

Via Online Submission Form

April 2, 2026

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

***Re: SEC Solicitation of Public Comment on Statement on Reforming Regulation S-K, File No. CLL-15***

Dear Secretary Countryman:

The Council of Institutional Investors (CII)<sup>1</sup> respectfully submits this letter in response to the Securities and Exchange Commission’s (SEC or Commission) request for comments on the comprehensive reform of Regulation S-K announced by Chair Paul Atkins in January 2026.<sup>2</sup> CII previously appreciated the opportunity to comment on executive compensation aspects of Regulation S-K under Item 402, which will not be covered in this letter.<sup>3</sup>

CII is a nonprofit, nonpartisan association of U.S. public, corporate and union employee benefit funds, other employee benefit plans, state and local entities charged with investing public assets, and foundations and endowments with combined assets under management of approximately \$5.2 trillion. Our member funds include major long-term shareowners with a duty to protect the retirement savings of millions of workers and their families, including public pension funds with more than 15 million participants – true and real “Main Street” investors through their pension funds. Our associate members include non-U.S. asset owners with about \$5.8 trillion in assets, and a range of asset managers with more than \$74 trillion in assets under management. We believe the “quality of disclosure regarding the public companies in which much of [retirement] savings is invested is . . . critical to our members.”<sup>4</sup>

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<sup>1</sup> For more information about CII, including its board and members, please visit CII’s website at <http://www.cii.org>.

<sup>2</sup> See Paul S. Atkins, *Statement on Reforming Regulation S-K*, File No. CLL-15, Securities and Exchange Commission (Jan. 13, 2026), <https://www.sec.gov/newsroom/speeches-statements/atkins-statement-reforming-regulation-s-k-011326>.

<sup>3</sup> See Letter from Robert McCormick, Executive Director, Council of Institutional Investors, to Vanessa A. Countryman, Secretary, U.S. Securities and Exchange Commission (June 25, 2025), [https://www.cii.org/files/issues\\_and\\_advocacy/correspondence/2025/06-25-25%20CII%20Letter%20to%20SEC%20re%20Executive%20Compensation%20Roundtable.%20File%20Number%204-855.pdf](https://www.cii.org/files/issues_and_advocacy/correspondence/2025/06-25-25%20CII%20Letter%20to%20SEC%20re%20Executive%20Compensation%20Roundtable.%20File%20Number%204-855.pdf).

<sup>4</sup> Letter from Kenneth A. Bertsch, Executive Director, Council of Institutional Investors, to Brent J. Fields, Secretary, U.S. Securities and Exchange Commission, at 1 (July 8, 2016), [https://www.cii.org/files/issues\\_and\\_advocacy/correspondence/2016/07\\_08\\_16%20CII%20S-K.pdf](https://www.cii.org/files/issues_and_advocacy/correspondence/2016/07_08_16%20CII%20S-K.pdf).

Please find our enclosed comments divided into three sections. In Section I, we describe our membership-approved policies and related public positions that we believe should apply to the Commission’s comprehensive reform of Regulation S-K. In Section II, we provide specific comments on selected S-K Regulation items. Finally, in Section III, we recommend an additional disclosure we believe the SEC should require of all issuers with dual-class stock structures.

## **Section I**

### CII Policies

CII believes that long-term investors, other stakeholders, and the U.S. capital markets generally, benefit when regulations, including Regulation S-K,<sup>5</sup> result in effective company disclosures.<sup>6</sup> And our membership-approved policies define effective disclosures as “accurate, prompt and useful information on company policies, practices and results.”<sup>7</sup>

Moreover, our policies identify the following criteria that may be relevant in evaluating what is an effective company disclosure.<sup>8</sup> Those criteria include:

- Materiality to investment and voting decisions
- Depth, consistency and reliability of empirical evidence supporting the connection between the disclosure and long-term shareowner value
- Anticipated benefit to investors, net of the cost of collection and reporting
- Prospect of substantially improving transparency, comparability, reliability and accuracy[.]<sup>9</sup>

### Additional Factors

In applying these policies to evaluate what is an effective company disclosure requirement under Regulation S-K, we believe the Commission should consider the following additional factors.

#### *Materiality*

While we generally support SEC Chair Atkins’ stated goal of “revising the [Regulation S-K] requirements to focus on eliciting disclosure of material information,”<sup>10</sup> we note that the Chair has defined “materiality” as “what a reasonable investor would consider important in deciding

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<sup>5</sup> See Regulation S-K, 17 C.F.R. § 229, <https://www.ecfr.gov/current/title-17/chapter-II/part-229?toc=1> (last visited Mar. 18, 2026).

<sup>6</sup> See *Policies on Corporate Governance: Preamble*, Council of Institutional Investors (Mar. 11, 2025), [https://www.cii.org/corp\\_gov\\_policies](https://www.cii.org/corp_gov_policies) (“CII believes effective corporate governance and disclosure serve the best long-term interests of companies, shareowners and other stakeholders.”).

<sup>7</sup> *Id.*

<sup>8</sup> See *CII Policies on Other Issues: Statement on Company Disclosure*, Council of Institutional Investors (Mar. 10, 2020), [https://www.cii.org/policies\\_other\\_issues#Company\\_disclosure](https://www.cii.org/policies_other_issues#Company_disclosure).

<sup>9</sup> *Id.*

<sup>10</sup> Atkins, *supra* note 2.

whether to buy, sell, or hold a security.”<sup>11</sup> However, as indicated in our above referenced membership-approved policy, our preferred definition of “materiality” for effective company disclosures is information that a reasonable investor would consider important in making investment *or voting decisions*.<sup>12</sup> We note that this definition is generally consistent with the definition the SEC has long adhered to in the context of disclosure requirements under the federal securities laws.<sup>13</sup> And, we believe it provides a durable and flexible foundation for Regulation S-K requirements, preserving the role of judgment, context, and investor decision-making in the disclosure process.

Nevertheless, we would not oppose additional Commission guidance that builds on the foundations included in Staff Accounting Bulletin No. 99,<sup>14</sup> which encourages a practical application of the materiality standard in reporting.<sup>15</sup> We believe such guidance, after soliciting and carefully considering public comments on proposed guidance, could materially improve company disclosure effectiveness under Regulation S-K while remaining fully consistent with the definition of materiality and investor-protection objectives.

### *Volume of Disclosures*

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<sup>11</sup> Paul S. Atkins, *Prepared Remarks before SEC Speaks* (Mar. 19, 2026), <https://www.sec.gov/newsroom/speeches-statements/atkins-remarks-sec-speaks-031926-prepared-remarks-sec-speaks> (“Along the way, we have drifted from the immutable objective standard of materiality, as enunciated by no less than the U.S. Supreme Court—that is, what a reasonable investor would consider important in deciding whether to buy, sell, or hold a security.”).

<sup>12</sup> See, e.g., Letter from Jeffrey P. Mahoney, General Counsel, Council of Institutional Investors, to Vanessa A. Countryman, Secretary, Securities and Exchange Commission, at 2 (Oct. 17, 2019), [https://www.cii.org/files/issues\\_and\\_advocacy/correspondence/2019/October%2017%202019%20SEC%20comment%20letter.pdf](https://www.cii.org/files/issues_and_advocacy/correspondence/2019/October%2017%202019%20SEC%20comment%20letter.pdf) (“We believe ‘material’ should be defined as information in which there is a substantial likelihood that disclosure of the omitted fact would have been viewed by a reasonable investor as having significantly altered the total mix of information available in deciding *how to vote or make an investment decision*.”).

<sup>13</sup> See, e.g., *Commission Guidance Regarding Disclosure Related to Climate Change*, Securities Act Release No. 106, 75 Fed. Reg. 6290, 6292-93 (Feb. 8, 2010) (reiterating that “information is material if there is a substantial likelihood that a reasonable investor would consider it important in deciding how to vote or make an investment decision, or, put another way, if the information would alter the total mix of available information”).

<sup>14</sup> See *SEC Staff Accounting Bulletin No. 99*, 64 Fed. Reg. 45,150 (Aug. 19, 1999), <https://www.govinfo.gov/content/pkg/FR-1999-08-19/pdf/99-21484.pdf> (“This staff accounting bulletin expresses the views of the staff that exclusive reliance on certain quantitative benchmarks to assess materiality in preparing financial statements and performing audits of those financial statements is inappropriate; misstatements are not immaterial simply because they fall beneath a numerical threshold.”).

<sup>15</sup> Cf. Letter from Jeff Mahoney, General Counsel, Council of Institutional Investors, to Vanessa A. Countryman, Secretary, Securities and Exchange Commission, at 20 (May 19, 2022), [https://www.cii.org/Files/Correspondence/May%2019%202022%20CII%20Comment%20Letter%20on%20Climate%20Disclosure%20for%20SEC%20\(final\).pdf](https://www.cii.org/Files/Correspondence/May%2019%202022%20CII%20Comment%20Letter%20on%20Climate%20Disclosure%20for%20SEC%20(final).pdf) (“observ[ing] that SEC Staff Accounting Bulletin: No. 99 – Materiality states that ‘[e]valuation of materiality requires a registrant and its auditor to consider all the relevant circumstances, and the staff believes that there are numerous circumstances in which misstatements below 5% could well be material.’ In our view, the SEC has failed to provide sufficient circumstances to justify a 1% threshold for the proposed note.”).

CII believes that the current degree, quality, and frequency of disclosure by U.S. public companies is a source of strength for the U.S. capital markets.<sup>16</sup> More specifically, we believe that it would be inappropriate for the Commission to prioritize reducing the volume of Regulation S-K disclosures.<sup>17</sup> In our view, improving company disclosure effectiveness is less about changing what is currently disclosed and more about improving how information is communicated.

While Chair Atkins describes his concerns about growth in the volume of disclosures over the past 40 years by comparing “the size of a gym locker to the size of an artificial-intelligence data center,”<sup>18</sup> we believe the Commission should more fully consider how advances in artificial intelligence (AI) and technology generally are impacting the costs and time commitment required in both the preparation and review of company disclosures. In that regard, we found insightful the following exchange between House Committee on Financial Services Member Bill Foster, (D-Ill.) and Chair Atkins at the Committee’s February 2026 hearing entitled “Oversight at the Securities and Exchange Commission”:

FOSTER: Thank you, Mr. Chair and our witness. I presume that you've been encouraged to use artificial intelligence in all of your workings from the White House. It was a general directive and . . . , obviously the industry is moving very fast that way.

Now . . . in terms of the thousand-page prop that you have there, . . . how long do you think it would take A.I. to summarize that . . . in one paragraph, . . . one page, 10 pages, whatever level of detail you wanted[?] . . . [M]aybe a few seconds. . . . Probably neither of us are an expert on that, but I imagine it could be done in a few minutes.

And so . . . in terms of a burden on investors, it seems like having a lot of information, there is not a burden on investors in an A.I. world. And . . . so, I think that's an important thing that should go into your thinking as to what the appropriate level of disclosure [should be]. . . . I believe . . . that the investor is the best judge of materiality. And if we err on the side of having a lot[,] [say,] . . . 95% of what's in that stack of paper . . . [being] not material, . . . there could be a footnote in there that is absolutely crucial. No human is likely to pick it up as you point out. No human's going to read that stack of paper, but an A.I. can . . . find that footnote.

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<sup>16</sup> See, e.g., Letter from Kenneth A. Bertsch, *supra* note 4, at 1 (“The Council agrees . . . that ‘the current degree, quality and frequency of disclosure for U.S. issuers overall is appropriate and a source of strength for the U.S. capital markets.’”).

<sup>17</sup> See *id.* (“It would therefore be inappropriate to prioritize volume reduction and forego the opportunity to adopt new or enhanced disclosures necessary to give investors a full picture of companies’ businesses.”); *but see* Paul S. Atkins, *supra* note 2 (“burying shareholders in an avalanche of immaterial information is a result that neither protects investors nor facilitates capital formation”).

<sup>18</sup> Atkins, *supra* note 2.

And so, it seems like . . . the whole narrative of . . . less disclosure is going in the wrong direction for an A.I. world. . . . I imagine that that stack of paper . . . [is] probably 90% generated by A.I. or soon will be if it's not. And so . . . I think that it's a much better position if we have . . . the A.I.s[,] . . . for IPOs and things like that, generate a lot of information and then let the A.I.s of potential investors look at it . . . in great detail [so] . . . that you'll end up with a more efficient market and less mistakes being made by investors due to lack of information.

So, have you been thinking about that sort of thing when . . . you puzzle through . . . what's the right level of information?

ATKINS: Oh, absolutely. But . . . when you think of the cost and the amount of . . . work that goes into this sort of disclosure with the lawyers and everything else, . . . what sort of bang for the buck are we getting? . . .

FOSTER: But of course, the cost of lawyers is going to get crushed too with A.I. . . . I mean, most companies have everything electronically. They [can] just turn their A.I. loose on that. . . . [I]t's . . . coming at us fast.

ATKINS: Yeah. . . . [I]t's . . . a good point.<sup>19</sup>

We note a March column by *Wall Street Journal* writer Jonathan Weil who expresses views similar to those of Rep. Foster about the costs of reducing the volume of disclosures:

Investors don't read annual reports like a novel, any more than customers at a lunch buffet sample every dish. Some take an unusual interest in stock-based compensation footnotes or lease commitments; others study revenue recognition or off-balance-sheet risks. Not everyone cares about the same things, but that doesn't make the data immaterial.

Debates about report length are largely moot. Reports that once seemed voluminous can be mined instantly with AI for subtle shifts and emerging risks. The costs of preparing these filings are minuscule compared with the size of the U.S. capital markets.

. . .

Robust disclosure reduces a company's cost of capital. Most U.S. firms understand this. The reputable ones won't stop reporting . . . just because the government gives them permission to go dark.<sup>20</sup>

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<sup>19</sup> SEC Chair Paul Atkins Testifies Before the House Financial Services Committee, Forbes Breaking News (Feb. 11, 2026), <https://www.youtube.com/watch?v=dEdgHU0kVp0&t=8s>.

<sup>20</sup> Jonathan Weil, *Now Isn't the Time to Slow the Market's Data Flow*, Wall St. J. (Mar. 25, 2026) (on file with CII).

We note that Weil’s views and those of Rep. Foster appear to align with the views of many investors and other users of company disclosures. In a recent opinion piece in CFO.com, Sandy Peters, senior head of financial reporting policy at the CFA Institute, commented:

Recent press coverage and conference sessions have highlighted the growing use of AI in the preparation of financial information. At the same time, investors are increasingly using AI and large language models to analyze disclosures and inform investment decisions. As both preparers and investors undergo fundamental changes in how information is produced and consumed, it is difficult to reconcile the SEC’s disclosure overload narrative with today’s technological reality.<sup>21</sup>

We generally agree with Peters that any SEC proposal that reduces the existing volume of Regulation S-K disclosures should include consideration, at a minimum, of the following questions:

- How did the SEC conclude that Regulation S-K produces vast amounts of immaterial information?
- Has the SEC conducted meaningful outreach to investors to support this conclusion, or is the narrative primarily driven by issuer concerns?
- Given that much of Regulation S-K is principles-based, how can it be responsible for systemic disclosure of immaterial information?
- How has the SEC assessed whether any cost savings from reduced disclosures outweigh potential increases in the equity risk premium and cost of capital? Does the SEC believe reduced transparency lowers the cost of capital?
- How has the SEC incorporated issuers’ use of AI into its assessment of disclosure volume and materiality?<sup>[22]</sup>
- How has the SEC incorporated investors’ use of AI into its disclosure overload narrative?<sup>23</sup>

### *Principles-Based v. Rules-Based Requirements*

CII generally believes that principles-based requirements can result in effective company disclosure that may improve clarity, relevance, and efficiency across the disclosure system while preserving investor protection. More specifically, CII “appreciates the flexibility and responsiveness of principles-based disclosure, which may reduce the drafting burden on the

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<sup>21</sup> Sandy Peters, *Opinion: Is the SEC Regulating for a Pre-AI World?*, CFO.com (Feb. 24, 2026), <https://www.cfo.com/news/is-the-sec-regulating-for-a-pre-ai-world-Paul-Atkins-Sandy-Peters-CFA-Institute/812851/>.

<sup>22</sup> See *id.*; see also, e.g., Shivaram Rajogopal, *Redundant Financial Statement Disclosures*, Forbes (Jan. 30, 2026), <https://www.forbes.com/sites/shivaramrajogopal/2026/01/30/redundant-financial-statement-disclosure> (“The irony is stark: the very AI that could help companies slim down their filings is simultaneously making every scrap of disclosure more valuable to investors [and] [b]efore cutting data that algorithms can now exploit, regulators should ask whether they are optimizing for 1995-era reading costs or 2026-era analytical capabilities.”).

<sup>23</sup> See Peters, *supra* note 21.

Commission and necessitate less frequent updating.”<sup>24</sup> We also believe that principles-based requirements may “encourage more fulsome disclosure.”<sup>25</sup>

The company-specific disclosures elicited by principles-based requirements, however, may “not be drafted or formatted in a standardized way, making extraction and comparison difficult or impossible.”<sup>26</sup> More rules-based disclosure requirements, by contrast, may “promote consistent, comparable reporting, which is well-suited to extraction, analysis and comparison.”<sup>27</sup> However, rules-based requirements may “become obsolete more quickly, which is a particular concern if the disclosure relates to a subject that is continually evolving,” such as technology-related disclosures.<sup>28</sup>

CII generally believes that “principles-based and rules-based disclosure requirements can be used together . . . to provide different kinds” of effective company disclosures to investors on a given subject.<sup>29</sup>

### *Hyperlinks and Cross-references*

CII has long supported the use of hyperlinks and cross-references to reduce repetition and redundancy and improve the effectiveness of company disclosures.<sup>30</sup> In a technology-enabled reporting environment, we believe greater use of cross-referencing and hyperlinks—within and across sections of a company’s filings—can be a practical and high-impact means of reducing redundancy while enhancing usability and more effective company disclosures. Cross-references can present information once, at the appropriate detail, enabling investors to easily move between related issuer disclosures, including MD&A, financial statement notes, and other sections of issuer filings. In addition, this approach also aligns with how investors consume filings—by locating, linking, and comparing key drivers rather than sequentially reading pages of disclosures from beginning to end.

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<sup>24</sup> Letter from Kenneth A. Bertsch, *supra* note 4, at 4; *cf.* Commissioner Mark T. Uyeda, *Remarks at the 53rd Annual Securities Regulation Institute: Enhancing the Public Company Disclosure Framework* (Jan. 26, 2026), <https://www.sec.gov/newsroom/speeches-statements/uyeda-remarks-securities-regulation-institute-012626> (“[W]ith regard to transactions with related persons under Item 404, we could consider . . . replacing a static number with a more principles-based approach to materiality that has worked well in other contexts.”).

<sup>25</sup> Letter from Kenneth A. Bertsch, *supra* note 4, at 4.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*; *see, e.g.*, Letter from Jeffrey P. Mahoney, *supra* note 12, at 4 (“A combined approach permits an appropriate balance between specific rules-based quantitative information that provides for some level of consistency and comparability combined with a more principles-based qualitative information that provides the context for understanding how the data benefits long-term shareowner data.”).

<sup>30</sup> *See, e.g.*, Letter from Jeffrey P. Mahoney, General Counsel, Council of Institutional Investors, to Vanessa A. Countryman, Secretary, Securities and Exchange Commission, at 9 (July 18, 2019), <https://www.sec.gov/comments/s7-04-19/s70419-5842385-188537.pdf> (supporting as an alternative to a quantitative reconciliation of non-GAAP pay metrics in the Compensation Discussion and Analysis a “hyperlink to such a reconciliation in another document filed with the SEC”).

At the same time, we recognize that hyperlinking and cross-referencing raise legitimate implementation considerations that should be addressed. For example, we have in the past cautioned that “the use of multiple hyperlinks may unnecessarily increase costs for investors who ‘may have to spend more time to retrieve information through hyperlinks or cross-references.’”<sup>31</sup> We, therefore, would not oppose the Commission providing clarifying guidance, after soliciting and carefully considering public comment on proposed guidance, that encourages cross-referencing while providing for reasonable restrictions, including on the use of multiple hyperlinks, that may be necessary to ensure that the location of disclosures are easily accessible and transparent to investors.

## Section II

### Recommendations on Regulation S-K

#### *Item 101: Description of Business*<sup>32</sup>

We continue to generally support Item 101(c)(2)(ii)<sup>33</sup> requiring disclosures about a registrant’s human capital management (HCM), including the number of people employed, and any human capital measures or objectives that the registrant focuses on in managing the business.<sup>34</sup> We also continue to believe that many institutional and retail investors have a pronounced interest in better information about HCM.<sup>35</sup>

We also continue to generally support expanding the existing HCM requirement to include additional quantitative information. More specifically, we generally support quantitative

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<sup>31</sup> Letter from Jeffrey P. Mahoney, *supra* note 12, at 9.

<sup>32</sup> See Regulation S-K, 17 C.F.R. § 229.100 (amended 2020), <https://www.ecfr.gov/current/title-17/chapter-II/part-229/subpart-229.100>.

<sup>33</sup> See Regulation S-K, 17 C.F.R. § 229.101(c)(2)(ii) (amended 2020), <https://www.ecfr.gov/current/title-17/chapter-II/part-229/subpart-229.100> (“A description of the registrant's human capital resources, including the number of persons employed by the registrant, and any human capital measures or objectives that the registrant focuses on in managing the business (such as, depending on the nature of the registrant's business and workforce, measures or objectives that address the development, attraction and retention of personnel).”).

<sup>34</sup> See, e.g., Letter from Jeffrey P. Mahoney, *supra* note 12, at 2 (“CII generally supports the proposed revisions to the required narrative description of the business done by the registrant that include [HCM] as a listed disclosure topic.”).

<sup>35</sup> See, e.g., Letter from Jeffrey P. Mahoney, General Counsel, Council of Institutional Investors, to Vanessa A. Countryman, Secretary, Securities and Exchange Commission, at 2 (Oct. 17, 2019), [https://www.cii.org/files/issues\\_and\\_advocacy/correspondence/2019/October%2017%202019%20SEC%20comment%20letter.pdf](https://www.cii.org/files/issues_and_advocacy/correspondence/2019/October%2017%202019%20SEC%20comment%20letter.pdf) (“We believe institutional and retail investors have a pronounced interest in better information about HCM.”).

information about the “breakdown of the numbers of full-time, part-time, and contingent workers [36] and disclosure of employee turnover rates.”<sup>37</sup>

In addition, we agree with the recommendation of the Human Capital Management Coalition that companies provide more information about labor costs by requiring disclosure of the total cost of a company’s workforce.<sup>38</sup> That amount, could, for example, be defined to include “salaries/wages, benefits such as health care, employer’s contribution to Medicare and Social Security, value of equity-based compensation, commissions and bonuses, perquisites, overtime, severance payments, and retirement.”<sup>39</sup> This generally could involve disaggregating labor costs from a company’s selling, general and administrative expenses and cost of sales line items.<sup>40</sup>

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<sup>36</sup> *Recommendation of the Investor Advisory Committee, Human Capital Management Disclosure*, Securities and Exchange Commission, at 4 (Mar. 28, 2019), <https://www.sec.gov/spotlight/investor-advisory-committee-2012/human-capital-disclosure-recommendation.pdf> (“Item 101 of Regulation S-K currently calls simply for disclosure of the number of people employed as part of the narrative business description. This existing requirement could be expanded to break down the numbers of: full-time, part-time, and contingent workers, which have distinct implications for the cost and value of a company’s workforce.”).

<sup>37</sup> Letter from Jeffrey P. Mahoney, *supra* note 12, at 2; *see, e.g.*, Qin Li et al., *Employee Turnover and Firm Performance: Large-Sample Archival Evidence*, 68 *Management Science* 5667 (Dec. 16, 2021), <https://doi.org/10.1287/mnsc.2021.4199> (“[W]e find a significant association between turnover and future stock returns, suggesting that investors do not fully incorporate turnover information.”).

<sup>38</sup> *See* Letter from Glenn Davis, Deputy Director, Council of Institutional Investors, to International Accounting Standards Board, at 3 (Aug. 30, 2023), [https://www.cii.org/files/issues\\_and\\_advocacy/correspondence/2023/08-30-23%20CII%20comment%20letter%20to%20ISSB.pdf](https://www.cii.org/files/issues_and_advocacy/correspondence/2023/08-30-23%20CII%20comment%20letter%20to%20ISSB.pdf).

<sup>39</sup> *See* Letter from The Human Capital Management Coalition to Hillary H. Salo, Technical Director, Chair, Emerging Issues Task Force, Financial Accounting Standards Board, at 5 (Sept. 22, 2021), [https://bba03e82-7053-458c-b3a0-2459e53327c4.filesusr.com/ugd/ce804c\\_08c45e6923ac415ebe1de7e7bb40185b.pdf](https://bba03e82-7053-458c-b3a0-2459e53327c4.filesusr.com/ugd/ce804c_08c45e6923ac415ebe1de7e7bb40185b.pdf); *see also* Letter from Aeisha Mastagni, Portfolio Manager, & Mary Hartman Morris, Investment Officer, California State Teachers’ Retirement System to Vanessa A. Countryman, Secretary, Securities and Exchange Commission, at 2 (Oct. 26, 2019), <https://www.sec.gov/comments/s7-11-19/s71119-6353231-195593.pdf> (describing total workforce costs to include: “Salaries, bonuses and pensions inclusive of all employees - guaranteed pay, variable pay, benefits and equity pay.”).

<sup>40</sup> *See* Mary Morris, Co-Chair, Human Capital Management Coalition, Investment Officer, CalSTRS & Cambria Allen-Ratzlaff, Co-Chair, Human Capital Management Coalition, Corporate Governance Director, UAW Retiree Medical Benefits Trust, Human Capital Data, *Fundamental Disclosures for Optimal Analysis and Decision Making, Prepared for FASB Agenda Consultation*, at 15 (Feb. 26, 2021) (on file with CII) (“Data already included in SG&A or COGS.”); *see also* Letter from John Streur, President and CEO, Calvert Research and Management, to Chairman Gary Gensler, U.S. Securities and Exchange Commission, at 3 (Aug. 30, 2021), <https://www.sec.gov/comments/climate-disclosure/cl112-9190246-249462.pdf> (“Total workforce cost information links human capital management data directly to line items reported in a company’s financial statements.”); *see also* Letter from Dr Anthony Hesketh, Department of Organization, Work & Technology, Lancaster University Management School, to Anne Sheehan, Chairman, Investor Advisory Committee, U.S. Securities and Exchange Commission, at 5 (Mar. 21, 2019), <https://www.sec.gov/comments/265-28/26528-5180428-183533.pdf> (“In the U.S. reporting context, human capital is a currently neglected factor of economic production require[ing] a higher level of granularity afforded to it than currently offered by the cost of goods sold (COGS) or the general sales and administration (GS&A) on current income statements.”).

Without HCM information, many investors may be unable to model fixed and variable costs associated with labor. In this context, we believe there is ample evidence that HCM disclosures can be material to investors' understanding of a company's decision-making.<sup>41</sup>

*Item 105: Risk Factors*<sup>42</sup>

CII generally believes the Item 105 risk factor disclosure is a critical communication from management to investors.<sup>43</sup> We would respectfully recommend the Commission consider two amendments to Item 105 that we believe would improve the quality and usefulness of the disclosures.

First, Item 105 could be amended to include a specific example of what an "organized logically" discussion might look like for each risk factor.<sup>44</sup> Second, Item 105 could be amended to specifically permit cross-referencing to other relevant Regulation S-K disclosures. For example, the Item 105 disclosure could be cross-referenced to a "[m]itigating disclosure . . . in the MD&A or in the 'Business' section."<sup>45</sup> We generally agree with corporate law firm Nixon Peabody that "this approach would reduce repetition and allow registrants to provide more detailed discussion in the sections of their filings where such discussion is most appropriate."<sup>46</sup>

*Item 304: Changes in and Disagreements with Accountants on Accounting and Financial Disclosure*<sup>47</sup>

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<sup>41</sup> See George Georgiev, *Human Capital Disclosure & Corporate Governance: The New Evidence*, Emory Law Scholarly Commons (2024), <https://scholarlycommons.law.emory.edu/cgi/viewcontent.cgi?article=1289&context=faculty-articles> (There is "new evidence showing that the principles-based HCM disclosure rule has failed to meet the SEC's original expectations, which were stated upon the rule's adoption (i.e., to generate 'meaningful qualitative and quantitative disclosure, including, as appropriate, disclosure of metrics that companies actually use in managing their affairs'). . . . [T]he average number of quantitative metrics that firms disclosed in the third year since the rule became effective remains low—merely 2.5 metrics. . . . It is highly implausible that any modern firm could manage its business with such a low number of workforce-related metrics.").

<sup>42</sup> See Regulation S-K, 17 C.F.R. § 229.105 (amended 2020), <https://www.ecfr.gov/current/title-17/chapter-II/part-229/subpart-229.100>.

<sup>43</sup> See, e.g., *White & Case Public Company Advisory Client Alert: Key Considerations for the 2026 Annual Reporting and Proxy Season: Your Upcoming Form 10-K*, White & Case, at 7 (Jan. 5, 2026), <https://www.whitecase.com/sites/default/files/2026-01/2026-annual-memo-part1-10k-v3.pdf> ("Risk factor disclosure is a critical part of the Form 10-K.")

<sup>44</sup> Regulation S-K, 17 C.F.R. § 229.105(a) (amended 2020), <https://www.ecfr.gov/current/title-17/chapter-II/part-229/subpart-229.100/section-229.105>.

<sup>45</sup> Broc Romanek, *Drafting Risk Factors in a New AI Era*, Cooley (Feb. 12, 2026), <https://www.jdsupra.com/legalnews/drafting-risk-factors-in-a-new-ai-era-5051714/>.

<sup>46</sup> Letter from Nixon Peabody LLP to Ms. Vanessa Countryman, Secretary, Securities and Exchange Commission, at 3 (Mar. 18, 2026), <https://www.sec.gov/comments/cil-15/cil15-729127-2273034.pdf>.

<sup>47</sup> See Regulation S-K, 17 C.F.R. § 229.304 (amended 2020), <https://www.ecfr.gov/current/title-17/chapter-II/part-229/subpart-229.100>.

Item 304 of Regulation S-K pertains to disclosure surrounding changes to and disagreements with the external auditor.<sup>48</sup> The existing rule requires companies to disclose their reasons for changing the auditor only when there is a disagreement, or in certain other limited circumstances.<sup>49</sup> In contrast, CII’s membership-approved policies state:

Disclosure of Reasons Behind Auditor Changes: The audit committee should publicly provide to shareowners a plain-English explanation of the reasons for a change in the company's external auditors. At a minimum, this disclosure should be contained in the same Securities and Exchange Commission (SEC) filing that companies are required to submit within four days of an auditor change.<sup>50</sup>

Thus, our policy supports requiring companies to provide a plain English narrative of the reasons for the change in external auditors in *all* cases. As explained in a related CII petition for rulemaking, “obscurity surrounding the reasons for the switch encourages speculation and precludes investors from differentiating between legitimate reasons for the change and those that raise a red flag.”<sup>51</sup>

CII recognizes that there may be legitimate reasons for changing auditors, such as wanting an auditor that promises “better services” or “more expertise in a particular industry.”<sup>52</sup> However, there may also be worrisome reasons for such a change such as “management refusing to provide information necessary for adequate verification of financial statements or disagreement over accounting rules, [which] . . . could be [an] indicator of management trying to hide questionable accounting manipulation, internal control problems, unsound corporate governance practices, or poor performance.”<sup>53</sup>

We note that recent data compiled by the Office of Economic and Risk Analysis’s staff at the Public Company Accounting Oversight Board found:

From 2005 to 2024, Big R financial restatements occurred at a rate of around 3% per year. On average, just under 30% of these restatements followed an *auditor change in the previous year*. As a point of reference, *the average annual auditor-*

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<sup>48</sup> See Regulation S-K, 17 C.F.R. § 229.304 (“Changes in and disagreements with accountants on accounting and financial disclosure.”).

<sup>49</sup> See Regulation S-K, 17 C.F.R. § 229.304(a)(1)(iv)-(v).

<sup>50</sup> See *Policies on Corporate Governance: § 2.13g Disclosure of Reasons Behind Auditor Changes*, Council of Institutional Investors, [https://www.cii.org/corp\\_gov\\_policies](https://www.cii.org/corp_gov_policies) (last updated Mar. 12, 2026).

<sup>51</sup> Letter from Jeff Mahoney, General Counsel, Council of Institutional Investors, to The Honorable Christopher Cox, Chairman, Securities and Exchange Commission, at 2 (Jan. 25, 2008), <https://www.sec.gov/rules/petitions/2008/petn4-555.pdf> (in support of “rulemaking to amend SEC rules to require public companies to provide a plain English descriptive narrative for all departures or dismissals of their external auditors”).

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

*change rate across the broader population, which includes companies without Big R restatements, was 11%.<sup>54</sup>*

We believe this data indicates that at least some auditor switches are associated with elevated reporting risk supporting the need for greater transparency behind the reasons for all auditor changes.

In this context, shareholders should be able to tell whether “auditor changes are indicative of activities within the leadership of the company that are inimical to the integrity of the capital markets and long-term value creation.”<sup>55</sup>

*Item 106: Cybersecurity<sup>56</sup>*

Amid the rapid development of AI, cybersecurity continues to be a top concern for companies. Indeed, a 2025 survey of CEOs worldwide by The Conference Board and The Business Council, revealed that 56% of CEOs consider the risk of cyberattacks “high” in terms of the impact those attacks may have on their industries.<sup>57</sup>

CII considers cybersecurity an essential part of the responsibilities of a company’s board. CII’s policy on the board’s role in strategy and risk oversight, reads, in part, as follows:

In assessing the company’s risk profile, the board should consider company-specific dynamics as well as risks across the industry and any systemic risks. Material risks can stem from many aspects of the business, including . . . cybersecurity. . . . The board should disclose to shareowners, at least annually, sufficient information to enable them to assess whether the board is carrying out its oversight responsibilities effectively.<sup>58</sup>

Separately, CII supported S.536, the Cybersecurity Disclosure Act of 2017, which sought to “promote transparency in the oversight of cybersecurity risks at publicly traded companies.”<sup>59</sup>

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<sup>54</sup> *Financial Restatements and Auditor Turnover*, PCAOB (Oct. 2025) (footnote omitted and emphasis added), <https://pcaobus.org/economicandriskanalysis/data-points/dp04-2025-financial-restatements-auditor-turnover.pdf>.

<sup>55</sup> Letter from Jeff Mahoney, *supra* note 51, at 2.

<sup>56</sup> See Regulation S-K, 17 C.F.R. § 229.106 (amended 2023), <https://www.ecfr.gov/current/title-17/chapter-II/part-229/subpart-229.100/section-229.106>.

<sup>57</sup> See *U.S. CEO Confidence*, The Conference Board (Feb. 26, 2026), <https://www.conference-board.org/topics/CEO-Confidence>.

<sup>58</sup> *Policies on Corporate Governance: § 2.7 Board’s Role in Strategy and Risk Oversight*, Council of Institutional Investors, [https://www.cii.org/corp\\_gov\\_policies](https://www.cii.org/corp_gov_policies).

<sup>59</sup> *Cybersecurity Disclosure Act of 2017*, S.536, 115<sup>th</sup> Congress (2017), <https://www.congress.gov/bill/115th-congress/senate-bill/536/text>; see also Letter from Ken Bertsch, Executive Director, Council of Institutional Investors, to Senator Jack Reed (July 7, 2017), [https://www.cii.org/files/07\\_07\\_17%20letter%20to%20Senator%20Reed.pdf](https://www.cii.org/files/07_07_17%20letter%20to%20Senator%20Reed.pdf).

As adopted in 2023,<sup>60</sup> rules related to cybersecurity captured in Item 106 ask registrants to describe “processes, if any, for assessing, identifying, and managing material risks from cybersecurity threats in sufficient detail for a reasonable investor to understand those processes.”<sup>61</sup> Item 106 also asks registrants to describe the board’s oversight responsibility over cybersecurity threats<sup>62</sup> and management’s role in assessing and managing those threats.<sup>63</sup> CII was pleased to provide comments as part of the proposed rulemaking process and is also pleased that our views on the proposed rules align with the final rules, including the disclosure of cybersecurity incidents and periodic reports, as well as the description of the board’s oversight of cybersecurity risks.<sup>64</sup>

Given how recently the final rules on cybersecurity were adopted, however, CII does not believe that Item 106 should be revised at this time. CII believes that the rulemaking process, bolstered by robust public comment and economic analysis accounting for the benefits and costs of the proposed rules, provides sufficient support for keeping the current rules in place, especially since issuers still have not had enough experience with the rules to warrant any change.

CII notes that SEC Commissioner Mark Uyeda has suggested that the SEC “should consider whether Item 106 could be streamlined to simplify the narrative disclosures of cybersecurity policies and governance oversight,” adding that the SEC’s disclosure rules “should generally not be the driver for what a company does or does not [and that] disclosure requirements such as these and others are likely shaming or indirectly compelling companies to change practices rather than eliciting material disclosure as to what the company is doing.”<sup>65</sup>

In this context, CII’s concern is twofold: (1) cybersecurity disclosures should not be changed, given that it is likely that the content of the disclosures will continue to evolve as AI develops, and (2) cybersecurity disclosures should not be reduced through a simplification of the corresponding narrative so as to avoid leaving out potentially material information about unknown cybersecurity risks a company may be facing.

We reiterate that, overall, any cybersecurity practice that companies may have should, consistent with our member-approved policies, provide for board responsibility to disclose sufficient information to shareowners, so that shareowners can hold the board accountable for safeguarding the company against cybersecurity threats. CII would not support reduced disclosures that lead to decreased transparency into the board’s oversight responsibility for guarding against cybersecurity risks.

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<sup>60</sup> See Cydney S. Possner, *SEC Adopts Final Rules on Cybersecurity Disclosure*, Harvard Law School Forum on Corporate Governance (Aug. 9, 2023), <https://corpgov.law.harvard.edu/2023/08/09/sec-adopts-final-rules-on-cybersecurity-disclosure>.

<sup>61</sup> See Regulation S-K, 17 C.F.R. § 229.106(b).

<sup>62</sup> See Regulation S-K, 17 C.F.R. § 229.106(c)(1).

<sup>63</sup> See Regulation S-K, 17 C.F.R. § 229.106(c)(2).

<sup>64</sup> See Letter from Tracy Stewart, Director of Research, Council of Institutional Investors, to Vanessa A. Countryman, Secretary, Securities and Exchange Commission (May 9, 2022), [https://www.cii.org/files/05\\_09\\_22\\_SEC\\_cyber\\_letter.pdf](https://www.cii.org/files/05_09_22_SEC_cyber_letter.pdf).

<sup>65</sup> Commissioner Mark T. Uyeda, *supra* note 24.

*Item 408: Insider Trading Arrangements and Policies*<sup>66</sup>

Item 408(b)(1) requires registrants to disclose whether they have adopted insider trading policies and procedures “that are reasonably designed to promote compliance with insider trading laws, rules and regulations, and any listing standards applicable to the registrant.”<sup>67</sup> In addition, if the registrant has not adopted such policies and procedures, the registrant must explain why it has not done so.<sup>68</sup>

CII notes Commissioner Uyeda’s suggestion that the insider trading arrangements and policies, which must be disclosed under Item 408(b)(1), could be deleted.<sup>69</sup> Like Item 106 above, Item 408 in its current form is a recent development, the final rules for which were adopted in 2023. CII does not believe that this item should be revised, considering how recently the rulemaking process, related public comment period, and economic analysis took place. Issuers need more time to experience implementing the disclosure rules before any change is warranted. As such, CII would not support such a deletion, to be consistent with our member-approved policies.<sup>70</sup>

### Section III

In this Section, we propose one disclosure that should be required of all issuers with dual-class stock structures. An illustration of the proposed disclosure, to be captured under Item 5.07 of Form 8-K, is included in the Appendix.

While many U.S. public companies (approximately nine in 10) have a single class of voting stock, in recent years, a growing proportion of U.S. companies going public have multiple classes of common stock with differential voting rights.<sup>71</sup>

In 2022, CII published its *Entrenchment Devices* paper, which explains how companies are increasingly using dual-class structures—among other methods—to shield management from

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<sup>66</sup> See Regulation S-K, 17 C.F.R. § 229.408 (amended 2023), <https://www.ecfr.gov/current/title-17/chapter-II/part-229/subpart-229.400/section-229.408>.

<sup>67</sup> Regulation S-K, 17 C.F.R. § 229.408(b)(1).

<sup>68</sup> See Regulation S-K, 17 C.F.R. § 229.106(b)(1).

<sup>69</sup> See Commissioner Mark T. Uyeda, *supra* note 24.

<sup>70</sup> See *Statement on Stock Sales by Insiders*, Council of Institutional Investors (Mar. 10, 2020), [https://www.cii.org/policies\\_other\\_issues#insider\\_trading](https://www.cii.org/policies_other_issues#insider_trading) (“In the interest of optimizing long-term alignment with shareowners and reducing the risk of confidence-eroding stock sales, boards should consider requiring companies’ highest-level executives . . . as well as non-employee directors to hold all company stock they receive until after their departure from the company. . . . CII recommends that boards adopt a policy requiring that insider stock sales take place either through a robust automatic trading plan governed by Rule 10b5-1 or through processes and controls, approved by an appropriate board committee, that mimic the rules and features of such a plan. . . . The creation of this statement provides an opportunity to support closing loopholes in 10b5-1 plans, on which CII has a long advocacy record, raise particular circumstances in which insider stock sales are problematic, and support improvement with regard to transparency of company stock repurchases.”).

<sup>71</sup> See *Dual-Class Stocks*, Council of Institutional Investors, [https://www.cii.org/dualclass\\_stock](https://www.cii.org/dualclass_stock) (last visited Mar. 27, 2026).

accountability to their shareholders.<sup>72</sup> CII finds that that the proliferation of dual-class structures in the U.S. has also created global competition for countries to make their markets more permissive to unequal voting rights.<sup>73</sup>

Also, in 2022, SEC Commissioner Uyeda, in remarks made at the Cato Summit on Financial Regulation, stated that “the financial impact on enterprise valuations for various factors in the “G” category – such as the use of dual-class stock and classified boards of directors – have been known for a long time.”<sup>74</sup> Commissioner Uyeda’s comment was in reference to a study that found that “[a]t the IPO, dual-class firms have higher mean valuations than single-class firms, . . . suggesting that this premium is related to founders’ unique vision and leadership skills. As firms age, the valuation premium dissipates, probably because of agency problems’ aggravation at dual-class firms driven by the widening of the wedge (difference between voting and equity stakes of controlling shareholders of dual class firms) in the years after the IPO.”<sup>75</sup>

In 2024, CII’s Policies Committee adopted an amendment to its corporate governance policies, recommending that “[c]ompanies with multiple share classes with unequal voting rights should supplement their final results with tallies for each class.”<sup>76</sup> Currently, SEC rules require companies to disclose two primary pieces of information with respect to meeting results: aggregate vote tallies for each proposal and whether each proposal passed or failed. This level of transparency does not convey the degree to which high-vote shareholders at multi-class companies may be “vetoing” the preferences of the holders of the majority of the company’s equity.

Relatedly, in a recent letter, CII requested that the Commission consider including a provision in the “Rationalization of Disclosure Practices” project that would improve the transparency of the voting results at multi-class companies.<sup>77</sup> And as indicated, CII also developed an illustrative example (included in this letter as an Appendix) showing how a proposed disclosure could be recorded in 8-K forms.

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<sup>72</sup> See *Governance Guide: Entrenchment Devices – Mechanisms that Insulate Management and Weaken Shareowner Rights*, Council of Institutional Investors (Dec. 2022), [https://www.cii.org/files/publications/governance\\_guides/CII%20Governance%20Guide%20-%20Entrenchment%20Devices.pdf](https://www.cii.org/files/publications/governance_guides/CII%20Governance%20Guide%20-%20Entrenchment%20Devices.pdf).

<sup>73</sup> See *id.*

<sup>74</sup> Commissioner Mark T. Uyeda, *Remarks at the 2022 Cato Summit on Financial Regulation*, Securities and Exchange Commission (Nov. 17, 2022), <https://www.sec.gov/newsroom/speeches-statements/uyeda-remarks-cato-summit-financial-regulation-111722>.

<sup>75</sup> K. J. Martijn Cremers et al., *The Life-Cycle of Dual Class Firm Valuation*, European Corporate Governance Institute, at 1 (Oct. 2020), [https://www.ecgi.global/sites/default/files/working\\_papers/documents/cremerslauterbachpajustefinal.pdf](https://www.ecgi.global/sites/default/files/working_papers/documents/cremerslauterbachpajustefinal.pdf).

<sup>76</sup> *Policies on Corporate Governance: § 4.4 Timely Disclosure of Voting Results*, Council of Institutional Investors (Mar. 12, 2026), [https://www.cii.org/corp\\_gov\\_policies](https://www.cii.org/corp_gov_policies).

<sup>77</sup> See Letter from Jeff Mahoney, General Counsel, Council of Institutional Investors, to Vanessa A. Countryman, Secretary, Securities and Exchange Commission (Oct. 22, 2025), [https://www.cii.org/files/issues\\_and\\_advocacy/correspondence/2025/Reg%20Flex%20Ltr%20\(final\).pdf](https://www.cii.org/files/issues_and_advocacy/correspondence/2025/Reg%20Flex%20Ltr%20(final).pdf).

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We appreciate the opportunity to provide CII's investor-focused perspective on the potential reform of Regulation S-K. Please contact me ([Jeff@cii.org](mailto:Jeff@cii.org)) if you have any questions about the content of this letter.

Sincerely,

A handwritten signature in cursive script that reads "Jeff Mahoney". The signature is written in black ink and is positioned above the typed name.

Jeffrey Mahoney  
General Counsel

**Appendix: Form 8-K Item 5.07 Proposed Reform**

**Example:**

- ABC Corp. has two classes of stock.
- Class A has 6,630,730 outstanding shares and one vote per share.
- Class B has 4,032,798 outstanding shares and 10 votes per share.
- Class B represents 38% of the company’s equity but controls 86% of total voting power.

**Current Voting Item Disclosure**

*3. Approval of Amendment to Amended and Restated Certificate of Incorporation*

<b>For</b>	<b>Against</b>	<b>Abstentions</b>	<b>Broker Non-Votes</b>
42,327,217	2,745,126	354,043	1,532,324

*The shareholders approved the amendment to the Company's Amended and Restated Certificate of Incorporation.*

**Enhanced Voting Item Disclosure**

*3. Approval of Amendment to Amended and Restated Certificate of Incorporation*

	<b>For</b>	<b>Against</b>	<b>Abstentions</b>	<b>Broker Non-Votes</b>
<b>Class A</b>	1,999,237	2,745,126	354,043	1,532,324
<b>Class B</b>	40,327,980	0	0	0

*The shareholders approved the amendment to the Company's Amended and Restated Certificate of Incorporation*