US SIF

The Forum for Sustainable and Responsible Investment

October 22, 2019

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

Via online at https://www.sec.gov/cgi-bin/ruling-comments

Re: Proposed rule on Modernization of Regulation S-K Items 101, 103, and 105, Release Nos. 33-10668; 34-86614; File No. S7-11-19

Dear Ms. Countryman:

US SIF: The Forum for Sustainable and Responsible Investment (US SIF) welcomes the opportunity to comment on the "Modernization of Regulation S-K Items 101, 103, and 105" proposed rule ("Proposed Rule") Release Nos. 33-10668; 34-86614; File No. S7-11-19.

US SIF is the leading voice advancing sustainable, responsible and impact investing across all asset classes.[1] Our mission is to rapidly shift investment practices toward sustainability, focusing on long-term investment and the generation of positive social and environmental impacts. Our membership represents more than $3 trillion in assets under management.

Our comments focus on the disclosure of human capital resources information under Line-Item 101(c) and the need for a comprehensive framework for the disclosure of environmental, social and governance information and concerns about relying on a principles-based disclosure system.

Human Capital Resources (Questions 21-24)

Including human capital disclosures in line item 101(c) is welcome.[2] US SIF included several recommendations about human capital practices in our comment letter[3] for the Regulation S-K Concept Release in 2016 and are restated here:

> We strongly support that the Commission require registrants to distinguish among their total number of persons employed, such as distinguishing between:
>
> - full-time and part-time or seasonal employees;
> - employees and independent contractors; and
> - domestic and foreign employees.

[1] https://www.ussif.org

[2] Proposed rule on Modernization of Regulation S-K Items 101, 103, and 105, Release Nos. 33-10668; 34-86614; File No. S7-11-19

[3] US SIF comment letter, "Business and Financial Disclosures Required by Regulation S-K": Concept Release No. 33-10064; 34-775599; File No. S7-06-16. https://www.sec.gov/comments/s7-06-16/s70616-107.pdf

In a global economy with increased outsourcing, comprehensive information about a company's employment practices is material to investors. For example, in the global retail industry, part-time and seasonal workers represent a significant portion of a company's workforce. There may be higher risks for human rights violations, worker health and safety problems and labor relations concerns where there are more part-time and seasonal workers. Disclosure of the types of workers provides investors with information about any potential workforce and supply chain risks. The exclusion of non-US and non-full-time employees would give an incomplete picture of a registrant's practices.

Regarding additional disclosures about a registrant's human capital practices, we support sustainability-related disclosures, including, but not limited to, the following items below. We believe that these items are potentially material at *any* company, as all companies have workforces and supply chains.

a. Diversity information – Diversity is critical for a well-managed company, and the business case for diversity is well-established by companies and investors alike. Diversity information is material to investors. Employee disclosure should include, at minimum, gender, race and ethnicity.

b. Gender pay equity information – We regard gender pay inequality as a material risk to investors and ask the Commission to require the registrants to disclose gender pay ratios on an annual basis. We firmly support that "pay equity is a useful and material indicator of well-managed, well-governed companies, and conversely, that companies exhibiting significant gender pay disparities may bear disproportional risk, and that investors, therefore, may benefit from having such information." [4]

c. Outsourcing and subcontracting arrangements – As outsourcing and subcontracting have become more prevalent, especially with global supply chains operating in countries or regions where working conditions may be challenging, investors need additional information about a registrant's outsourcing or subcontracting arrangements. Investors need information to assess investment risks in outsourcing and subcontracting arrangements, such as those made clear in the Rana Plaza garment factory collapse in Bangladesh in 2013 with a death toll of over 1,100 people. Similarly, investors need information on issues such as child labor, human trafficking and violence against women workers, which are not uncommon in the global supply chain.

   Information on outsourcing and subcontracting would be most useful in the context of the description of the registrant's business, disclosure about trends and developments affecting operational results and in a discussion of risk and risk management. Thus, we would encourage a set of questions asking the

[4] Letter to the SEC by Pax Ellevate Management LLC, February 1, 2016.

company to disclose how it oversees its outsourcing and subcontracting related to health, safety, human rights, and the process it follows to audit this information and seek remediation.

In addition, we support requiring disclosure of the Employment Information Report EEO-1, as proposed by Trillium Asset Management.[5]

Comprehensive ESG Disclosure Framework is Needed

We strongly encourage the SEC to establish a comprehensive framework for environmental, social and governance information rather than taking on issues one by one.

Disclosure of environmental, social and governance (ESG) information is essential to ensuring transparency and accountability in our capital markets. The breadth of investors in the United States who are incorporating ESG issues into investment decisions extends well beyond US SIF members. The US SIF Foundation's *Report on US Sustainable, Responsible and Impact Investing Trends 2018* found that US-domiciled assets under management using sustainable investment strategies grew from $8.7 trillion at the start of 2016 to $12.0 trillion at the beginning of 2018, an increase of 38 percent.[6] The money managers who responded to the report's survey cited client demand, fiduciary duty, desire to minimize investment risk and their desire to improve financial returns and generate social benefit as the leading reasons for considering ESG factors.[7]

US SIF has been a leading advocate for ESG disclosure since 2009 when we, along with scores of other investors, sent a letter petitioning the SEC to initiate a rulemaking to create a comprehensive ESG disclosure framework.[8] The letter asked that the SEC to:

1. mandate that companies report annually on a comprehensive set of sustainability indicators comprised of both universally applicable and industry-specific components and;
2. issue interpretative guidance to clarify that issuers are required to disclose short- and long-term sustainability risks in the Management Discussion and Analysis section of the 10-K (MD&A).

Although some public companies are voluntarily producing "sustainability reports" designed to explain how they are addressing ESG risks and opportunities and creating long-term value for shareholders, there are substantial problems with the nature, timing, comparability and extent of these voluntary disclosures. Also, voluntary reporting leads to significant data gaps, especially among medium- and small-sized companies.

Investor efforts to comprehensively incorporate ESG information into investment decisions are hindered by a lack of comprehensive, comparable and reliable data. The voluntary nature of

[5] Comment, Trillium Asset Management, September 4, 2019. https://www.sec.gov/comments/s7-11-19/s71119-6067407-191464.pdf
[6] *Report on US Sustainable, Responsible and Impact Investing Trends 2018* US SIF Foundation, Washington, DC. www.ussif.org/trends
[7] Ibid, p. 28, fig. 2.13
[8] https://www.ussif.org/files/Public_Policy/Comment_Letters/SIF_SEC_ESG_Disclosure_Policy_Letter_and_Submission%2008142009.pdf

corporate sustainability reporting means that the information available to investors remains inconsistent and incomplete.

There is a need to develop a comprehensive framework to help ensure that companies report more consistent, complete and comparable information relevant to their long-term risks and performance.

Principles-Based Disclosure

The Commission states in the Proposed Rule for Line Item 101(c) that it proposes to "emphasize a principles-based approach" rather than a combination of line-item reporting and principles-based system. The principals-based only approach affords management a great deal of leeway to determine what may be relevant information to disclose to investors. This creates challenges to comprehensiveness and comparability of the reported data.

A combination of line-item reporting and principles-based reporting benefits investors more. Line-item disclosure requirements, such as requiring EEO-1 reports to be dislcosed as mentioned above, are appropriate for sustainability issues and are necessary to meet investor needs for concrete and comparable disclosures.

Conclusion

Thank you for taking our views into consideration and for the opportunity to comment. If you have any questions regarding the contents of this letter, please contact me directly at [redacted].

Sincerely,

Lisa N. Woll
CEO