

Shareholder Rights Group

April 10, 2026

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

**Re: Maintaining a Functional Disclosure Ecosystem
Regulation S-K and the Shareholder Proposal Process**

Dear Ms. Countryman:

The Shareholder Rights Group (“SRG”) respectfully submits this comment letter in response to Chairman Paul Atkins’ January 13, 2026 statement inviting public comment on the Commission’s review of Regulation S-K. SRG is an association of individual and institutional investors, registered investment advisers, and organizations committed to defending shareholder rights, promoting sound governance, and supporting long-term value creation and corporate accountability in U.S. capital markets.

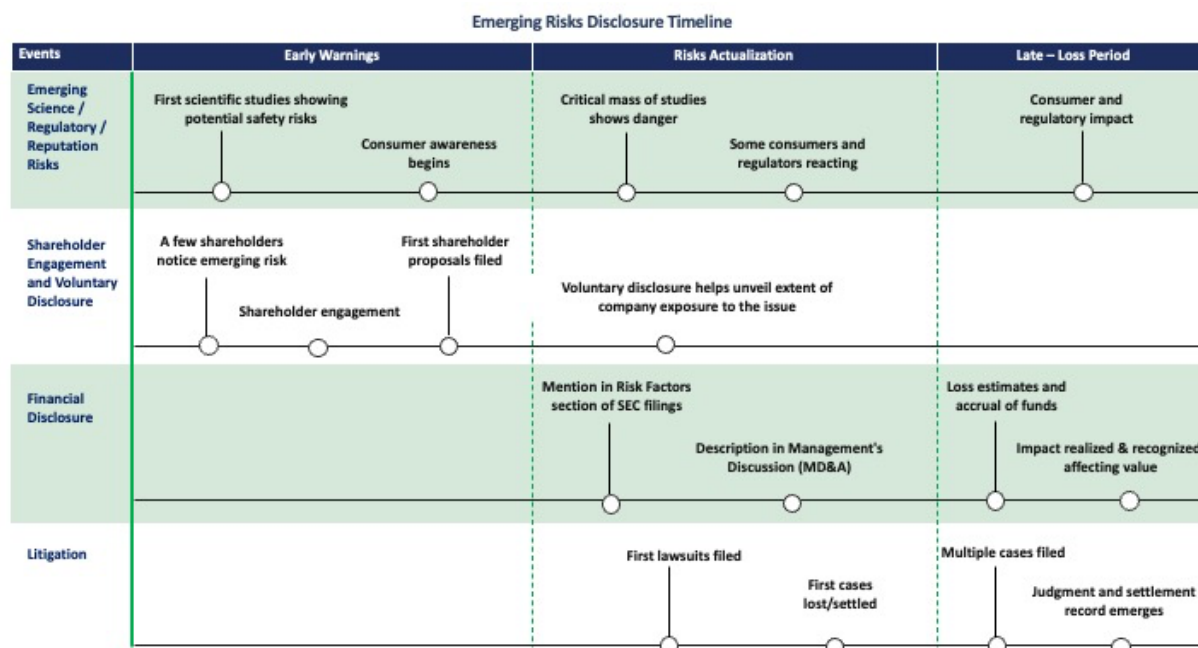
Our comment addresses concerns surrounding any changes to both Regulation S-K and Rule 14a-8, the shareholder proposal rule, as both play critical roles within an interconnected investor disclosure ecosystem and both are under review by the Commission. These mechanisms help surface material risk information, including on environmental and social issues, that serves investors and strengthens our capital markets. Any action that weakens Regulation S-K requirements *or* Rule 14a-8 would disrupt this valuable pipeline of information demanded by investors, to the detriment of all market participants.

I. Shareholder Proposals and Regulation S-K Serve Critical Functions Within a Broader Disclosure Ecosystem

Emerging investor concerns about risks relevant to issuers are often surfaced initially through shareholder engagement and shareholder proposals, which lead to voluntary reporting such as sustainability reports, which are later filtered by board and management in the formal disclosures of Regulation S-K.

Information overload is not a problem in the current technical environment in which AI and other tools allow investors to efficiently sift through both voluntary and SEC mandated disclosures for the information relevant to their investment strategies. In fact, the lens for assessing materiality under Regulation S-K should be broadened to recognize that significant shareholder engagement and substantial support for shareholder proposals is evidence of materiality that should inform the need for disclosure under Regulation S-K as it demonstrates a

substantial level of interest in an issue by a company’s own investors.¹



The investor engagement to surface these issues and assess a company’s potential exposure to these risks is a necessity. As financial economist Michael C. Jensen observed, corporate reporting and market communications are often shaped by incentives to meet or beat market expectations rather than to present a full account of risk.² Former SEC Chairman Arthur Levitt similarly warned in 1998 that the drive to satisfy earnings expectations could displace faithful representation with “a game of nods and winks.”³ That concern remains salient today.⁴

The Commission’s own staff has recognized this tendency by examining whether information conveyed in press releases, conference calls, investor presentations, sustainability reports, or other non-filed communications appears to reveal material information omitted from SEC filings.⁵

In our experience, shareholder engagement and proposals seeking additional voluntary disclosure often lead directly to additional internal measurement, analysis, and board-level attention. Once a company begins developing metrics for public disclosure, it will naturally scrutinize the underlying issue more closely. That scrutiny, in turn, prompts management to assess more closely whether the issue constitutes a material risk requiring disclosure under Regulation S-K, and whether the disclosures are complete enough to avail the firm of a safe harbor. Although

¹ https://papers.ssrn.com/sol3/papers.cfm?abstract_id=6343938

² https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1894304

³ <https://www.sec.gov/news/speech/speecharchive/1998/spch220.txt>

⁴ <https://business.rice.edu/wisdom/companies-talk-more-clearly-when-business-booming;>

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4254135

⁵ <https://corpgov.law.harvard.edu/2011/03/15/sec-disclosure-and-corporate-governance-financial-reporting-challenges-for-2011/#2>

management and shareholders may initially diverge in their assessment of a risk’s significance, this disclosure ecosystem helps prompt critical evaluation of the differing perspectives. In this way, the market self-identifies and defines emerging and potentially material risks through iterative engagement between companies and their investors as risks emerge and ripen.

The United States Government Accountability Office (“GAO”) has documented this filtering process. In its 2020 report, *Public Companies: Disclosure of Environmental, Social and Governance Factors and Options to Enhance Them*,⁶ the GAO found that most companies it interviewed (11 of 18) conducted assessments to determine which ESG topics should be included in regulatory filings and which belonged only in voluntary reports. Companies described reviewing a broad array of risks, identifying those most significant to the business, and distinguishing between information material under SEC standards and information disclosed voluntarily for other audiences. The report thus demonstrates how voluntary sustainability reporting and SEC disclosure are complementary, not interchangeable.

Commission staff correspondence also provides a concrete illustration of this process. In 2022, the Division of Corporation Finance wrote to Diamondback Energy Inc., inquiring as to why the company’s Corporate Sustainability Report had more information than provided in SEC filings concerning climate related risks.⁷ Diamondback responded to the comments by ultimately enhancing its Regulation S-K risk disclosures concerning these risks.⁸ There, the system worked to identify a disclosure shortcoming, improving information to shareholders about material risks that could affect their investment.

Conversely, companies have sometimes explained why a given issue does not rise to the level of a required material disclosure. In 2023, the Division of Corporation Finance asked Eli Lilly why its ESG Report and CDP responses contained more expansive climate-related disclosure than its contemporaneous SEC filings.⁹ Eli Lilly responded that its ESG disclosures were prepared for a broader stakeholder audience and included information that was not necessarily material under SEC standards, while stating that it would continue to monitor and evaluate whether additional climate-related information should be included in future filings.¹⁰ This exchange highlights the significance of this internal process for evaluating whether voluntarily reported ESG information has crossed the line into material risk requiring SEC disclosure.

II. Regulation S-K Disclosures Are Decision-Critical Inputs to Shareholder Proposals, Other Investor Stewardship Tools and Proxy Voting

Regulation S-K disclosures, as a reflection of management’s formal determination under the federal securities laws that a risk is material, serve as decision-critical inputs for investment, stewardship activities including the filing of shareholder proposals, and proxy voting.

⁶ <https://www.gao.gov/products/gao-20-530>

⁷ <https://www.sec.gov/Archives/edgar/data/1539838/000000000022005739/filename1.pdf>;

<https://www.sec.gov/Archives/edgar/data/1539838/000000000022007082/filename1.pdf>

⁸ <https://www.sec.gov/Archives/edgar/data/1539838/000153983822000106/filename1.htm>;

<https://www.sec.gov/Archives/edgar/data/1539838/000153983822000109/filename1.htm>

⁹ <https://www.sec.gov/Archives/edgar/data/59478/000005947823000249/filename1.htm>

¹⁰ <https://www.sec.gov/Archives/edgar/data/59478/000005947823000278/filename1.htm>

SRG's members, which include investing institutions with diversified portfolios and long investment horizons, rely on 10-K risk factor and management's discussion and analysis disclosures as inputs to investment and stewardship decisions. Disclosures help our members assess whether management has identified and is actively managing risks that could affect long-term financial performance, to evaluate whether the company's risk oversight framework is commensurate with its risk exposure, and to determine whether further engagement or escalation through the proxy process may be warranted. The disclosures are also a baseline against which to assess the need to file shareholder proposals requesting enhanced reporting or management action on identified risks.

The relationship between Regulation S-K and shareholder proposals is therefore mutually reinforcing. S-K disclosures enable investors to assess whether a company is adequately addressing a subject raised through engagement or a proposal. At the same time, shareholder proposals often bring to management's attention the very risks that may later warrant disclosure as material issues. Weakening either side of this framework would undercut this important process for bringing relevant information to the market. Regulation S-K disclosures are not simply a compliance exercise. They are decision-useful inputs which investors rely upon to exercise their rights and fulfill their fiduciary duties.

We are aware that the Commission has been urged to reconsider its rules governing environmental and social shareholder proposals.¹¹ However, the shareholder proposal process is one of the principal mechanisms through which investors communicate and escalate their information needs and emerging risk concerns to portfolio companies. Constraining the subject matter of Rule 14a-8 proposals to eliminate environmental or social issues, which often emerge as material risks, would pose substantial harm to the market by disrupting the channels for improved disclosure.

The tech industry serves as a valuable example of how disclosure of management of social risks is a material concern. An analysis published by the TechForward Investors Initiative in March 2026¹² reports that, as new and evolving risks around AI, data, and societal impact emerge, tech companies with stronger governance addressing societal concerns exhibited lower idiosyncratic volatility and stronger excess returns.

Several recent shareholder proposals also illustrate how Rule 14a-8 helps surface potentially material risks which ultimately interplay with companies' Regulation S-K disclosures.

Artificial intelligence and emerging risks. AI-related shareholder proposals at U.S. companies have increased significantly in number, scope, and ambition between 2022 and 2025, driven by investor demand for transparency regarding the related risks and opportunities.

¹¹ <https://www.whitehouse.gov/presidential-actions/2025/12/protecting-american-investors-from-foreign-owned-and-politically-motivated-proxy-advisors/>

¹² <https://static1.squarespace.com/static/66c82ed01a22a6350a78d644/t/69c506f0ff3895203bd46e47/1774520048812/TechForward+Governance-that-Performs+White-Paper.pdf>

- In 2025, investors filed proposals at Alphabet¹³ and Amazon¹⁴ seeking greater transparency regarding the water and energy demands associated with AI infrastructure. A similar proposal at Salesforce¹⁵ preceded the company's launch of a dedicated water program as part of its updated sustainability strategy.¹⁶
- In 2024, shareholders at Meta and Alphabet filed proposals requesting annual reporting on the risks posed by generative AI, including misinformation and broader societal harms; the proposal received 56.3% support from Meta's independent shareholders and 45.7% of the independent vote at Alphabet.¹⁷ Similarly, at Apple in 2024, shareholders filed a proposal seeking greater transparency regarding the company's use of AI and its ethical guidelines, which received 37.5% support of votes cast.¹⁸

Online child safety. In 2024, faith-based investors co-filed a proposal at Meta requesting annual reporting on child safety risks, including cyberbullying and mental health harms to young users. The proposal received 59.1% support from independent shareholders.¹⁹ Similar proposals have occurred at Alphabet and Apple, reflecting broad investor concern.²⁰ This risk has materialized in recent litigation. In March 2026, a \$6 million jury verdict was issued against Alphabet and Meta in a lawsuit in which a young woman alleged that negligent platform design contributed to her addiction to social media and resulting mental health harms.²¹ Additional lawsuits raising similar allegations are currently pending.

Opioid crisis oversight. In 2020, the Illinois State Treasurer co-filed a proposal at Johnson & Johnson requesting review of opioid-related risks.²² The proposal received 60.9% support.²³ Similar proposals were filed at McKesson, AmerisourceBergen, and CVS Health.²⁴ These proposals anticipated risks that later proved financially and operationally significant, including the \$26 billion opioid legal settlements reached by these companies in 2022.²⁵

Worker safety. In 2022, shareholders at Amazon filed a proposal requesting an independent

¹³ <https://www.reuters.com/sustainability/boards-policy-regulation/investors-press-amazon-microsoft-google-water-power-use-us-data-centers-2026-04-06/>

¹⁴ https://s2.q4cdn.com/299287126/files/doc_financials/2025/ar/Amazon-2025-Proxy-Statement.pdf

¹⁵ <https://collaborate.unpri.org/group/31906/stream>

¹⁶ <https://www.esgtoday.com/salesforce-launches-new-program-to-address-water-use-at-data-centers-power-supply/>

¹⁷ <https://www.openmic.org/news/2024/6/2024-shareholder-votes-send-strong-message-to-meta-and-alphabet-regarding-artificial-intelligence>

¹⁸ <https://www.reuters.com/technology/apple-shareholders-reject-ai-disclosure-proposal-2024-02-28/>

¹⁹ <https://www.forbes.com/sites/bhaktimirchandani/2026/03/26/a-safer-meta-starts-with-how-its-executives-are-paid/>

²⁰ <https://www.iccr.org/reports/shareholder-proposals-an-essential-investor-right/>

²¹ <https://www.reuters.com/legal/litigation/jury-reaches-verdict-meta-google-trial-social-media-addiction-2026-03-25/>; <https://www.bloomberg.com/news/articles/2026-03-25/meta-google-found-liable-in-social-media-addiction-case>

²² <https://portal.ct.gov/-/media/OTT/Press-Room/Press-Releases/2020/PR042920ShareholdersWinVoteAtJohnsonJohnson.pdf>

²³ <https://www.sec.gov/ix?doc=/Archives/edgar/data/200406/000020040620000034/a20200423voteandcoi.htm>

²⁴ https://share.ca/wp-content/uploads/2024/05/ioa_accountability_two_year_summary_report-oct2019.pdf?

²⁵ <https://www.fiercepharma.com/pharma/johnson-johnson-drug-distributors-finalize-26b-opioid-settlement-states-join-landmark-deal>

audit of working conditions, citing injury rates reportedly well above the national average.²⁶ The proposal received 44% support.²⁷ Amazon has since been the subject of a class action lawsuit concerning its treatment of workers with disabilities²⁸ and in 2025 reached a settlement with the U.S. Department of Labor following a multi-site Occupational Safety and Health Administration investigation and resulting cases concerning hazardous working conditions.²⁹ Similar proposals have been filed at Walmart³⁰ and other issuers,³¹ highlighting investor concern that workplace safety failures can create material operational, legal, and reputational risk.

III. Recommendations

SRG urges the Commission to take the following steps:

- Clarify that substantial support for a shareholder proposal (for instance, above 20% voting support) may constitute evidence of materiality of the related issue for purposes of Regulation S-K disclosure.
- Preserve, and where appropriate strengthen, the requirements under Items 105 and 303 that require issuers to disclose material risk factors and management’s analysis of those risks, including environmental and social risks.
- Prescriptive disclosure requirements, to require disclosure of issues of systemic or portfolio-wide materiality (impact on Beta), can and should supplement principles-based disclosures under Regulation S-K.
- Maintain the shareholder proposal process as a right of all investors, not reserved only to the largest shareholders. Do not constrain the subject matters of shareholder proposals in a manner that undercuts the ability of investors to surface issues relevant to their companies. The effectiveness of shareholder proposals as a mechanism for surfacing emerging risks critically affects the pool of information regarding potentially material risks and is intrinsic to many investment strategies. Curtailing the ability of shareholders to file proposals on any topics relevant to their companies would weaken the ecosystem of disclosure that includes Regulation S-K.
- Affirm and strengthen the Commission’s comment letter practice of reviewing risk factor disclosures for adequacy relative to a company’s voluntary sustainability and ESG disclosures. That function should be preserved and made more systematic, not reduced.
- Make clear that voluntary sustainability reports, CDP responses, and other ESG-specific disclosures do not substitute for Regulation S-K risk factor disclosure. The Commission

²⁶ https://www.sec.gov/Archives/edgar/data/1018724/000110465922045572/tm223357-5_def14a.htm

²⁷ <https://global.morningstar.com/en-ca/sustainable-investing/amazon-asked-by-investors-to-explain-working-conditions>

²⁸ <https://www.abetterbalance.org/resources/complaint-lyster-v-amazon/>

²⁹ <https://www.dol.gov/newsroom/releases/osha/osha20241219>

³⁰ <https://ipjc.org/wp-content/uploads/2025/05/WMT-2025-health-and-safety-governance-proposal.pdf>

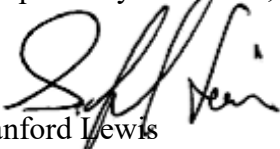
³¹ <https://corpgov.law.harvard.edu/2024/12/23/labor-rights-engagement-trends-and-shareholder-proposals/>

should also provide additional guidance on the process by which voluntarily reported and formatted ESG information can be included in Commission mandated filings.

The Commission's mission is investor protection and the maintenance of fair, orderly, and efficient capital markets. Regulation S-K and the Rule 14a-8 shareholder proposal process together help shape the information ecosystem that advances that mission.

SRG appreciates the Commission's consideration of these views and welcomes the opportunity to provide additional information or discuss these issues further.

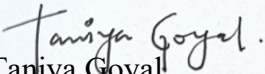
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