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Vanessa A. Countryman, Secretary
U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090

*Submitted electronically through sec.gov*

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

The Humane Society of the United States ("HSUS"), the nation's largest animal protection organization, submits the following comments in response to the Security and Exchange Commission's ("SEC" or the "Commission") request for comments regarding its proposed amendments to Regulation S-K Items 101, 103, and 105.[1]

For decades, HSUS has helped companies across industries (e.g., food, pharmaceutical, and clothing) address animal welfare issues that impact and are impacted by their businesses. HSUS is a shareholder of many of the largest companies in these industries. Part of our engagement with major corporations has included using, at times extensively, shareholder advocacy processes. Most often, we have used the process to request disclosure on certain risks that companies may face as a result of animal abuse in their supply chain. As consumer attitudes toward the use of animals by industry have changed in recent decades—such that a great many consumers now actively seek products and services that align with their own values about animal care—this type of disclosure has become increasingly important. Investors are keenly aware of these consumer trends, and their effect on companies' profitability and are therefore trending toward seeking investments in companies that truly prioritize sustainability and animal welfare. Many companies are now quick to make sustainability and animal welfare disclosures on their own, while for others, it has helped to engage shareholders.

As such, HSUS is encouraged by the SEC's initiative in responding to the disclosure issues that exist today by proposing to modernize its disclosure requirements under Regulation S–K to ensure that investors receive the information they need and that businesses are able to effectively and efficiently provide it. After reviewing the Commission's proposed amendments to Regulation S–K Items 101, 103, and 105, HSUS submits the following comments for consideration.

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[1] *Modernization of Regulation S–K Items 101, 103, and 105*, Release No. 33-10668 (Aug. 8, 2019) [84 FR 44358, 44368–69 (Aug. 23, 2019)] (the "Release").

## I. Revising Items 101(a), 101(c), and 105 to emphasize a "principles-based" approach to disclosure requirements will elicit more specific and relevant information for investors.

In the Release, the Commission emphasizes that the major theme of its proposed amendments to Regulation S–K is a move away from "prescriptive" disclosure requirements to more "principles-based" disclosure requirements instead. The Commission reasons this change will encourage registrants to more efficiently tailor their disclosures to address factors that uniquely affect their businesses in ways that are particularly material to current and potential investors. As the Commission notes, "prescriptive" disclosure requirements can become outdated and irrelevant as cultures, industries, and investor practices change over time. Adopting a "principles-based" approach to disclosure requirements, the Commission reasons, allows registrants to use their reasonable judgment to respond and adjust to the changing environment. This allows companies to provide information to investors that is material, without requiring investors to review long disclosures that contain too much information that is immaterial and irrelevant. By encouraging a "principles-based" approach in place of prescriptive requirements that limit discretion, businesses are free to tailor their disclosures to provide all material information while limiting information that may be "irrelevant, outdated or immaterial." This tailoring, the Commission notes, will lead to shorter, more concise, yet pertinent disclosures which will be easier for investors to read and absorb, and will save time for businesses creating them.

HSUS agrees that a move to a more "principles-based" approach to disclosure requirements under Regulation S–K will improve disclosure quality for investors and simplify compliance for registrants. As seen from past experience this move is desperately needed. Previously, in 2010, the Commission issued guidance to registrants on how to evaluate climate change risks when considering what information to disclose to investors under Regulation S–K.[1] To date, however, most companies have responded by adopting boilerplate disclosure forms that merely track bare formulaic requirements without providing specificity relating to how climate risks affect their businesses in particular.[2]

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[1] *See Commission Guidance Regarding Disclosure Related to Climate Change*, Release No. 33–9106 (Feb. 8, 2010) [75 FR 6290 (Feb. 8, 2010)].

[2] *See* Robyn Bishop, *Investing in the Future: Why the SEC Should Require a Uniform Climate Change Disclosure Framework to Protect Investors and Mitigate U.S. Financial Instability*, 48 ENVIRONMENTAL LAW 491, 501 (2018), available https://law.lclark.edu/live/files/26719-48-3bishop ("under the current system, the companies that do address climate change do so with varied attention to detail. … [M]any companies that do have significant exposure to climate change, like oil and gas companies, currently include a boilerplate disclosure recognizing climate change as a risk, but say nothing about its impacts on a particular business. Most boilerplate disclosures include generic statements about how greenhouse gas emissions can "reduce demand for fossil energy derived products" and "increase the demand for less carbon-intensive energy sources" without making any specific reference to how those statements might affect the company itself or the value of its assets") (citing Katie Wagner, *Companies' Climate Change Disclosure Could Be Better*, Agenda Wk. (Sept. 24, 2012), https://perma.cc/CDY9-TE8T); *see also id.* at 510 ("[A] 2014 [study] found . . . , of the approximately 70% [of companies that said they face climate risk], only 15% used metrics, and approximately 40% used boilerplate language[,] [showing] companies need guidance in

As the nation's largest animal protection organization, HSUS, on behalf of itself as an organization and on behalf of its members, has a strong interest in the SEC adopting effective regulations to ensure that businesses effectively disclose to investors how their business activities' impacts on animals materially affects, or materially risks, affecting their businesses economically.[3] This includes disclosing material effects or material risks stemming from companies' animal welfare policies and practices and their sustainability policies and practices—including those related to the production of farmed animals and the production of other commodities, such as palm oil. Such activities can result in significant habitat destruction for vulnerable species and enhance negative effects on climate.[4] It is in HSUS's interest, as well as the interest of the Commission, that investors efficiently be made aware of companies engaging in inhumane and unsustainable practices, which are likely to have material effects on the company's bottom line, so that investors can respond to this information, ensuring securities markets function as designed. Accordingly, HSUS agrees with the Commission that emphasizing a "principles-based" approach to disclosure would be an improvement.

## II. Revising Item 101(c) to include "material government regulations," not just environmental laws, as a required topic under regulatory compliance disclosures wisely broadens the scope of these disclosures, however, the Commission should further amend the language of Item 101(c) to define "environmental regulations" and to include animal-welfare and wildlife regulations.

Currently, Item 101(c) requires a registrant to disclose "the material effects that compliance with Federal, State and local provisions . . . relating to the protection of the environment, may have upon the capital expenditures, earnings and competitive position of

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this area. The SEC discourages boilerplate language, and many companies remain unsure about what information to include, if they are subject to any risk at all, or simply do not wish to disclose climate risk at all.") (citing Disclosures, Phase I Report of the Task Force on Climate-Related Financial Disclosures 17 (2016), https://perma.cc/X27G-Y6ZA; SEC Concept Release No. 33-10064, 34-77599, S7-06-16 at 21 (Apr. 13, 2016), https://perma.cc/H624-X5QM; Sustainability Accounting Standards Bd., Business and Financial Disclosure Required by Regulation S-K – The SEC's Concept Release and Its Implications 1, 4, 13, https://perma.cc/AE5E-7LMQ; Commission Guidance Regarding Disclosure Related to Climate Change, 75 Fed. Reg. 6,290, 6,296 (Feb. 8, 2010) (to be codified at 17 C.F.R. pts. 211, 231 & 241)); *see generally* Anne Beatty et al., *Sometimes Less is More: Evidence from Financial Constraints Risk Factor Disclosures (*Mar. 2015), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2186589 (arguing that as litigation risk increased during and after the 2008 financial crisis, registrants were more likely to disclose immaterial risks, resulting in a deterioration of disclosure quality).

[3] For support for the proposition that "business activities' impacts on animals materially affects or materially risks affecting their businesses economically" in ways reasonable investors would find material, *see infra* note 14.

[4] *See, e.g.*, Meijaard, E. et al., *Oil palm and biodiversity. A situation analysis by the IUCN Oil Palm Task Force*, IUCN Oil Palm Task Force Gland, Switzerland: IUCN (2018), available https://portals.iucn.org/library/sites/library/files/documents/2018-027-En.pdf; *Special Report on Climate Change and Land*, Intergovernmental Panel on Climate Change (Aug. 2019), available https://www.ipcc.ch/report/srccl/.

the registrant and its subsidiaries."[5] In its Release, the Commission proposes amending Item 101(c) to broaden the scope of the regulatory compliance requirement by providing that companies must report the potential material effects of compliance with any government regulation, including foreign government regulations, that could impact their business rather than report only the potential material effects of compliance with a subset of government regulations, namely domestic regulations "relating to the protection of the environment." The Commission proposes the following language for the corresponding portion of an amended Item 101(c): "[Registrants shall disclose] [t]he material effects that compliance with *material government regulations, including environmental regulations*, may have upon the capital expenditures, earnings and competitive position of the registrant and its subsidiaries."[6]

HSUS agrees with the Commission that amending the text of Item 101(c) to broaden the scope of mandatory regulatory compliance disclosures beyond only the impacts of "environmental" regulations helps ensure that registrants provide the most relevant information to investors that gives them a "more complete understanding of business."[7] As the Commission notes,[8] and as common practice indicates,[9] many regulations that are not "environmental" affect businesses that register with the SEC in ways that reasonable investors would want to be aware of and would generally consider important in making their investment decisions. Of particular interest to HSUS, animal-welfare regulations and regulations on wildlife are examples of regulations that are not always explicitly "environmental," yet can have material impacts on businesses registering with the SEC. As numerous studies demonstrate,[10] businesses' compliance or failure to comply with animal-welfare and wildlife regulations affect businesses in ways that are material to their investor's interests. Therefore, because this proposed change to Item 101(c) broadens the scope of mandatory regulatory compliance disclosures to include including the material effects of compliance with animal-welfare and wildlife regulations, HSUS supports it.

However, while HSUS generally supports this amendment to Item 101(c) as proposed, HSUS suggests further improving this amendment by adding language to Item 101(c) to (1) clarify the scope of what is meant by the term "environmental regulations," and (2) include "animal-welfare," and "wildlife" regulations explicitly in the regulation to serve as examples of types of government regulations that might be considered "material." As such, HSUS proposes the following language for Item 101(c) (17 CFR 229.101(c)(2)): "(2) Discuss . . . (i) The material effects that compliance with material government regulations, *including, but*

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[5] 17 CFR 229.101(c)(1)(xii).

[6] Proposed Item 101(c)(2)(i). The Release notes that, "despite the repetition of materiality within this topic in relation to both effects of compliance and government regulations, [the Commission] do[es] not foresee any circumstances whereby a registrant could determine there are material effects from compliance with a government regulation, but that the government regulation itself is not material to the registrant's business taken as a whole." *See* Release, *supra* note 1, at 44369 n. 160.

[7] *See* Release, *supra* note 1, at 44369.

[8] *Id.* at 44368 (noting that, "[a]lthough not required by Item 101(c)," it is already the "current practice" of "many registrants" to voluntarily "discuss [the impact] of [non-environmental] government regulations relevant to their business.")

[9] *See id.* at 44368–69.

[10] *See infra* note 14.

*not limited to, environmental regulations—which includes, but is not limited to, regulations relating to climate change, animal-welfare, and/or wildlife*, may have upon ...."[11]

The Commission should adopt such language for several reasons. First, the term "environmental regulations" is broad and may be construed in ways that are inconsistent with the intention of the SEC. Adding HSUS's proposed language would help address this problem by providing registrants with terms that flesh out the meaning of the term "environmental" in this context and indicating the breadth and variety of the types of regulations that may be considered "environmental." Furthermore, adding this language appropriately emphasizes "environmental" regulations should be considered broadly in light of the overall goal of the proposed amendment, which, as the Commission recognizes, is to broaden the scope of government regulations considered under this provision.

Second, affirmatively including animal-welfare and wildlife regulations in Item 101(c) will direct registrants' attention to the importance of these regulatory categories, causing more registrants to make more disclosures on these topics which are often material to investment decisions. While the Commission's proposed amendment, as is, already requires registrants to disclose information relating to *any* government regulation to the extent it is "material," the explicit mention of a topic raises awareness and directs the attention of registrants to the issue. In practice, this increased awareness, as the Commission implicitly recognizes in its Release, [12] results in more disclosures being made.

Of course, a business' compliance or non-compliance with animal-welfare and wildlife regulations *is* material to investment decisions. Studies have shown that today's consumers and investors care about the humane and sustainable practices of a business, and a business' failure to comply with regulations that require the humane treatment of animals and wildlife can, and does, lead to consumer backlash and negative effects on the business' stock price.[13]

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[11] Alternatively, HSUS proposes that the Commission issue general guidance or industry-specific guidance to those industries that are known to have large impacts on wildlife and animal welfare issues to clarify that businesses *should* contemplate animal-welfare and wildlife regulations, among others, when identifying regulations that have "material" impacts on them. As shown, climate change, sustainability, animal welfare, and wildlife regulations generally impact businesses in ways that are "material" to investors across industries. However, businesses in the agriculture and farming industries, or businesses that significantly rely on these industries, are particularly affected.

[12] In the Release, the Commission recognizes that, despite language in the regulation that disclosure of listed topics was required only if it was material, simply listing topics in the regulation led registrants to consider and disclose information on that topic. *See supra* note 1, at 44364 ("Item 101(c) currently provides that a registrant must disclose the enumerated items to the extent material to an understanding of the registrant's business taken as a whole. Based on the comments received that were critical of this provision, it appears, however, that many registrants may interpret Item 101(c) as requiring disclosure of each enumerated item, even if it is not material."); *see also id.* at 44365 (deciding to keep certain enumerated topics under Item 101(c) because "highlighting these topics should elicit more informative disclosures.")

[13] *See, e.g.*, Anthony Fletcher, Pilgrim's Pride Pays Price for Poultry Plant Scandal, FOOD QUALITY NEWS (Jul. 19, 2008, 14:44 GMT),

Thus, more disclosures on these topics furthers the Commission's interest in ensuring that registrants provide all material information to investors.

Although "prescriptive"-type lists of required disclosures can result in non-tailored, boilerplate disclosures, our proposed language above is neither overly "prescriptive" nor disrupts a "principles-based" approach to Item 101(c). The fact that the additional references to climate change, animal welfare, and wildlife regulations follow the term "material government regulations," and the subordinating language "including, but not limited to," makes clear that the focus of the provision is broad and extends to any "material government regulation." These additions serve only as examples under a "principles-based" scheme, not as items in a "prescriptive" checklist.

**III. Revising Item 105 by changing the risk disclosure standard from "most significant" to "material" will elicit information from registrants that investors need to make informed investment and voting decisions.**

In the Release, the Commission proposes to "update Item 105 to replace the requirement for registrants to discuss the 'most significant' risks with a requirement to

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https://www.foodnavigator.com/Article/2004/07/27/Pilgrim-s-Pride-pays-price-for-poultry-plant-scandal (detailing the response to the release of an investigation illuminating animal abuses by Pilgrim's Pride which resulted in the company's share prices falling by 10.4%); *Factory Farming: Assessing Investment Risks: 2016 Report 3*, FARM ANIMAL INVESTMENT RISK AND RETURN, *available* http://www.fairr.org/wp-content/uploads/FAIRR_Report_Factory_Farming_Assessing_Investment_Risks.pdf (noting the "most obvious" risks (among many) are "the short-term risks such as the threat of a reputational or regulatory backlash against any investee company involved in factory farming and shown to have poor ESG [(environmental, social and governance)] (including animal welfare) standards."); Glynn T. Tonsor and Nicole J. Olynyk, "U.S. Meat Demand: The Influence of Animal Welfare Media Coverage," Kansas State University, September 2010, 2, http://www.mercyforanimals.org/files/Kansas_State_Media.pdf (detailing a 2010 Purdue and Kansas State University study examining grocery store sales of beef, pork, and poultry before and after extensive news coverage of an animal welfare scandal, and concluding, "[a]s a whole, media attention to animal welfare has significant, negative effects on U.S. meat demand"); Glynn T. Tonsor, "Impacts of Animal Well-Being & Welfare Media Coverage on Meat Demand" (PowerPoint presentation, AMI Animal Care & Handling Conference, Kansas City, Missouri, Oct. 19, 2011), https://www.agmanager.info/sites/default/files/AMI_AnimalCareHandling_10-19-11.pdf (reviewing data and research to conclude animal welfare impacts demand for meat products); Factory Farming: Assessing Investment Risks: 2016 Report 24, Farm Animal Investment Risk and Return, available http://www.fairr.org/wp-content/uploads/FAIRR_Report_Factory_Farming_Assessing_Investment_Risks.pdf ("[c]ompanies implicated in poor animal welfare scandals may face severe reputational damage and consumer boycotts."); *Business and Financial Disclosure Required by Regulation S-K*, 81 Fed. Reg. 23, 916 (proposed Apr. 22, 2016) (codified at 17 C.F.R. pts. 210, 229, 230, 232, 239 & 249) (recognizing that climate change risk factors can affect businesses' reputations).

discuss only 'material' risks."[14] "Material" risks in this context are defined as risks "to which there is a substantial likelihood that a reasonable investor would attach importance in determining whether to purchase . . . securit[ies]" of that company.[15] Currently, Item 105 directs registrants to disclose only the "most significant factors that make an investment in the registrant or offering speculative or risky."[16] Proposed Item 105, on the other hand, would direct registrants to disclose "the material factors that make an investment in the registrant or offering speculative or risky."[17]

Although the plain language suggests "material" would be a lower standard for disclosure than a "most significant" standard, the Commission curiously notes that this change "could . . . *reduce* the amount of risk factor disclosure that is not material and potentially *shorten* the length of the risk factor discussion."[18] This discrepancy, however, can be explained without refence to which standard is more stringent, but instead by recognizing that the standards are different in nature. While a "most significant" standard involves the registrant using its judgment to determine which factors it believes are most significant to making its stock "speculative or risky," a "material" standard involves the registrant using its judgment to determine which factors "*a reasonable investor* would attach importance [to] in determining whether" the registrant's stock is "speculative or risky." In fact, the Commission notes in the sentence immediately preceding its observation, that this change could result in reducing the length of disclosures, that the amendment is meant "to focus registrants on disclosing the risks *to which reasonable investors would attach importance* in making investment decisions." So, presumably, the mentioned potential "reduction" or "shortening" in disclosures would be the result of the difference in natures of the standards, not because a "material" standard is more stringent.

As such, HSUS supports this proposed change in standard to the extent it focuses registrants' decision to disclose information on what reasonable investors believe is relevant. As mentioned above, numerous studies have shown that a business' failure to adopt and sustain humane and sustainable practices, and the negative press and backlash associated with that failure, present risks that are material to investment decisions.[19] Under the prior "most serious" standard, registrants who failed to adopt or implement humane or sustainable practices, under the plain language of the regulation, *may* have had discretion to not disclose these failures despite an awareness that a reasonable investor would likely consider this information important, if it nonetheless concluded that these factors were not the *most* significant in making its stock speculative or risky. HSUS supports the proposed amendment, because changing the standard from "most serious" to "material" removes this discretion and puts the onus on registrants to recognize the growing awareness that failures to adopt and

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[14] *See* Release, *supra* note 1, at 44360.
[15] *See* 17 CFR 230.405 ("The term *material,* when used to qualify a requirement for the furnishing of information as to any subject, limits the information required to those matters to which there is a substantial likelihood that a reasonable investor would attach importance in determining whether to purchase the security registered.").
[16] § 229.105.
[17] *See* Proposed Item 105.
[18] *See* Release, *supra* note 1, at 44376 (emphasis added).
[19] *See supra* note 14.

implement humane and sustainable practices generally present risks that are material to reasonable investors.

**IV. Revising Item 103 by changing the $100,000 threshold for required disclosure of environmental proceedings to which the government is a party to $300,000 undermines the Commission's overarching goal of providing the information to investors they need to make "informed investment and voting decisions."**

In the Release, the Commission proposes amending Item 103 to raise the threshold dollar value requiring disclosure of environmental proceedings against the registrant to which the government is a party from $100,000 to $300,000. The Commission notes that the primary reason for this amendment is to adjust this dollar value for inflation as the current $100,000 value was set in 1982.[20] Proposed Item 103(c) would read: "[D]isclosure under this section shall include . . . (3) [a]dministrative or judicial proceedings . . . (iii) [to which] [a] governmental authority is a party . . . [and which] involve[] potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result . . . in monetary sanctions, exclusive of interest and costs, of less than $300,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically."[21]

The Commission notes in the Release that it "believe[s] that a disclosure threshold based on the imposition of a governmental fine is appropriate" because, on the one hand, these disclosures help investors "in assessing a registrant's environmental compliance," but, on the other, not all minor proceedings should be required to be disclosed, and setting a threshold value "provides a useful benchmark for registrants, when determining whether a particular environmental proceeding, which can be factually and legally complex, should be disclosed."[22] However, adjusting a threshold value that is arbitrary and does not actually reflect a clear division between environmental proceedings that pose a material risk to businesses and those that don't only to account for inflation runs contrary to the Commission's overarching goal in passing Regulation S–K of "provid[ing] the information that investors need to make informed investment and voting decisions."

HSUS instead suggests maintaining the threshold dollar value at its current value of $100,000 or adjusting the value to reflect an actual data-driven dollar value that more accurately represents a division between environmental proceedings that pose material risks to businesses and those that do not. Furthermore, HSUS suggests eliminating entirely the requirement that the government be a named party to the action.

The current threshold is based on companies' judgements about the potential for monetary sanctions at the end of proceedings. Monetary sanctions, however, represent a limited way of assessing the risk any given proceeding presents to a business that is involved in the proceeding. First, as a matter of empirical data, this threshold is not effective in triggering required disclosure for potential legal proceedings which represent material risks

[20] *See* Release, *supra* note 1, at 44374.
[21] Proposed Item 103(c)
[22] *See* Release, *supra* note 1, at 44374.

to businesses.[23] And second, regardless of sanctions, news of environmental proceedings against a business and the facts and allegations underlying those proceedings can significantly harm a business' reputation and lower its stock price, presenting a potentially substantial material risk to the business.[24] Third, given the complex nature of many proceedings and the likely resolution of settlement, it is unclear to what degree registrants can unfairly limit disclosure of proceedings based on arbitrary classifications of what are and what are not "monetary sanctions."[25] Take for example a situation in which a business agrees to a settlement in which, as part of the deal, it agrees to make donations to certain third parties or agencies, or it agrees to take certain costly remedial actions to correct the issue. These proceeding outcomes would obviously affect the economic bottom line of the business, but the business, if it reasonably believes it can resolve the proceedings with these outcomes in a settlement, may define them as either not "monetary" or not properly "sanctions," and therefore decline to disclose the proceeding at all.

Furthermore, limiting mandatory disclosure to proceedings in which the government is a party is a narrow standard that overly limits the amount of proceedings that would have to be disclosed under this provision. As countless examples show (1) many registrants are outside of a jurisdiction in which the U.S. government could bring environmental proceedings against them, and (2) civil legal action against businesses is much more responsive to the actions of businesses than the government and thus provides a better metric for investors to assess material risk to a business.[26] For example, many businesses involved in the production of animal products, which is linked to significant climate change impacts, are outside the United States. While these companies can register with the SEC, the U.S. government is very unlikely to initiate environmental proceedings against these companies resulting in monetary penalties.

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[23] *See, e.g.*, U.S. ENVTL. PROT. AGENCY, OFFICE OF THE INSPECTOR GEN. FOR AUDIT, FINAL REPORT NO. 2001-P-00013, STATE ENFORCEMENT OF CLEAN WATER ACT DISCHARGERS CAN BE MORE EFFECTIVE i–ii (Aug. 14, 2001), https://www.epa.gov/sites/production/files/2015-12/documents/finalenfor.pdf (documenting ineffective government enforcement of environmental noncompliance); U.S. DEP'T OF HEALTH AND HUMAN SERVS., OFFICE OF INSPECTOR GEN., REPORT IN BRIEF, REPORT NO. OEI 02-14-00420, CHALLENGES REMAIN IN FDA'S INSPECTIONS OF DOMESTIC FOOD FACILITIES (Sept. 2017), https://oig.hhs.gov/oei/reports/oei-02-14-00420.pdf ("FDA did not always take action when it uncovered significant inspection violations—those found during inspections classified as 'Official Action Indicated' (OAI). When it did take action, it commonly relied on facilities to voluntarily correct the violations."); U.S. DEP'T OF AGRIC., OFFICE OF INSPECTOR GEN., AUDIT REPORT 24601-0002-21, EVALUATION OF FOOD SAFETY AND INSPECTION SERVICE'S EQUIVALENCY ASSESSMENTS OF EXPORTING COUNTRIES, "WHAT OIG FOUND" (Sept. 27, 2017) https://www.usda.gov/oig/webdocs/24601-0002-21.pdf (documenting inadequate enforcement, and therefore no or lax assessment of monetary penalties, of FSIS for food safety violations).

[24] Compare, *e.g., supra* note 14.

[25] *See, e.g., supra* note 24.

[26] *See, e.g.*, *Center for Biological Diversity and Food & Water Watch v. Swift Beef Co.*, No. 1:19-cv-01464 (D.Colo.,2019) (citizen suit against of US subsidiary of Brazilian company, JBS SA, for ongoing and continuing violations of the Clean Water Act).

## V. Conclusion

HSUS supports many of the Commission's proposals outlined in its Release but believes there are additional areas for improvement. HSUS has a strong interest in the SEC adopting effective amendments to Regulation S–K that ensure investors efficiently receive the information they need to make informed investment decisions. As such, HSUS generally supports the Commission's move to emphasize a "principles-based" approach to disclosure requirements as it agrees with the Commission that this change has the potential to elicit more specific and relevant information from registrants. Additionally, HSUS supports the Commission's proposals to broaden the scope of Item 101 government compliance disclosures (despite the fact HSUS believes and maintains such an amendment would be improved by explicit reference to "climate change," "animal-welfare," and "wildlife" regulations in the relevant provision) and change the standard for Item 105 risk factor disclosures as it believes these changes will both elicit more information from registrants that investors need to make informed investment and voting decisions. HSUS, however, does not support the Commission's proposed amendment to Item 103 to raise the threshold dollar value from $100,000 to $300,000, to adjust for inflation. Instead, HSUS believes the Commission should refrain from amending the threshold value or should conduct a survey to empirically determine a threshold value that accurately represents a distinction between environmental proceedings that do and do not present a material risk to companies, and should further eliminate the requirement under the provision that the U.S. government be a party to the action. Only with these modifications will an amendment to Item 103 provide investors with the information they need to make informed investment and voting decisions.

Sincerely,

/s/ *Laura J. Fox*

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*JO/LJF*