American Bankers Association
Building Success. Together.

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[redacted]

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Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Via email: rule-comments@sec.gov

RE: File Number S7-06-16 *Business and Financial Disclosure Required by Regulation S-K*

To Whom It May Concern:

The American Bankers Association (ABA)[1] appreciates the opportunity to comment on the concept release *Business and Financial Disclosure Required by Regulation S-K* (Concept Release).

In summary, we support efforts to improve disclosure requirements for the benefit of investors and registrants. Disclosure is an important and challenging issue for bankers, as banks publicly disclose different financial information in various regulatory forums. The relevance of certain banking disclosure requirements can change because of new accounting standards, new regulations or banking agency reporting requirements. For example, much of the concern in the past related to off-balance sheet requirements and variable interest entities has been addressed through Accounting Standards Updates issued by the Financial Accounting Standards Board (FASB). The needs of investors also evolve, whether for cyclical purposes (they change as macroeconomic cycles progress) or event-driven purposes (such as when specific events occur, such as the "Brexit" or Greek debt crisis). Therefore, ABA believes regular and formal efforts by the Commission to address specific disclosure requirements are appropriate.

With this in mind, ABA recommends that the Commission first consider and publish a more holistic reporting framework for registrants that would guide the Commission on how to address financial reporting and how registrants will address issues not directly addressed through Regulation S-K[2]. Part of this framework can also address the process to periodically review and update specific industry guides, such as Guide 3 *Statistical Disclosures by Bank Holding Companies* (the Guide). Our recommendations to the Commission are:

1. Clarify the objective of disclosures within the context of Regulation S-K.

Banks and other preparers will be best prepared to address the concerns of their investors if it is clear as to where the investor will seek the information. We believe forward-looking information (in which

[1] The American Bankers Association is the voice of the nation's $16 trillion banking industry, which is composed of small, regional and large banks that together employ more than 2 million people, safeguard $12 trillion in deposits and extend more than $8 trillion in loans.

[2] ABA notes that FASB has an ongoing project that similarly addresses how the Board decides on required disclosures and how financial statement preparers decide on what and how disclosures should be prepared.

preparers of this information have been protected by safe harbor statutes) should be reserved for MD&A, and GAAP financial statements (including footnote disclosures) should generally reflect past events and current conditions.

The delineation between the types of disclosures (and their locations) has traditionally been an objective of MD&A and has served investors well in understanding not only where to look, but how to interpret such information. The existing lack of clarity of what qualifies as "forward-looking information" often contributes to the redundancy and boilerplate language that occurs in disclosures today.

2. Provide principles and objectives-based guidance, instead of mandating specific standardized tables, disaggregation levels and detailed data.

Banks and other financial services firms operate within various different business models, and their investors often have changing needs. Guiding principles and objectives-based guidance will allow bankers to address investor concerns from the perspective of how they manage the enterprise. ABA supports a review for the possible update of Guide 3, as some of the specific requirements are no longer relevant to the concerns of many bank investors. However, if the resulting update of the Guide is inconsistent with high-level principles (and prescribes specific data, formats, or disaggregation levels), we believe many of its disclosures may soon likewise become obsolete. Additionally, it may also discourage registrants from proactively providing appropriate information when new events or circumstances arise.

We understand that a good proportion of banking analysts and investors desires standardized formats and assumptions to be made in disclosures that allow for quick analyses between companies. However, mandated disclosures using prescribed assumptions and formats (for example, disaggregation levels) will often be disclaimed by the bank because they will not often conform to the assumptions and formats that the bank actually uses in managing its business. Thus, such disclosure will not only contradict the overall purpose of Management's Discussion and Analysis (MD&A), but also add unnecessary noise to it. In the spirit of harmonization, we recommend that the Commission coordinate any efforts with the U.S. banking agencies, which often require specified assumptions in standardized tables within regulatory reports that are publicly available to investors,.

3. Recognize the inherent limitations of conveying risk information.

Banks have active and robust processes to identify and assess the different risk factors they face. Common banking industry Regulation S-K disclosures address credit risk, interest rate and other market risks, liquidity and funding risk, and operational risk. Each of these risks is difficult not only to separate from one another, but to communicate with any precision. Any specific requirement to discuss probabilities of occurrence or impacts (outside of the purposes of accounting for loss contingencies and current disclosures of Value At Risk) will frustrate both registrants and investors, as banks have different methods of assessing such risks and the interdependencies among the many related factors make it almost impossible to provide consistent, comparative information that is decision-useful.

4. Retain the current frequency of reporting.

Changing to more frequent reporting is not practical from the perspective of registrant. A significant amount of time and effort is already required in order to file a Form 10-Q within today's required timelines. For practical purposes, moving to a monthly reporting cycle would require firms to start the monthly report prior to filing the quarterly report. Proposals related to frequency of reporting should not take priority over practical disclosure process improvements.

5. Apply the framework of high-level principles to the consideration of disclosures related to environmental, social, or other public policy issues (such as climate change).

Given the various organizations that currently provide guidelines related to environmental and sustainability reporting issues, we believe any effort to finalize prescriptive rules will not be beneficial to most of the stakeholders involved. The overarching principle of any requirements should be to provide information directly consistent with the Commission's mission to facilitate capital formation. Requirements that are not directly consistent with this will likely only add significant cost with little perceivable benefit, and should not be included in registrants' filings.

With this in mind, ABA suggests that the Commission monitor the efforts of the Task Force on Climate-related Financial Disclosures (TFCD) as TFCD attempts to develop voluntary, consistent disclosures for the benefit of lenders, insurers, investors, and other stakeholders. Consistent with our recommendation above, to the extent that TFCD recommendations become industry practice, the Commission does not need to move forward with these principles.

6. Reject the notion of disclosure of specific quantitative and qualitative factors used to assess materiality in the MD&A.

Whether based directly on GAAP, SEC Staff Accounting Bulletin No. 99, or legal interpretation, materiality cannot be uniformly applied. Indeed, materiality (or, simply speaking, what significantly alters the total mix of information) differs among industries, companies, and specific financial statements. It then varies based upon facts and circumstances, as well as management's judgment. Hence providing a single or a range of quantitative materiality thresholds is not meaningful or informative to a financial statement user. While a disclosure of the quantitative and qualitative factors that form an assessment of materiality initially sounds reasonable, we believe that the value of such information may be minimal, given the highly judgmental process to evaluate each factor.

Thank you for your attention to these matters and for considering our views. Please feel free to contact me [redacted]; [redacted]) if you would like to discuss our views.

Sincerely,

Michael L. Gullette