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April 28, 2020

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

Re: File Reference No. S7-01-20; Management’s Discussion and Analysis, Selected Financial Data, and Supplementary Financial Information (SEC Release Nos. 33-10750; 34-88093)

Dear Ms. Countryman:

Deloitte & Touche LLP is pleased to respond to the request for public comment from the Securities and Exchange Commission (the “Commission”) on the proposed rule, *Management’s Discussion and Analysis, Selected Financial Data, and Supplementary Financial Information* (the “proposal”).

We support the Commission’s continuing efforts to modernize the current disclosure regime to facilitate timely and material disclosure by companies. The most effective disclosures are those that are clear, concise, and focused on matters that are both material to investors and specific to the company. The current disclosure regime largely supports such disclosure, but there are aspects that could be modernized. This proposal and other recent activities of the Commission and its staff support that modernization by focusing on eliminating duplicative information and encouraging disclosure of the information that is most useful to investors.

PROPOSED AMENDMENTS TO REGULATION S-K

Overall, we support the Commission’s proposed changes to Regulation S-K. This includes promoting effective Management’s Discussion and Analysis (MD&A) through proposed new Item 303(a) that would state the principal objectives of MD&A. We believe this change will help underscore the important purpose of MD&A, which is to allow investors to see historical and prospective information about a company’s financial condition and operating results through the eyes of management.

As we noted in our 2016 comment letter on the Commission’s concept release on *Business and Financial Disclosure Required by Regulation S-K*,¹ the SEC staff has published a wide variety of guidance on the preparation of MD&A, including relevant portions of the Division of Corporation Finance’s *Financial*

¹Available at <https://www.sec.gov/comments/s7-06-16/s70616-131.pdf>.

Reporting Manual, compliance and disclosure interpretations, and various interpretative releases. Consolidating prior guidance on MD&A disclosures into a single source would help companies prepare more effective MD&A by making that guidance easier to locate and use. We believe codifying guidance will achieve that same purpose, and we therefore support the proposed codification of certain aspects of the existing MD&A guidance. This includes the proposal to amend Item 303 to explicitly require disclosure of Critical Accounting Estimates (CAEs) and to emphasize that CAE disclosure is not intended merely to duplicate the significant accounting policy footnote in companies' financial statements.

If the Commission moves forward to codify this and other guidance on MD&A, it would be helpful if it would be explicit if the codification is intended to modify that guidance or change existing practice. For example, the proposed required disclosure of CAEs includes a requirement to disclose, if material, "how much each estimate has changed during the reporting period." The Commission should consider clarifying whether this is intended only to require disclosure related to the change for the most recent reporting period or whether the Commission intends to require this disclosure for each reporting period presented in the filing (i.e., for each of the two or three fiscal years presented).

Similarly, if the Commission makes changes to language as it reorganizes the existing requirements related to MD&A, it should clarify whether those changes are intended to effect substantive changes to company disclosure practices. For example, the proposal eliminates the word "reportable" from the current requirement in Item 303(a) to "focus on each relevant, reportable segment and/or other subdivision of the business." The focus on reportable segments is consistent with how segments are considered for inclusion in companies' financial statements under US GAAP, and the reason for the exclusion of that word in the proposal is not clear.

Moreover, if the Commission moves forward to codify the guidance indicated in the proposal, we encourage it also to review the remaining MD&A guidance and clarify which will continue to apply. While it may be clear that some existing guidance will no longer apply after the proposed codifications (because, for example, it has been addressed in the final rule or applies to a section of MD&A that has been eliminated), that may not be true with all the remaining guidance.

Finally, if the Commission adopts its proposal to eliminate the existing requirement in Item 302(a) to disclose selected quarterly financial data, we encourage it to work with the Public Company Accounting Oversight Board (PCAOB) to clarify the responsibility of an auditor to perform quarterly reviews. Currently, PCAOB Auditing Standard 4105.06² requires an auditor to perform a review of a company's fourth quarter interim financial information if the disclosure is required by Item 302(a). The elimination of Item 302(a) may *de facto* eliminate the auditor's requirement to review that disclosure. The role of the auditor would be clearer, however, if the auditing standards were amended to reflect the change in the Commission's requirements—i.e., to clarify whether auditor review is required if a company discloses select fourth quarter financial data in its Form 10-K or initial registration statement, either voluntarily or because it is material. If the auditor is no longer required to conduct reviews in those circumstances, the Commission should consider whether this change is sufficiently clear to investors.

² AS 4105.06 (see <https://pcaobus.org/Standards/Auditing/Pages/AS4105.aspx>) provides in part that "Many SEC registrants are required by item 302(a) of Regulation S-K to include selected quarterly financial data...in their annual reports.... Consequently, a review of the entity's fourth quarter interim financial information must be conducted even though a quarterly report for the fourth quarter is not filed on Form 10-Q."

CONTINUED FOCUS ON EVOLVING COMPANY DISCLOSURES

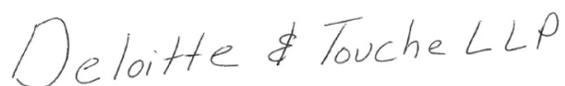
Chairman Clayton's remarks³ regarding the proposed amendments discussed a number of disclosure-related topics on which the Commission continues to engage. The areas mentioned are important, and we appreciate the Commission's continued focus on them. His remarks appropriately emphasized the continued importance of environmental and climate-related disclosures. We have observed an increasing emphasis by investors and company management on disclosures in these areas, as well as other information that falls into the broad category of environmental, social and governance (ESG) disclosures. We encourage the Commission to remain engaged in discussions about ESG disclosures, both with US stakeholders as well as in its international activities. We believe that the Commission's experience with its own high-quality disclosure regime provides a valuable perspective in these discussions.

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We commend the Commission for its continued focus on modernizing its disclosure regime to help ensure it remains relevant. We appreciate the opportunity to provide our perspectives on the current proposal, and we stand ready to share our perspectives on other disclosure issues on which the Commission is engaged.

If you have any questions or would like to discuss our views further, please contact Lisa Mitrovich at [REDACTED]

Sincerely,



Deloitte & Touche LLP

cc: Jay Clayton, Chair
Hester Peirce, Commissioner
Elad Roisman, Commissioner
Allison Herren Lee, Commissioner
William Hinman, Director, Division of Corporate Finance
Sagar Teotia, Chief Accountant

³ Available at: <https://www.sec.gov/news/public-statement/clayton-mda-2020-01-30>.