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INVESTMENT MANAGEMENT

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

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Also sent via email to rule-comments@sec.gov

Response to the Securities and Exchange Commission's concept release on business and financial disclosure required by Regulation S-K

Norges Bank Investment Management welcomes the opportunity to provide comments to the Commission specifically on the disclosure of information relating to sustainability and public policy matters.

Norges Bank Investment Management is the investment management division of the Norwegian Central Bank and is responsible for investing the Norwegian Government Pension Fund Global. As of 31 March 2016, the fund was invested in 856 billion USD of assets globally, of which approximately 185 billion USD was invested in U.S. equities.

Norges Bank Investment Management expects companies to identify, address, and disclose material sustainability risks and opportunities they face. How companies manage such risks and capitalize on opportunities can drive their long-term returns, while transparency on such risks and opportunities can be useful to investors in their analysis of how relevant sustainability issues may affect the financial performance and prospects of their portfolio companies. We believe there are specific sustainability and public policy issues that are important for informed voting and investment decisions. Some important topics include (i) environmental issues, including reporting on climate risks and emissions, (ii) social and employee matters, (iii) respect for human rights, and (iv) anti-corruption and bribery matters. If the Commission were to adopt specific disclosure requirements involving sustainability or public policy issues, the Commission could use a balanced, sector-based approach to elicit meaningful disclosure on these important issues.

We reiterate our view that the board of directors has the overall responsibility for the company's strategy, execution, and reporting, including the identification and disclosure of material sustainability factors. Under the

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terms used in the concept release, we consider a principles-based approach underpinned by materiality to be the most appropriate for creating a disclosure framework flexible enough to address evolving issues. We nevertheless see a need for detailed guidance on what items such reporting could include and believe the Commission can provide further guidance to companies in their assessment of material risks specific to the sectors they are operating in. We also highlight the existing reporting frameworks of initiatives such as the Sustainable Accounting Standards Board (SASB) and Global Reporting Initiative (GRI), which provide sector-based guidance to companies. We support the development of improved sustainability and corporate governance standards and practices at the national and market level, and their alignment at an international level.

You can find our response to the specific questions set out in the concept release in the appendix.

Yours sincerely,

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APPENDIX Norges Bank Investment Management's response to specific questions

216. Are there specific sustainability or public policy issues that are important to informed voting and investment decisions? If so, what are they? If we were to adopt specific disclosure requirements involving sustainability or public policy issues, how could our rules elicit meaningful disclosure on such issues? How could we create a disclosure framework that would be flexible enough to address such issues as they evolve over time? Alternatively, what additional Commission or staff guidance, if any, would be necessary to elicit meaningful disclosure on such issues?

Yes, we believe there are specific sustainability or public policy issues that are important for informed voting and investment decisions. Some important topics include (i) environmental issues, including reporting on climate risks and emissions, (ii) social and employee matters, (iii) respect for human rights, and (iv) anti-corruption and bribery matters. If the Commission were to adopt specific disclosure requirements involving sustainability or public policy issues, the Commission could use a sector-based approach to elicit meaningful disclosure on these issues. The Commission and its staff could assess the existing sector-based guidelines by Sustainability Accounting Standards Board (SASB) and Global Reporting Initiative (GRI), and direct companies to the most relevant subset of metrics to disclose. Under the terms used in the concept release, we consider a principles-based approach underpinned by materiality to be the most appropriate for creating a disclosure framework flexible enough to address evolving issues.

217. Would line-item requirements for disclosure about sustainability or public policy issues cause registrants to disclose information that is not material to investors? Would these disclosures obscure information that is important to an understanding of a registrant's business and financial condition? Why or why not?

A general prescriptive approach relying on line-item requirements for disclosure about sustainability or public policy issues is not likely to be universally appropriate given the differences among sectors, and can lead to disclosure that is not relevant to the investor and costly for the company to prepare. The board of directors has the overall responsibility for the company's strategy, execution, and reporting, including the identification and disclosure of material sustainability factors. The process of determining materiality is entity- and industry-specific, and therefore, we believe the company's board has the expertise, as well as the responsibility, to decide which factors are relevant to the company and report on them.

At the same time, there may be information, such as climate emissions data, which, while not necessarily reaching a materiality threshold for individual companies, may be material for us as a large, long-term and global investor. Such information can be instrumental in providing a more complete picture of the risks and opportunities that companies and sectors face and helpful to the Commission with its mission to maintain fair, orderly, and efficient markets. Regulatory or physical changes may force companies to "internalize" the negative externalities associated with climate change or environmental degradation in the future.

218. Some registrants already provide information about ESG matters in sustainability or corporate social responsibility reports or on their websites. Corporate sustainability reports may also be available in databases aggregating such reports. Why do some registrants choose to provide sustainability information outside of their Commission filings? Is the information provided on company websites sufficient to address investor needs? What are the advantages and disadvantages of registrants providing such disclosure on their websites? How important to investors is integrated reporting, as opposed to separate financial and sustainability reporting? If we permitted registrants to use information on their websites to satisfy any ESG disclosure requirement, how would this affect the comparability and consistency of the disclosure?

Sustainability information on company websites usually addresses multiple stakeholders, and as such, it could obscure information specifically relevant to shareholders.[1] We do not consider the information about ESG matters provided on company websites to be sufficient in addressing investor needs, and believe that a dependence on such practice could compromise the consistency and comparability of company disclosure. Furthermore, if such information is material, companies should always report it in their filings to the Commission.

We believe that the reporting of material sustainability factors needs to be integrated with financial reporting. The integrated reporting (IR) framework supports concise and relevant reporting of material factors; under the IR framework, a matter is material if it could substantively affect a company's ability to create value in the short, medium, and long term. The U.S. Supreme Court definition of materiality incorporates the investor's viewpoint, describing information as material if there is "a substantial likelihood that the disclosure of the omitted fact would have been viewed by the reasonable investor as having significantly altered the 'total mix' of information made available." If companies nevertheless need more specific methods for determining materiality, they could examine the reporting guidelines of SASB and GRI, as relevant.

219. In an effort to coordinate ESG disclosures, several organizations have published or are working on sustainability reporting frameworks. Currently, some registrants use these frameworks and provide voluntary ESG disclosures. If we propose line-item disclosure requirements on sustainability or public policy issues, which, if any, of these frameworks should we consider in developing any additional disclosure requirements?

To encourage the global alignment of reporting requirements, supranational and national regulators could refer to prevailing and aforementioned sustainability reporting frameworks such as GRI and SASB when setting their requirements. For climate disclosure, the Commission may also find it useful to consider the 'phase I report' and forthcoming guidance from the FSB Task Force for Climate-related Disclosure, which, when finalized, is likely to feed into the GRI and SASB standards. We nevertheless believe the Commission is best placed to evaluate these standards and guide companies to report in a meaningful way to investors. Through its guidance, the Commission can also contribute to the harmonization of standards at the international level and reduction of the burden on companies reporting under multiple jurisdictions.

[1] SASB estimates that more than 75 percent of sustainability information currently reported by companies is not material for investors.

220. Are there sustainability or public policy issues for which line-item disclosure requirements would be consistent with the Commission's rulemaking authority and our mission to protect investors, maintain fair, orderly and efficient markets and facilitate capital formation, as described in Section III.A.1 of this release? If so, how could we address the evolving nature of such issues and keep our disclosure requirements current?

Investors would benefit from quantitative disclosures in certain sustainability topics such as climate change risk, which have an externality dimension. A thorough understanding of the economy-wide implications of climate change – and the appropriate weighing of impacts, costs, and benefits – is necessary to arrive at a useful set of reporting items. In our own work, we have accordingly prioritized supporting further academic research into the financial economics of climate change.

There is an emerging expectation that investors measure the carbon emissions emanating from companies in their portfolio as a starting point to evaluate potential climate change risk. As investors, we clearly see the need for companies to report such data, and while the motivation may not yet be fully developed from the point of view of the SEC's rulemaking authority and mission, it could be time to consider the obligatory reporting of climate gas emissions. The Commission could consider other relevant indicators of climate risk for individual sectors in the future, as academic research into the economics of climate change develops further. As mentioned earlier, the forthcoming guidance from the FSB Task Force on Climate-related Disclosure may provide important insights into this question.

222. If we propose line-item disclosure requirements that require disclosure about sustainability or public policy issues, should we scale the disclosure requirements for SRCs or some other category of registrant? Similarly, should we exempt SRCs or some other category of issuer from any such requirements?

Appropriate sustainability reporting should be a requirement for all companies above certain market capitalization. If the Commission were to propose line-item disclosure requirements for sustainability, smaller companies may be exempt or be granted more flexibility through a phased implementation. We would like to point out however that SRCs should continue to disclose material sustainability risk factors as applicable.

223. In 2010, the Commission published an interpretive release to assist registrants in applying existing disclosure requirements to climate change matters. As part of the Disclosure Effectiveness Initiative, we received a number of comment letters suggesting that current climate change-related disclosures are insufficient. Are existing disclosure requirements adequate to elicit the information that would permit investors to evaluate material climate change risk? Why or why not? If not, what additional disclosure requirements or guidance would be appropriate to elicit that information?

We believe that the guidance of the 2010 interpretive release should enable companies to report meaningfully on climate change matters and is a step in the direction of integrated reporting. In the interpretive release, the Commission identifies legislation and regulation, international accords, indirect consequences of regulation or business trends, and physical impacts of climate change as examples of developments that can require disclosure. Material information regarding climate change can be disclosed under item 101 ("description of business"), 103 ("legal proceedings"), 503(c) ("risk factors"), and 303 ("management's discussion and analysis"), and we believe it

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is appropriate to integrate the risks and opportunities firms face from climate change into these sections, as opposed to reporting on them separately. The existing framework puts the onus on companies to make the connection between climate change and their business, and it is instructive for investors to see what metrics companies choose to report on. However, companies may need further guidance from the Commission on what metrics are most useful to investors.

Despite the Commission's guidance, U.S. companies do not always report meaningfully on climate change matters[2]. We believe that the Paris Agreement concluded in December 2015 provides a catalyst for companies to initiate or further develop such disclosure. Not having deemed this topic material previously does not obviate the need to start reporting, and continuing to not report could expose companies to litigation risk.

We favour a sector-based approach to climate change, and welcome the Commission's guidance to registrants to "consider specific risks they face as a result of climate change legislation or regulation and avoid generic risk factor disclosure that could apply to any company." In terms of actual disclosure, it would be appropriate for a registrant to disclose its greenhouse gas emissions (including Scope 3 emissions), as well as its view of other aspects of climate change risks along the lines of the interpretive release, in its annual filing to the SEC. As the Commission noted in 2010, disclosing sustainability information voluntarily elsewhere does not obviate the need to disclose it in regulatory filings, if such information is material to the company's business.

[2] More than 40 percent of 10-K disclosure on sustainability topics consists of "boilerplate language" per SASB.