

**EPA COMMENTS ON CONCEPT RELEASE
REGARDING FINANCIAL DISCLOSURE FOR SUSTAINABILITY**

File No. S7-06-16

7/21/16

EPA supports the intent of the SEC concept release proposal (File No. S7-06-16) related to financial disclosure (as required by regulation S-K) related to environmental sustainability matters that may inform investment and voting decisions. EPA appreciates this opportunity to comment and looks forward to meeting with the SEC to hear more about SEC's needs and provide technical expertise on sustainability issues. We share the following as a framework for considerations the SEC may wish to explore related to sustainability disclosures for topics of sustainable purchasing (as it could relate to sustainable product statements by companies in SEC reporting), climate change and resource scarcity, as noted in File No. S7-06-16.

EPA understands SEC's desire for feedback on the kinds of sustainability information which might be relevant to understanding a registrant's risk profile relating to its business and financial condition and, therefore, constitutes something of value to investors. EPA believes both agencies share interests and objectives ensuring that information disclosed meets essential quality, relevancy, validity and sufficiency characteristics – that is, that the information disclosed is useful, credible and accessible to the user. Our comments focus on two areas: (1) issues related to sustainable purchasing efforts and potential information disclosure and (2) sustainability issues related to climate change, resource scarcity, et al, and the potential risks and related information disclosure. Specifically, EPA along with other agencies is actively engaged in sustainability activities aimed at achieving targeted goals under the Executive Order (EO) 13693, "Planning for Federal Sustainability in the Next Decade signed by the President March 19, 2015. The EO requires federal leadership (by example) and targeted performance in areas such as enhancing federal sustainability procurement, driving greenhouse gas emission reductions, practicing climate change preparedness and resilience planning, promoting water use and management efficiency and energy conservation.

Sustainable Procurement

In supporting EPA's objectives to protect human health and the environment through pollution prevention, we have been engaged in efforts (partnering with other federal agencies and mandated by EO) that leverage the significant market incentive of federal purchasing. To this end, EPA has been active in developing consensus standards in various product and service sectors with an eye toward adopting their eventual use by incorporation and reference in solicitations and contracts. We are also presently engaged through executive mandate in developing and implementing a system of assessing the body of private sector standards and eco-labels for this same use government wide. Consequently, we are bringing focus to the quality, characteristics and conclusions to be drawn by sustainability information.

We believe the information we rely on when determining more sustainable business practices by both product manufacturers and service providers should be of interest to the greater marketplace – not only the federal government in our acquisition functions. Many other large and small institutional purchasers, in fact, are designing sustainable acquisition programs – thereby

magnifying federal sustainability efforts. As for investors, we wish to share our expertise on what information is available in various product sustainability categories, review our experience in what this information might mean toward environmental quality and human health, and work with you as you determine its ultimate value as a risk/financial indicator to investors.

Related to the concept release for financial disclosure, we offer several areas of inquiry for the SEC to consider as they process and explore the disclosure proposal:

- What company information will be disclosed? Will the SEC consider guidelines, specifications, metrics or other performance criteria applied in mandating disclosure?
- How would this disclosed information be used and by whom? Would the government be able to use this in purchasing decisions? Would the environmental disclosure be easily accessible – and understandable as opposed to a mass of information without organization, score, rating or context? Would there be a simple means for procurement officers in the government to easily interpret or understand the disclosed information in determining environmental preferability for contract award purposes?
- How reliable is the disclosed information? Would the disclosed information be audited and certified as to the statements made, and if so by whom and under what accreditation?
- What information is material, and to whom? SEC’s focus is on “investors,” what nature of performance indicators would be relevant or “material” to investors?

Reflecting on federal green purchasing and contracting requirements, it is clear that a company’s bottom line (and therefore, investment considerations by others) may be impacted by company choices regarding sustainable products. Based on federal family’s collective efforts and focus on sustainable procurement, EPA anticipates that the demand for products and services sold by publicly traded companies in the federal government supply chain will be impacted by new or updated sustainability requirements as part of the new federal Common Acquisition Platform (CAP)¹. EPA is working closely with the White House Office of Management and Budget (OMB), the White House Council on Environmental Quality (CEQ), the U.S. General Services Administration, the U.S. Department of Energy, and other federal agencies to ensure federal sustainability requirements are included in government-wide contracts as part of the CAP. These sustainability requirements include those found in (1) statutory mandates for recycled content, energy and water efficiency (e.g. ENERGY STAR, Comprehensive Procurement Guidelines), (2) other EPA eco-labeling programs (e.g., EPEAT, WaterSense, SmartWay), and (3) specifications, standards, or labels recommended by EPA or meet environmental performance criteria developed and adopted by voluntary consensus standards bodies.² According to OMB, potential federal annual spending on products and services under the CAP is up to about \$277 billion.³

Climate Change and Related Sustainability Issues

Although EPA does not presume to communicate on behalf of American companies or the investment community, from a business risk perspective, it seems difficult to dismiss the

¹ See December 4, 2014 OMB memo at <https://www.whitehouse.gov/sites/default/files/omb/procurement/memo/simplifying-federal-procurement-to-improve-performance-drive-innovation-increase-savings.pdf> and October 16, 2015 OMB memo at <https://www.whitehouse.gov/sites/default/files/omb/memoranda/2016/m-16-02.pdf>

² See interim list of EPA recommended ecolabels and standards for federal purchasing at <https://www.epa.gov/sites/production/files/2016-01/documents/interimrecommendations.pdf>

³ <https://www.whitehouse.gov/blog/2015/01/07/taking-category-management-government-wide-0>

potential and realized impact - and therefore, materiality⁴ - that environmental or sustainable concerns related to climate change, resource scarcity, corporate social responsibility, et al, may have on a company's financial performance. In general, companies are exposed to numerous business risks that demonstrate the relationship between sustainability considerations and financial performance: for example, physical risks to assets, resources and operations; availability or costs of inputs; workforce supply disruptions; even reputation. A company's business and its related supply chain may be negatively impacted by disruptions in materials flows that have environmental or natural causes. For instance, company operations or key suppliers in locations exposed to water risks, such as areas subject to rising sea level or severe storm events or areas susceptible to drought or scarcity, may face imminent or future operational and financial vulnerability. Such risks may readily be the type of information an investor would consider material when making voting or other investment decisions.

To this end, EPA invites the SEC (if the SEC has not already) to reach out to the financial community to determine what information they recommend as most material to them. CDP and Ceres are two organizations that provide support, connections, and information for companies and the financial community (investors), along with government and public interest groups. In addition, the Sustainability Accounting Standards Board (SASB) has developed sustainability disclosure standards that are, as the SASB describes them, industry-based, market-informed and evidence-based. The SASB standards may offer comprehensive and useful insight into the materiality of environmental, social and governance information.

Since disclosures related to climate change and other sustainability risks would be reported in a 10-K form, a certain level of veracity would be expected. Given the complex nature of climate change, sea level rise, resource scarcity, and other future trends, boilerplate language in a 10-K filing may not adequately capture the materiality of such risks. Furthermore, it is important to provide sustainability information or data in a context that is understandable by the investment community. Moreover, climate risks are not relevant to all industries; climate risks apply differently and have unique impacts on industry sectors. To this end, SEC may wish to consider helpful standards (such as designed by SASB) for disclosing sustainability information in mandatory 10-K reporting that provides relevant, sector-appropriate, market-specific, and material information.

⁴ From footnote 97 in SEC File No. S7-06-16: "...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."