate-related developments that have occurred during the almost 10 years since the 2010 Guidance was released – and the changes to Regulation S-K that the Commission is now proposing – we believe it would be appropriate and helpful for the SEC to more explicitly specify that registrants should consider and disclose climate change-related data, where material, as part of the modernized Regulation S-K regime.

Specifically, we respectfully recommend that the Commission further amend Item 101(c)(2) to include, as a disclosure topic, any climate change-related measures or objectives that management focuses on in managing the business, to the extent such disclosure would be material to an understanding of the registrant's business. Such measures or objectives could include those that are designed to address the physical effects of climate pattern shifts (*e.g.,* extreme weather events or increasing temperatures), as well as the effects of a global transition to a lower-carbon economy (*e.g.*, on relevant markets, technology, and policy). We believe this specific mandate will prompt registrants to more frequently disclose important climate-related data in a way that is thoughtful, consistent, and reliable. At the same time, the disclosure requirements under Item 101 are open-ended enough that registrants will still be able to tailor their disclosures to focus on those facts that they determine to be material and relevant to their specific business and financial condition. Such a change would also be

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7 *See*, *e.g.*, PricewaterhouseCoopers' Global Crisis Survey 2019, Fig. 4 (illustrating that the U.S. companies surveyed identified disaster/environmental crises as the most disruptive type of crisis they have experienced), *available at*: https://www.pwc.com/gx/en/forensics/global-crisis-survey/pdf/pwc-global-crisis-survey-2019.pdf.

appropriate, in our view, given that the Commission has already proposed an expansion of Item 101(c)(2) to include human capital resources.

V. Conclusion

TIAA appreciates the Commission's focus on this important topic, and the opportunity to comment on the issues raised in the Proposal. We believe our recommendation, if adopted by the SEC, would help registrants better understand and respond to the risks and opportunities posed by climate change, and give investors access to more reliable, consistent climate-related data that may play a crucial role in their investment decision-making process. We appreciate the Commission's consideration of our comments and welcome the opportunity to engage further on any aspect of the foregoing.

Sincerely,

Amy O'Brien

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