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Brent J. Fields
Secretary
Securities and Exchange Commission
100 F Street N.E.
Washington, D.C. 20549-1090

Re: Business and Financial Disclosure Required by Regulation S-K Concept Release, File Number S7-06-16

Dear Mr. Fields:

Teacher's Insurance and Annuity Association of America ("TIAA") appreciates the opportunity to comment on the Business and Financial Disclosure Required by Regulation S-K Concept Release, File Number S7-06-16, issued by the Securities and Exchange Commission (the "SEC" or "Commission") on April 22, 2016 (the "Concept Release").

Background on TIAA.

Founded in 1918, TIAA is the leading provider of retirement services for those in academic, research, medical, and cultural fields. Over our nearly century-long history, TIAA's mission has always been to aid and strengthen the institutions and participants we serve and to provide financial products that meet their needs. To carry out this mission, we have evolved to include a range of financial services, including asset management and retail services. Today, TIAA manages over $861 billion in assets, and our investment model and long-term approach aim to benefit the 5 million retirement plan participants we serve across more than 16,000 institutions.[1]

Our engagement around ESG practices.

As stewards of our participants' investments, we want the companies in which we invest to perform well over the long term. Environmental, social, and governance ("ESG") factors increasingly have a material impact on a company's financial

[1] Asset amounts provided are as of March 31, 2016.

condition and operating performance.[2] As such, it is critical for us to obtain reliable, consistent, and comparable data about how companies are managing risks related to ESG factors. In our experience, companies that manage ESG risks appropriately improve financial performance and achieve better results (including protecting shareholder rights and safeguarding the environment).

As such, we carefully examine those ESG issues that can impact the long-term value of our portfolio companies. We believe that good governance and effective analysis and consideration of ESG issues adds value to our portfolio on behalf of our participants – and provides the potential to deliver competitive performance. We also believe that strong corporate governance practices help reduce investment risk and promote effective use of shareholder capital. With this in mind, we encourage our portfolio companies to embrace ESG best practices that will enhance and protect the value of our participants' investments. We do this by voting our shares at annual meetings, engaging with public companies, and promoting our views on ESG practices.

ESG considerations are also important to TIAA in its construction of investment products. As a signatory to the UN-supported Principles for Responsible Investment, TIAA has made a firm-wide commitment to broaden the scope of strategies and investment areas that include the integration of ESG information, including ESG integration across asset classes. This complements our 26-year history in developing investment options with explicit ESG criteria. For example, in 1990, TIAA launched the CREF Social Choice Account, one of the industry's first blended stock/bond variable annuities to incorporate such criteria. Since then, TIAA has introduced more options for investors interested in funds subject to ESG criteria. Today, TIAA continues to be one of the largest asset managers in responsible investing, with nearly $18 billion[3] in assets under management in our Social Choice suite of investment products.[4]

TIAA recognizes that ESG risks, such as the cost of complying with environmental regulations, may reduce a company's fair value, while ESG opportunities, such as a company's positive alignment with ESG trends like clean energy, may improve a company's performance. This is yet another reason why incorporating material ESG considerations in their financial models and valuations is so important to TIAA's investment professionals.

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[2] Eccles, Robert G. and George Serafeim, *The Performance Frontier: Innovating for a Sustainable Strategy*, 91 HARV. BUS. REV. 50, 53 (May 2013).

[3] Asset amounts provided are as of March 31, 2016.

[4] TIAA-CREF Asset Management's current Social Choice Fund suite includes the CREF Social Choice Account; TIAA-CREF Social Choice Equity Fund; TIAA-CREF Social Choice Bond Fund; TIAA-CREF Social Choice International Equity Fund; and TIAA-CREF Social Choice Low Carbon Equity Fund. Additionally, our TIAA Global Asset Management (TGAM) unit has launched several new Undertakings for Collective Investment in Transferable Securities (UCITS) strategies (investment funds authorized for sale to non-U.S. investors in markets such as Europe and Latin America.) TGAM is now managing two ESG strategies that include a global equity ESG strategy and a U.S. bond ESG strategy.

<u>Our support for the Commission's efforts</u>.

We commend the Commission for its efforts to promote sustainability disclosure, including the Commission's 2010 Interpretive Guidance on climate risk disclosure and now this Concept Release. The Commission in Part IV(F) of its Concept Release has requested "feedback on the importance of sustainability and public policy matters to informed investment and voting decisions."[5] Specifically, the Commission has asked eight consultation questions related to sustainability disclosure.

Below, we offer responses to several of these consultation questions (216, 218, 219, and 223). Across these responses, we emphasize the following main points:

- Many ESG factors are material to investment decisions made by investors like TIAA, and we encourage the Commission to explicitly identify those factors it deems material in the disclosure requirements in Regulation S-K.

- We urge the Commission to develop comparable, consistent requirements regarding the disclosure of sustainability information by issuers. But the Commission should only set a "floor" – we recommend that the Commission include a preamble to its final rule encouraging issuers to provide additional, non-mandated information about their ESG risks and opportunities outside the regulatory filing process.

- In developing disclosure requirements, the Commission should consider reporting frameworks published by third-party organizations.

- Current disclosure requirements for climate change issues are inadequate to elicit the information that investors like TIAA need to evaluate a company's material climate change risks and opportunities. We urge the Commission to develop more robust climate change disclosure requirements.

<u>Eliciting meaningful ESG disclosure</u>.

> **Question 216, Part 2: If we were to adopt specific disclosure requirements involving sustainability or public policy issues, how could our rules elicit meaningful disclosure on such issues?**

By developing consistent disclosure standards that facilitate ready comparisons across companies, the Commission can ensure investors are able to obtain the reliable, material ESG information they need to make informed investment and engagement decisions.

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5 SEC Release No. 33-10064 (April 22, 2016) at 205.

To accurately forecast long-term industry and company trends, investors must have an in-depth understanding of material ESG factors and their potential impact. TIAA believes that the consideration of ESG themes and factors by investors can enhance the economic value of companies and produce competitive, long-term financial returns for investors. Given the various voluntary and often inconsistent standards that now apply to companies' sustainability disclosures, however, gathering the necessary information to incorporate these ESG factors into our investment process currently requires significant effort and resources.

TIAA strives to systematically incorporate ESG information and data within internal processes, so that this information can be leveraged across a range of our investment strategies. As part of our investment decision-making process, we place significant value on ESG themes and factors. We encourage companies to disclose material ESG risks through financial metrics that are comparable, transparent, and robust.

But against this aspiration, today's rules in the U.S. lack consistent disclosure standards for ESG-related information – which makes it challenging and resource intensive for TIAA to achieve our goal of incorporating ESG factors into investment decisions. Absent consistent standards, public companies provide the investing public with sustainability information in a variety of reporting styles and using disparate forms of data. The Commission can play a critical role by developing comparable and consistent disclosure requirements for all "information that is important to an understanding of a registrant's business and financial condition," including financially material ESG factors.

In creating standardized disclosure requirements for material ESG data, we encourage the Commission to consider our experience reviewing sustainability disclosures provided by the public equity companies in our portfolio. Over the years, we have identified certain aspects of ESG disclosures that we believe are particularly useful to investors. The most helpful and informative disclosures, in our view, contain robust discussions of the link between the issuer's selected material ESG indicators and long-term business strategy, describe the issuer's governance and risk management policies and oversight practices with respect to ESG strategies, and include performance measures that are tracked and monitored over time indicating the issuer's evolving progress toward its stated ESG goals and strategies. We urge the Commission to consider incorporating these elements into any new ESG disclosure framework.

Finally, we note that the field of ESG research has evolved significantly over the past two decades. The quantity and quality of ESG metrics and data available to investors have increased, in part due to initiatives focused on establishing ESG disclosure frameworks and providing more explicit guidance on industry and sector-specific key performance indicators. As the credibility and comparability of ESG information has improved, its potential applicability has expanded beyond ESG-focused funds. This makes it especially important that the Commission continually monitor emerging ESG best practices as it seeks to establish disclosure requirements for material ESG factors.

Ensuring a flexible approach.

> **Question 216, Part 3: How could we create a disclosure framework that would be flexible enough to address such issues as they evolve over time?**

While we urge the Commission to develop uniform standards for sustainability disclosure, we believe the Commission's sustainability disclosure requirements should represent a floor for disclosure, not a ceiling. Some issuers may wish to provide sustainability information beyond what is strictly mandated by the Commission in order to distinguish themselves from their peers. We recommend that in the preamble to any final rule, the Commission include language that strongly encourages issuers to disclose additional non-mandated information outside of the SEC filing process (*e.g.*, on corporate websites and in corporate social responsibility or sustainability reports).

Voluntary disclosures are not sufficient.

> **Question 218, Parts 2, 4, and 5: 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… 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? 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?**

As we note above, outside of the regulatory filing process, public companies have a variety of channels (such as sustainability reports, corporate responsibility reports, and websites) through which they may choose to provide the public with sustainability information for a broad range of stakeholders, including customers, business partners, employees, and vendors, besides investors. As such, data provided through these channels are usually not comparable to or consistent with similar data from other sources or across industries. Requiring standardized, material ESG disclosure in Commission filings will ensure that data are disclosed in a consistent and comparable way, making it easier for investors to obtain quality data for use in their investment decisions.

Leveraging existing frameworks.

> **Question 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?**

While we do not recommend that the Commission adopt any existing sustainability reporting framework in particular, we do believe investors would be well-served if, in developing disclosure requirements, the Commission undertook a comprehensive examination of existing reporting frameworks. In consultation with global issuers, investors, and subject matter experts, third-party organizations have produced reporting frameworks that provide firms with guidance on effective sustainability reporting and materiality metrics for sustainability disclosures. Frameworks such as these have been developed and refined with the benefit of diverse stakeholders' views. And, with their having been adopted, these frameworks may already be well-understood by companies and the public.

Additionally, to determine what ESG-related information should be deemed material, we suggest the Commission leverage the insight of the Investor Advisory Committee established by the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank")[6] and utilize the rulemaking process so that issuers and investors have an opportunity to comment directly on those ESG issues they deem material.

Existing disclosure requirements.

> **Question 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?**

Existing disclosure requirements for climate change matters are not adequate to elicit the information that would permit investors to evaluate material climate change risk. As is the case with other types of ESG factors, climate change issues can be

[6] Dodd-Frank § 911.

material to an issuer's financial performance. Investors need access to reliable, accurate, and comparable data on issuers' climate change risks and opportunities to make informed decisions. Yet because many issuers voluntarily provide certain sustainability information outside of the Commission filing process, information about climate change matters can often be found only on issuers' websites, in surveys and questionnaires, or in sustainability reports. Websites and sustainability reports do not always mention all material ESG factors that investors should consider, and those factors they do mention can be represented in a manner that does not meet the standards of a regulatory disclosure. The Commission should develop additional disclosure requirements for climate change matters as a universal indicator that would ensure the accuracy and comparability of climate change data provided by issuers.

Conclusion

We commend the Commission for taking on the task of reviewing and improving the business and financial disclosure requirements in Regulation S-K. We would welcome the opportunity to engage further on these issues.

Sincerely yours,

Jon Feigelson

Jonathan E. Feigelson