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May 10, 2010

The Honorable Mary L. Schapiro, SEC Chairman
SEC Investor Advisory Committee Members
c/o Elizabeth M. Murphy
Federal Advisory Committee Management Officer
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: File No. 265-25-04, SEC Investor Advisory Committee Meeting

Dear Chairman Schapiro and Investor Advisory Committee Members:

Thank you for the opportunity to submit comments in advance of the fourth meeting of the SEC Investor Advisory Committee on May 17, 2010. We also thank Chairman Schapiro for her superb leadership, and we commend the Commission for issuing SEC Interpretive Release 33-9106, with its excellent guidance and synopsis of recent U.S. market and regulatory developments. However, for the reasons discussed below, we believe the Commission has an obligation to further assess and address mandatory corporate ESG disclosure requirements with more scope, depth, precision, and structure, and that time is of the essence in the development of a comprehensive ESG financial disclosure and reporting framework.

We believe the SEC Investor Advisory Committee can provide valuable input and guidance to the Commission in the development of this framework. Our comments are directed in particular to the Investor as Owner Subcommittee of the SEC Investor Advisory Committee.

CSR Insight™ LLC is an independent, non-partisan, internally funded advisory firm focused exclusively upon analysis of global Sustainability Regulation, Metrics, and Public Policy. We seek to facilitate the global ESG financial regulatory policymaking process and the participation of all market sector electorates. Toward this end, we publish three semiannual reports: the CSR Insight™ Regulatory Report, the CSR Insight™ Metrics Report, and the CSR Insight™ Reference Guide.

Our comments herein are based in large part upon the findings of our three-year Global Sustainability Regulation and Metrics Research Program (2007-2010). This research program gave special emphasis to study of the U.S. and EU financial regulatory regimes and G-20 mandates, and analysis of how to address ESG issues and risks within these existing regulatory structures and directives. We also examined (1) securities, accounting, environmental, and stock exchange regulatory requirements internationally; (2) non-regulatory global reporting frameworks and investment metrics developed by the private and public sectors, NGOs, U.N. agencies, and other multilateral organizations; (3) the systemic forces causing the global sustainability crisis; and (4) market trends impacting sustainability regulation, reporting, and investment. These analyses are contained in part in the ***CSR Insight™ Report, January 2010***, which can be accessed and downloaded at http://www.csr-insight.com/uploadedFiles/CSRI_Report/Complimentary_Issue/CSRI-Rprt-Jan2010.pdf.

We believe that corporate ESG financial disclosure requirements globally will go through three progressive development phases:

- Phase 1—ESG "Material Risk" Disclosure: Financial disclosure requirements are based upon a "materiality" qualifier, as in current SEC regulation, with an emphasis upon climate change and environmental issues; and are established and enforced at the national and EU levels.

- Phase 2—ESG Metrics Disclosure: Financial disclosure requirements cover a broad range of ESG issues and incorporate detailed KPIs; national environmental, social, and trade standards; and international industry standards and conventions; and are established and enforced at the national and EU levels. Also, national and international accounting standards begin to address and close the current gaps in accounting standards which allow inconsistent and inaccurate reporting of ESG risks, liabilities, and contingencies.

- Phase 3—Global Harmonization of ESG Financial Disclosure: Financial disclosure requirements covering a broad range of ESG issues and incorporating detailed metrics are harmonized internationally, with consistent policies, standards, terminology, definitions, and metrics; and are enforced at the national level.

We believe it is clear that the sooner we get to Phase 3, the higher the probability that we can prevent an impending global economic and financial system collapse resulting from planetary ecosystem degradation.

Our comments consist of four main points, set forth below.

I. SEC Assessment of Investor Protection Responsibility Re: Global Sustainability Risks

We believe it is clear, based upon the weight of scientific evidence, and numerous studies and reports published by a broad range of economic, scientific, and other technical experts from various intergovernmental agencies, that our planetary ecosystem degradation has shifted into full gear, and that global sustainability risks, with their unprecedented magnitude, scale, severity, and consequential impacts, represent a clear and present danger to the safety and soundness of our global financial and economic systems. We thus believe the SEC should carefully assess and scrutinize its investor protection responsibility in this unprecedented market and risk environment, and to assume a responsible and lead role in helping to prevent an impending global economic and financial system collapse.

The recent hearings by the Financial Crisis Inquiry Commission have focused in large part upon the failure of the current U.S. and global financial systems to adequately identify, anticipate, assess, and manage critical financial systemic risks. This wake-up call should spur our U.S. and global financial regulators, including in particular the SEC, to give immediate and adequate attention to (1) defining and assessing our global sustainability risks and their known and probable impact upon our global economic and financial systems; and (2) determining the scope and detail of corporate ESG financial regulatory disclosures necessary to adequately protect investors and provide full and fair disclosure.

Investor protection now depends upon the ability and capacity of both financial regulators and companies to identify, anticipate, assess, measure, and manage not just financial risks and climate change risks, but a comprehensive range of highly consequential and escalating global ESG risks (described in detail below). Further, the financial regulatory capacity to properly address these risks depends to a large extent upon sufficiently detailed and comprehensive corporate disclosure.

There is ample evidence that voluntary sustainability disclosure cannot ensure the standards of organizational rigor necessary for comprehensive sustainability risk identification and quantification, nor the consistency and comparability of sustainability data disclosure necessary to fulfill the needs of prudent capital providers.

A higher standard and broader scope for corporate ESG risk financial disclosure will protect investors not only by helping them make informed investment and voting decisions, but also by facilitating both corporate ESG risk reduction and planetary risk reduction. Specifically, this more detailed and comprehensive mandatory ESG financial disclosure (1) will force public companies to fully acknowledge, define, assess, measure, and manage these risks within their enterprise risk management systems and thus help them mitigate enterprise risks and encourage pursuit of ESG opportunities; and (2) will change unsustainable corporate behavior, thus mitigating further planetary ecosystem degradation; and (3) will force credit rating agencies to incorporate detailed and comprehensive assessment of ESG risks into their current rating systems, thus providing investors with more accurate information and protection.[1]

II. SEC Definition of Global ESG Risks and Disclosure Standards

In the SEC Investor Advisory Committee Meeting Briefing Paper, "Possible Refinements to the Disclosure Regime", July 27, 2009, it was acknowledged that sustainability risks include: climate change risk; environmental impacts and liability; labor practices; occupational health and safety; human rights; supply chain management; diversity and equal opportunity; community relations; public policy positions and participation; and operational risks such as sources and availability of raw materials, dependence on foreign operations, employee relations, and material business trends.

Based upon our research and analyses, we see three major economic risk areas: (1) economic loss from global climate change; (2) economic loss from global resource scarcity and biodiversity loss, caused by (a) global population growth, and (b) global species and habitat destruction; and (3) economic loss from global social and political challenges, such as global poverty, hunger, disease, human rights, worker rights, labor relations, health and safety, community relations, and bribery and corruption. For those who question the science and viability of climate change, the scientific evidence has found that climate change is only one major factor causing planetary ecosystem degradation, although it is forecast to have an increasing impact. In fact, the two greatest current threats to our planet's sustainability are (A) global resource scarcity and (B) species and biodiversity loss, both caused primarily by human forces: economic growth, population growth, and human greed and irresponsibility.[2]

We believe there is much to be gained by considering not only the Global Reporting Initiative as a framework for a mandatory ESG disclosure system, but also by examining and assessing a

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[1] Recent industry studies have found that a large percentage of public companies globally have (1) failed to recognize the importance of, and properly identify and assess, their ESG risks, liabilities, and opportunities, and thus are not managing these risks and opportunities effectively; (2) failed to establish sufficient oversight by corporate management and boards or to adopt best practices in integrating ESG risks into their enterprise risk management systems; (3) failed to link executive remuneration with ESG performance; and/or (4) failed to conform to ESG industry standards in their operations. See, e.g., these recent reports by EIRIS (www.eiris.org), an independent, nonprofit global ESG research provider: At risk? - How companies manage ESG issues at board level (2009); ESG risk briefing: Remuneration (2010); ESG risk briefing: Bribery (2010); ESG risk briefing: A Risky Business? Managing Core Labour Standards in Company Supply Chains (2009).

[2] The *CSR Insight™ Report, January 2010* (Trends Section, "Key Drivers"), contains detailed statistics and references to information sources on global sustainability issues.

broad range of standards, metrics, and indicators developed by various intergovernmental organizations, industry standard-setters, and voluntary global initiatives, including:

- Industry standards developed by the International Organization for Standardization.
- Sustainable development standards and indicators developed by key U.N. agencies, such as the UN Development Programme and the UN Environment Programme.
- Sustainable development standards and indicators developed by key U.N.-sponsored initiatives, such as the UN Millennium Development Goals and the UN Global Compact.
- Sustainable development standards and indicators developed by other intergovernmental and multilateral organizations, such as the World Bank and the International Finance Corporation.
- Specific standards and requirements established by international treaties and conventions, such as the UN Convention on Biological Diversity (1992) (www.cbd.int), and the Stockholm Convention on Persistent Organic Pollutants (2001) (http://chm.pops.int), in addition to the UN Framework Convention on Climate Change (1992) (http://unfccc.int/2860.php).

III. SEC Consideration of a New Regulation SD (Sustainability Disclosure)

We believe that only a new SEC regulation, e.g., a proposed Regulation SD (Sustainability Disclosure), can sufficiently address the broad scope and complexity of ESG financial disclosure and reporting issues, including ESG metrics/KPIs, definitions and terminology, accounting issues, disclosure criteria, timing of disclosures, filing requirements, and other pertinent issues. Further, we believe this proposed new regulation should clearly specify its applicability and relevance to:

- Relevant SEC rules promulgated under the Sarbanes-Oxley Act of 2002, such as Sections 204, 301, 302, 303, 304, 305, and 404;
- Relevant Items under Regulation S-K in addition to Items 101, 103, and 303, including Item 10(b) (Commission Policy on Projections), Item 10(e) (Use of Non GAAP Financial Measures in SEC Filings), Item 305 (Quantitative and Qualitative Disclosures about Market Risk), Item 307 (Disclosure Controls and Procedures), Items 308 and 308T (Internal Control over Financial Reporting), Item 406 (Code of Ethics), Item 407 (Corporate Governance), and Item 503(c) (Risk Factors); and

- Other relevant SEC Regulations, including Regulation FD (Fair Disclosure), Regulation G (Non-GAAP Disclosures), and Regulation S-X (Accounting Rules—Financial Statements).

IV. SEC Leadership of a Global Sustainability Disclosure Working Group

How do we improve oversight and stability of the global financial system without global standardization of disclosure requirements?

The G-20 Leaders have established four key themes as essential to our new global financial regulatory framework:

- More effective regulation to reduce and manage systemic risk;
- Increased transparency and accountability for investor protection and financial market stability, particularly in the areas of accounting and disclosure;
- International financial regulatory harmonization and cooperation; and
- More integrated and efficient national regulatory systems capable of achieving these goals.

In accord with these directives, we submit that:

- Governments must assume a leading catalytic role in activating corporate behavioral change given the limited time available to alleviate and redress our global ecosystem degradation.

- Our success in mitigating and managing our global sustainability risks will be determined to a large extent by how successfully we translate and integrate our sustainability crisis management and risk mitigation necessities into our regulatory systems.

- Nothing less than cohesive global policy action across multiple regulatory regimes and disciplines will suffice to establish the new regulatory and governance standards and structures capable of addressing the comprehensive totality of global sustainability risks.

- Comprehensive and detailed mandatory corporate ESG disclosure with consistent global standards will impose the cross-border disclosure standards and rigor, and stimulate the scope and depth of sustainability business practices globally, necessary to ensure successful mitigation of global sustainability risks and creation of the global economic stability to be gained thereby.

There are additional compelling reasons for a global ESG financial disclosure framework. In our globalized economy, where all large publicly traded companies operate and trade their securities in multiple jurisdictions, where investors invest globally, and where the costs of regulatory compliance are constantly rising, only a global ESG financial disclosure framework has the capability to: (i) fully serve investor needs by maximizing disclosure access, reliability, and comparability; (ii) minimize regulatory compliance costs; and (iii) create global financial market stability and systemic risk reduction.

We believe the SEC should assume a leadership role in the formation and coordination of a Global Sustainability Disclosure Working Group, comprised of securities, banking, accounting, environmental, and trade regulators. This Group can properly address the development of a global standardized framework for ESG financial disclosure requirements.

We are available to the Commission and to the Investor Advisory Committee to provide further information, analysis, and response to queries and comments. We provide public policy advisory services on a complimentary basis. Effective ESG financial disclosure and reporting requirements for investor protection and planetary sustainability is the main focus of our work.

Respectfully submitted,

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cc: Commissioner Luis A. Aguilar
Commissioner Elisse B. Walter
Commissioner Kathleen L. Casey
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