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DRIVING SUSTAINABLE ECONOMIES
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22 June 2016

Response from CDP to:

Concept Release: Business and Financial Disclosure Required by Regulation S-K

Contact:

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To Whom It May Concern,

CDP, formerly known as the Carbon Disclosure Project, welcomes the opportunity to respond to your consultation on the proposed changes to the *Securities and Exchange Commission's Concept Release: Business and Financial Disclosure Required by Regulation S-K*. We would like to first express our strong support for your consideration of improving sustainability and public policy issues disclosure requirements for the benefit of investors, the public and issuers alike.

CDP and our affiliated organization, the Climate Disclosure Standards Board (CDSB) are non-profit organizations, which since 2000 and 2007 respectively have worked directly with multinational companies headquartered both within and outside the United States, including most of the companies affected by the proposed changes in this concept release. Our responses to the questions posed in this concept release are based on this experience, as well as on the relationship between US practices and emerging international developments. CDP, with offices in New York, London and around the world, is an international, not-for-profit organization that administers and maintains the only integrated global system for companies, cities, states and regions to disclose, manage and share vital information with investors, other stakeholders and the general public on their environmental performance. CDP, the top-ranked organization for climate change research per the 2015 The Independent Research in Responsible Investment (IRRI) survey, each year sends out an information request signed by its approximately 800 signatories, namely, financial service practitioners, investors, wealth managers and others who collectively represent or manage approximately $100 trillion. More than 5,600 companies, representing close to 60% of global market capitalization, disclosed environmental information through CDP in 2015. CDP now holds the most comprehensive reference repository globally of primary corporate environmental data.

CDSB is an international consortium of business and environmental NGOs committed to advancing and aligning the global mainstream corporate reporting model to equate

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natural capital with financial capital. CDSB does this by offering companies a framework for reporting environmental information with the same rigor as financial information. In turn this helps them to provide investors with decision-useful environmental information via the mainstream corporate report, enhancing the efficient allocation of capital. Regulators also benefit from compliance-ready materials. Recognizing that information about natural capital and financial capital is equally essential for an understanding of corporate performance. The work of CDSB builds the trust and transparency needed to foster resilient capital markets.

Our responses to the consultation questions follow below. Some of the main points we wish to emphasize are:

- There are a wide range of sustainability issues that are important to informed voting and investment decisions and we propose eight factors which are required to ensure that reporting on such issues elicits meaningful disclosures;
- We contend that certain sustainability and public policy issues **are** material at entity-specific level according to **current** definitions of materiality and that they should be disclosed under S-K Regulations as **currently** drafted;
- Given the SEC's role and remit, we suggest that the SEC consider only those frameworks that focus on mainstream reporting, adopting the International Integrated Reporting Framework, the CDSB Framework and SASB's emerging standards and provide sufficient structure to support mainstream reporting through the existing approach offered by CDP.
- In that a significant portion of issuers already collect and report such information on a voluntary basis to CDP, and for their own internal reports and other purposes, adding sustainability information to 10K filings should not be burdensome.

216: Are there specific sustainability or public policy issues [that] are important to informed voting and investment decisions? If so, what are they?

Since 2003, CDP has operated the only global digitalized disclosure platform across a range of natural capital environmental risks -- climate change, water and forest commodities -- on behalf of investors, through dissemination of an annual standardized questionnaire to publicly traded companies, and ongoing dissemination of quantitative and qualitative information contained in responses. The original CDP signatory base was 35 investor organizations, and this has grown to more than 800 today, representing most of the global financial services sector. Roughly 2,500 global companies and 3,500 of their suppliers respond to CDP's questionnaires.

CDP's questionnaires elicit both quantitative and qualitative data, and reflect our consultations with investors concerning the information they believe is material.

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Some of this information is applicable to all companies regardless of sector, such as company governance related to natural capital management. For certain industries (Oil & Gas, Electric Utility, Auto & Auto Component Manufacturers, ICT and Food, Beverage & Tobacco), the questionnaire is also currently sector-specific. We believe that the market consensus favors a sector-specific approach, and envision that our questionnaires will fully adopt this approach over time.

Since inception, CDP has produced investor-focused thematic research and annual reports summarizing data trends received through the questionnaire process. Thematic research has addressed topics such as the extent of company targets and capex investment related to emissions reductions in key high emitting sectors, and the use of shadow carbon pricing by companies.

Since January 2015, we also provide sector-specific research with actionable company-level conclusions. The sector research is focused on transport, utilities, materials, metals & mining, cement, steel, oil & gas and consumer goods. We look at both short-term regulation and longer-term business models which may be at risk from a combination of climate change and regulatory responses. We identify relevant metrics and create scenario analyses to show the possible effects of these metrics on future profitability. We then create league tables to rank those companies best equipped to deal with the challenges and therefore might perform better or worse in such scenarios.

Based on our experience of working with investors and conducting investor analysis, we believe the issues below are important to informed voting and investment decisions:

Sector-specific issues and related metrics

CDP research and disclosure results have suggested metrics related to sustainability issues for some sectors that we believe should be considered as part of a balanced investment thesis. Examples of relevant metrics are as follows:

Sector	**Suggested metric**	**Example scenario analysis**
Transport	Fleet emissions for auto manufacturers (g of CO_2 per km)	Fleet emissions regulations in the EU and US in 2015 and 2021 and analysis of broader business models looking at electric and hybrid vehicles
Utilities	Emissions intensity (tons of CO_2 per MWh by fuel type)	Next phase of the EU ETS; implications of increasing

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		renewable power in the grid and which companies are best placed to take advantage
Consumer goods	Exposure to CO_2 emissions from deforestation within food supply chains through palm oil, soy, packaging, and cattle products.	Potential EU legislation to ban non-certified palm oil and the impacts on European food companies; effects of increasing biodiesel use on palm oil and soy prices; effects of droughts in the US and Latin America on companies' ability to continue business
Oil and gas	Emissions per barrel of oil equivalent by type of product (e.g. oil, shale, tar sands)	Sensitivity analysis to various oil prices; regulatory barriers to high-cost, high-emissions extraction; impact of cheap gas on oil production; analysis of ROI of current capex and other potential business models
Materials	Emissions per ton of production for the cement industry	Next phase of the EU ETS; viability of CCS technology
Metals and mining	Emissions per ton of production by product type	Analysis of trends for extraction cost versus market price of output and implications for long-term business models

We also note that there are carbon-related metrics do not today impact the current financial performance of a company, but can be qualitative indicators of emerging risk, physical or regulatory, such as *potential* for carbon tax or cap-and-trade regulation. Similar issues exist in other sustainability-related topics, including in water and drivers of deforestation.

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The perceived materiality of metrics will influence the type of investor who will be prepared to engage actively with companies on those issues. For example, a financially relevant metric such as the average extraction cost of oil reserves could be used by all investors as the basis for a dialogue with corporate management, whereas a less material metric such as relative emissions intensity for food manufacturers is likely to appeal to a more restricted group of investors focused on responsible investing and ESG factors.

In the lead up to COP21 in 2015, many companies appeared ready to make commitments in their operations related to natural capital. This may reflect increasing investor interest in how companies foresee and manage such risks. Some of the issues related to a transition to sustainable resource use that are increasingly tied to material impacts include science-based targets[1], use of renewable energy, and use of carbon pricing[2].

Investors who want to incorporate sustainability information use different investment strategies to manage portfolios ranging from passive to active. For a passive investor, data is essential in terms of stewardship of the investment -- they don't necessarily have the capacity to do deep-dive analysis, so they have a greater need for sustainability information to be in the financial filings. An investor that uses a bottoms-up fundamental credit approach and actively invests with material sustainability issues in mind would value a deep-dive into all relevant factors affecting performance.

Engagement

The November 2015 CDP report "*The mainstreaming of low-carbon on Wall Street US edition based on the S&P 500 Index* "[3] stated, consideration of ESG factors is becoming increasingly mainstream. The report summarized: "Low-carbon investing has expanded from excluding fossil fuel companies and energy producers to also "screening in" the most energy-efficient companies, those poised to succeed when emissions are constrained. Now, the bedrock firms of Wall Street are ready to calculate the carbon footprint of mainstream products, and as a result the presence of high emitting companies in indexes and mutual funds may not be guaranteed. This also represents a new stage in disclosure, a process CDP set in motion 15 years ago when it first asked investors to request company disclosure of their climate

[1] Science-based targets refer to a decarbonization plan in line with climate science. Given the risks to businesses associated with a global temperature increase of more than 2°C, companies that commit to using a science-based emissions reduction target are typically raising their target-setting ambition.

[2] CDP's annual disclosure information request collects information about internal use of carbon pricing by its disclosing companies. See this link: https://www.cdp.net/en-US/Pages/RTP/price-on-carbon.aspx

[3] CDP 2015, *The mainstreaming of low-carbon on Wall Street US edition based on the S&P 500 Index*. Available online: https://www.cdp.net/CDPResults/CDP-USA-climate-change-report-2015.pdf

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impacts." Mainstream managers with a strong ESG overlay might engage with companies to understand what their sustainability strategy is and how they intend to respond to regulations and are also likely to encourage compliance, though they would be unlikely to file resolutions. Shareholder resolutions are sometimes filed by more mainstream investors such as New York State, CalSTRS, CalPERS and Connecticut State, while active ownership and divestment [from fossil fuels] strategies have been put into place at large asset owners and managers.

Mainstream investors with an opportunistic ESG approach would see the CDP's league tables as clearly financially material, given the potential fines for missing auto emissions targets, for example, but may be less prepared or willing to encourage companies to reduce emissions. Some manufacturers may simply pass along added compliance costs to their customers. We would nonetheless expect even mainstream investors to have constructive dialogues with the worst-performing companies to understand the potential trade-offs and the options a company has to reduce fleet emissions while retaining the performance of their cars and other key selling points for their brand. This type of engagement would not be possible without robust disclosure from companies.

If we were to adopt specific disclosure requirements involving sustainability or public policy issues, how could our rules elicit meaningful disclosure on such issues?

We suggest the following eight factors are required to ensure that reporting elicits meaningful disclosures:

1. A clear **objective** for the reporting activity so that reporting organizations know why they are reporting (such as the objective of financial reporting prescribed by FASB[4]);
2. A **requirement** to provide information set by an appropriate authority (such as the requirement to deliver financial statements in forms 10-k at Item 8);
3. Clear **content** elements so that the reporting organization knows what to report (see answer to question 217);
4. A **standard** for complying with the content requirements and for setting suitable criteria/principles for conducting assurance activities so that the reporting organization knows how to report (such as the qualitative characteristics of decision-useful financial information prescribed by FASB);

[4] Financial Accounting Standards Board 2006, *Conceptual framework for financial reporting: objective of financial reporting and qualitative characteristics of decision-useful financial reporting information*. Available at: http://www.fasb.org/pv_conceptual_framework.pdf

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5. A **system** for supplying, storing and analyzing information so that reporting organizations know where to report information and users know where to find it (such as EDGAR);
6. An **assurance** process for ensuring that assertions comply with the standard used to prepare them and that they do not include any material misstatements;
7. A **review** process so that users of information can feed back views to preparers and standard setters about whether they are getting what they need; and
8. Flexibility and system capacity to include qualitative elements that are deemed appropriate by the disclosing entity.

How could we create a disclosure framework that would be flexible enough to address such issues as they evolve over time?

In the same way that FASB supports the SEC's requirements on the delivery of financial statements and COSO supports the SEC's requirements on internal controls, we suggest that the SEC should prescribe the requirement for its registrants (or a subset thereof) to deliver sustainability information, but rely on other bodies including CDP and CDSB to prepare content and standards to elicit information according to SEC specified criteria.

Alternatively, what additional Commission or staff guidance, if any, would be necessary to elicit meaningful disclosure on such issues?

See above, as well as our answer to question 219.

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?

General comments

We accept that if materiality refers to information that is specific to the reporting entity's performance and condition based on past events and known liabilities, then sustainability and public policy matters might not always be deemed material to reasonable investors according to current SEC and FASB definitions (the latter which is currently under review).

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However, as Keith F Higgins said in a speech[5] about disclosure in October 2014, "*...although the reasonable investor is a useful standard for liability purposes, our disclosure system does not specify that companies provide only material information. In fact, the Commission has rulemaking authority to require the disclosure of information "necessary to carry out the provisions" of the federal securities laws. The Commission also can prescribe rules "as...necessary or appropriate in the public interest or for the protection of investors." And, there are certainly discrete line item requirements — such as the number of employees or the number of shares repurchased on a monthly basis irrespective of the dollar amount — that individually may not be material to investment or voting decisions, but over the years the Commission has determined are relevant disclosures for investors."*

We contend that certain sustainability and public policy issues **are** material at entity-specific level according to **current** definitions of materiality and that they should be disclosed under S-K Regulations as **currently** drafted. However, even where sustainability and public policy issues are not material at entity-specific level, we contend that line item requirements for disclosure will enable investors to anticipate and prepare for future effects of those issues as noted below.

International public policy pronouncements on climate change (such as the COP-21 Paris Agreement) and sustainable development goals (SDGs) define international targets and confirm that the private sector will be required to contribute to those targets. The targets are clear but the speed and timing of required behavioural change is uncertain. Research on the transition to a low carbon economy favors a slow and gradual transition towards the desired outcomes rather than a so-called "hard landing"[6]. We contend that similar principles apply to other sustainability issues that are global and present systemic risk implications. Global, systemic risks by definition do not always manifest themselves at entity-specific level, but can nevertheless cause shocks to companies, financial institutions and markets through direct impacts or gradual contagion through markets.

In answer to this question, we conclude that the SEC should issue directions on the circumstances in which companies should report on sustainability issues under existing S-K Regulations where one or more of those issues represents a material risk to the reporting entity.

Additional comments

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[5] Keith F. Higgins, Director of Corporate Finance, US SEC, 2014, Shaping Company Disclosure: Remarks before the George A. Lett Business Law Conference. Available at: https://www.sec.gov/News/Speech/Detail/Speech/1370543104412.

[6] Reports of the Advisory Scientific Committee No 6 February 2016: Too late, too sudden: Transition to a low carbon economy and systemic risk. A report of the group of the European Systemic Risk Board Advisory Scientific Committee. Available at: https://www.esrb.europa.eu/pub/pdf/asc/Reports_ASC_6_1602.pdf

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As a separate matter, we encourage the SEC to consider introducing line item disclosure requirements for sustainability and public policy issues, particularly where international public pronouncements have been made to define policy targets[7]. In particular, we encourage the SEC to require companies to conduct stress tests against those targets and to disclose the outcomes of those stress tests as a separately identifiable series of line items. Investors would therefore be able to distinguish information about stress testing against systemic risk and public targets (which are material to the achievement of international goals in aggregate) from disclosures about material risks specific to the goals, strategy and business model of the reporting entity. Whether they regard systemic risk as material to their investees or not, investors would at least be able to distinguish disclosures relating to those risks, thereby minimizing the possibility of information they regard as material from being obscured.

Given the sound and generally accepted state of climate science and the USA's ratification of the Paris Agreement[8], it is prudent for corporate disclosures to take this into account when reporting on such matters. For this reason, we strongly recommend that climate change-related line item requirements are framed in the context of the issuer's ability to operate within the carbon budget developed by the Intergovernmental Panel on Climate Change. Specifically, we recommend that the Commission frames line items relating to emissions reductions in line with science[9].

Given the international and systemic nature of sustainability risks, we would encourage the SEC to refer to or adopt existing or emerging standards and practices for sensitivity analysis against sustainability targets and associated disclosure. For example, the SEC could encourage its registrants to adopt recommendations eventually made by the Financial Stability Board's industry led Taskforce on Climate-related Financial Disclosures (TCFD).

The central point at the heart of the SEC's question number 217 is whether and to what extent the SEC considers disclosures on sustainability issues to be "necessary or appropriate in the public interest or for the protection of investors." We believe that the SEC must conclude that it is in the public interest and for the protection of investors to require line item disclosures about sustainability issues. As far as

[7] For example, the United States of America has ratified the Paris Agreement on April 22 2016. This is an agreement that, among others, states that its signatories will "…strengthen the global response to the threat of climate change…by…Holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels…". The Paris Agreement is available at: http://unfccc.int/files/essential_background/convention/application/pdf/english_paris_agreement.pdf.

[8] ibid.

[9] A methodology for developing science-based targets that is in use today is available here: http://sciencebasedtargets.org/wp-content/uploads/2015/09/SBTManual_PubComDraft_22Sep15.pdf.

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climate change is concerned, we contend that the work of CDP, the Climate Disclosure Standards Board and the TCFD should be used as the basis for deciding what those line items should be. Please see our response to question 219 for more detail on this matter.

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?

It is true that there are currently various alternatives available to organizations through which to report on ESG matters. However, the problems encountered by users fall into three main categories:

1. Information can be hard to find;
2. Even where the placement of information is clear, it is not structured (except through the CDP online disclosure system) or labeled in a consistent way;
3. Information produced by different corporate departments within the same company and/or delivered through different reporting channels is not always consistent, thereby impairing the reliability of information.

Why do some registrants choose to provide sustainability information outside of their Commission filings?

The general public has a broad interest in sustainability and this constituency does not, as a rule, read Commission filings. Therefore, companies use numerous channels to report to their customers and other concerned parties.

In addition, in that there is no guidance on where to place information about sustainability in a 10-K report, or mandate to do so, companies exclude it, notwithstanding that the law as current drafted warrants inclusion of sustainability information at items 1A (Risk Factors) and 7 (MD&A).

Is the information provided on company websites sufficient to address investor needs?

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We do not think that allowing or recommending disclosure on company websites addresses any of the issues that have prompted the SEC's consultation. In particular, sustainability reporting either is or is not "necessary or appropriate in the public interest or for the protection of investors." If it is, then the information should be reported in the 10-K in a structured format in satisfaction of SEC requirements. In order to manage the volume of reporting, the SEC could make use of cross-referencing protocols to direct users of information to websites for more detail on sustainability-related disclosures made in SEC filings.

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?

In that there is no oversight, regulatory or otherwise, of websites, there is risk to the public if website statements are deemed to satisfy SEC disclosure requirements.

That said, the question that needs to be addressed is about what structure, format, characterization and presentation of information needs to be established to make sustainability disclosures relevant, understandable, clear and consistent **wherever** they are placed. Sustainability information does not fail to address investor needs simply because of variation in **where** it is reported, but also, and more importantly, because of the variation in **how** it is reported. FASB prescribes principles and rules about how financial information should be determined, prepared and presented. Similarly, COSO is widely used for the preparation and presentation of risk information. This means that wherever financial or risk information is reported – on forms 10-K **or** on websites, they follow the principles and rules established by FASB and COSO.

The CDP questionnaires offer a structured approach for reporting information on climate change, water and forests and the CDSB Framework for reporting environmental information offers a complementary approach for reporting a sub-set of that information specifically through mainstream channels, such as the form 10-K, according to principles established for financial, risk, management commentary and governance reporting. Companies provide information via the CDP Online Reporting System in response to a direct request from investors. The CDP system was created specifically because investors were not receiving sufficient useful information via statutory filings or through other channels.

How important to investors is integrated reporting as opposed to separate financial and sustainability reporting?

The answer to this question depends on how investors interpret the meaning of "a comprehensive overview of the company's business and financial condition"[10]. The integrated reporting movement is a response to changing market, government and societal expectations about how a company's business and financial condition is to be understood and particularly, the conclusion that it cannot be assessed based on financial statements alone. Those changing expectations inform the goals that businesses should be setting and the criteria that should be applied to identify good and poor corporate performance. Integrated reporting is based on the premise that performance must be determined based on information about **all** of the resources and relationships (otherwise known as "capitals") on which a business depends to execute its strategy and further its business model. Therefore, if investors and the SEC agree that a business' condition can be affected (positively or negatively) by access to and use of **all** forms of capital, if follows that integrated reporting is crucial to an understanding of business performance.

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?

ESG and sustainability reporting frameworks serve different purposes and the information they elicit is designed for different audiences. Given the SEC's role and remit, we suggest that they consider only those frameworks materials that:

1. focus on mainstream reporting, that is the package of information that includes audited financial statements, management commentary, risk and governance disclosures prepared for compliance purposes. Frameworks that seek to elicit information primarily for investors through mainstream reporting channels include the International Integrated Reporting Framework, the CDSB Framework and SASB's emerging standards. The approaches of these three frameworks to many reporting items are already fairly well aligned – see for example paragraph 53 of CDSB's Discussion Paper on Organizational Boundary Setting[11]; and
2. provide sufficient structure to support mainstream reporting. As noted in our answer to question 223, we contend that any slow uptake of sustainability reporting is partly attributable to a perceived lack of resources to support such

[10] U.S. Securities and Exchange Commission, 2009. *Fast Answers – Form 10-K.* Available at https://www.sec.gov/answers/form10k.htm.

[11] Climate Disclosure Standards Board, 2014. *Proposals for boundary setting in mainstream reports.* Available at: http://www.cdsb.net/sites/cdsbnet/files/proposals_for_mainstream_report_boundary_setting.pdf.

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reporting within the disclosing entity, itself deriving from lack of mandate to disclose through the SEC. A structured approach that helps companies to understand where and how to report is already offered by CDP.

We also invite the SEC to explain how any requirements they introduce will relate to existing reporting provisions. For example, the US Environmental Protection Agency already requires greenhouse gas reporting[12], which may be a component of sustainability reporting – even a required line-item. In this case, the Commission could provide guidance on whether and how the facility level information used for reporting to the EPA could be aggregated to provide consolidated GHG emissions, re-used or cross-referenced to the EPA disclosure to satisfy potential SEC requirements.

As referenced earlier, the CDP investor requests are used by companies representing 60% of global market capitalization, and the CDSB Framework for reporting environmental information form an essential constituent of the information that is provided to investors. Taking these existing requirements into consideration and adopting line-item disclosures that are already in use by companies, is key to establishing an efficient disclosure system that takes into account the data already reported by companies and used by investors, especially in view of the rapid evolution of the concerns giving rise to the SEC guidance.

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?

As the SEC's disclosure rules are intended to facilitate fair, orderly and efficient capital markets, we consider it to be consistent with their authority and mission to address climate change and other sustainability issues that threaten markets and financial stability. As Section III.A.1 of the consultation document states, the SEC has already introduced provisions on corporate responsibility, accountability, executive compensation, governance and other specialized disclosures, including some that are not necessarily financial in nature. We do not see why the introduction of sustainability reporting provisions should present any new or different issues for the SEC as the provisions would also serve the purpose of protecting investors and the public interest and facilitating fair, orderly and efficient capital markets. We think that the SEC's deliberations on how to proceed would be advanced by clearly setting

[12] US Environmental Protection Agency, Greenhouse Gas Reporting Program. Available online at https://www.epa.gov/ghgreporting

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out the objective of the Commission's sustainability reporting requirements. We suggest that some of the thinking reflected in the Financial Stability Board's (FSB) literature on the creation of the Task Force on Climate Related Financial Disclosures might help inform the objective of sustainability reporting, for example, that it is designed to help financial market participants to understand their sustainability-related risks and understand how better to manage those risks.

Assuming that the objective above is broadly appropriate, we suggest that the SEC could address the evolving nature of sustainability issues by working with other organizations (as the SEC does with COSO and FASB) that could manage the content of and approach to sustainability reporting as it evolves (see also question 216) and/or by issuing interpretations of existing provisions in line with current practice[13]. In particular, guidance on whether, how and to what extent existing items 503(c) and 303 should be interpreted to apply to sustainability issues would help registrants. We also recommend that the SEC adopts relevant international authoritative guidance and practices as they emerge, such as the FSB's recommendations on climate-related financial disclosure when they are issued in December 2016, SASB's standards and sustainability performance indicators prescribed in CDP's annual questionnaires and the CDSB Framework for reporting environmental information.

221. What, if any, challenges would registrants face in preparing and providing this information? What would be the additional costs of complying with sustainability or public policy line-item disclosure requirements, including the administrative and compliance costs of preparing and disseminating disclosures, beyond the costs associated with current levels of disclosure? Please quantify costs and expected changes in costs where possible.

Challenges

Fragmented regulatory landscape

To address the challenge of fragmented local, regional and national approaches, we recommend that the Commission seeks alignment with other reporting provisions in use globally. A knowledge platform being developed by the World Business Council for Sustainable Development in partnership with CDSB and EcoDesk, which will be publicly available as a beta version in December 2016. The platform, known as the Reporting Exchange, tracks and records international sustainability reporting provisions (both voluntary and mandatory) and could be used by the SEC to develop requirements that are as consistent as possible with existing practice and therefore less costly for reporting companies to implement.

[13] Along the lines of the 2007 interpretive guidance on climate change and the SEC Division of Corporation Finance "Manual of Publicly Available Telephone Interpretations"

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Cost of compliance

The Commission may find it useful to look at cost-benefit analyses conducted for the implementation of similar requirements in other jurisdictions:

- Cost-benefit analysis for EU Non-Financial Reporting Directive: http://ec.europa.eu/finance/accounting/docs/non-financial-reporting/com_2013_207-study_en.pdf
- Impact assessment for UK mandatory greenhouse gas reporting under the UK Companies Act: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/82354/20120620-ghg-consult-final-ia.pdf
- Impact assessment of the transposition of the EU Non-Financial Reporting Directive into UK legislation: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/506640/BIS-16-35-IA-non-financial-reporting-directive-consultation-impact-assessment.pdf
- Submission of the Australian Senate Inquiry on Carbon Risk Disclosure, which include http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/Carbon_Risk_Disclosure/Submissions

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?

The types of companies within scope of the recommendations and the requirements that apply to them should be linked directly to the objectives that the information is designed to support the outcomes that the SEC seeks to achieve from the use of information.

Since all companies have the potential to affect or be affected by sustainability issues, we are reluctant to suggest that any particular type of company should be exempt from the scope of sustainability reporting requirements. However, we agree that the requirements should be proportionate in the context of the objective of reporting **and** that efforts to build reporting capacity should focus initially on larger companies with the resources to develop and refine reporting processes and practices and those companies with high emissions or other high environmental risks.

The costs associated with the first year of data collection and reporting may be a significant barrier to some Small Reporting Companies (SRCs). But, providing

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information related to sustainability and public policy matters is important nonetheless to:

A) Inform and protect the company's investors and to provide historic data for investor use; and
B) Prepare the SRC for more detailed reporting requirements as it grows.

We therefore recommend that the Commission implements a staggered or phased approach, whereby only larger companies are in scope for the first 3 – 5 years from commencement of the sustainability reporting requirements. This would give the SEC the opportunity to assess which reporting processes and practices are most effective and it would allow SRCs to learn through the experience of larger companies. To keep costs reasonable, we recommend that the Commission develops a proportionally smaller subset of requirements for SRCs to apply up to five years after the commencement of requirements for larger companies.

It is important that the Commission sets a roadmap in order to prepare SRCs for this.

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?"

Having worked with multiple stakeholders over a period of twelve years to develop an international system for reporting and taking action on climate change, CDP is acutely aware of the need for climate change to be treated as a specialist area of environmental reporting and activity. We believe that the Commission's "Guidance Regarding Disclosure related to Climate Change" is comprehensive and clear. It clarifies the existing provisions in SK Regulations that are capable of applying to climate change (in particular items 101, 103, 303 and 503), it explains the way in which climate change disclosures might be triggered, how information may be prepared (by reference to international accords if appropriate) and what type of content should be considered for reporting.

We therefore do not think that poor compliance is attributable to inadequacies in the guidance itself. We contend that poor compliance is attributable to other reasons, primarily focused on implementation of the SEC's guidance:

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1. Inadequate internal corporate infrastructure to link investor needs and concerns with climate reporting specifically and sustainability reporting more generally;
2. Lack of explanation about how climate and sustainability reporting fit into the mainstream reporting model;
3. In the absence of reporting infrastructure that provides standards, definitions of terms, measurement criteria, guidance on the application of professional judgment, clarity on assurance expectations etc. specifically in the context of mainstream reporting, we think that companies will continue to struggle to report on sustainability through the mainstream reporting model. Furthermore, we think it will be difficult for the SEC to enforce reporting; and
4. Lack of fit between sustainability reporting and mainstream model.
   The mainstream reporting model (comprising financial statements, governance disclosures and management commentary) is primarily backward looking to results for a defined reporting period. By contrast, sustainability reporting requires forward-looking information and assessment of future risks. Furthermore, as far as the mainstream reporting model is concerned, matters are material if they are based on past events and known liabilities and if they affect the reporting entity specifically. By contrast, sustainability issues are most often material at the systemic level. Thirdly, mainstream reporting normally focuses on entities, operations, activities and transactions within the reporting organization's control or ownership. By contrast, sustainability reporting often extends along the whole value chain, including consideration of societal and environmental impacts of corporate activity. We think that companies find these contrasts hard to resolve and that this impedes reporting. However, these difficulties are inherent in the nature of environmental risk and do not necessarily result from a failure of the guidance.

333. Should we require registrants to provide additional disclosures in a structured format? If so, which disclosures? For example, are there categories of information in Parts I and II of Form 10-K or in Form 10-Q that investors would want to receive as structured data?

If the SEC goes ahead with the implementation of sustainability related disclosure in 10-K filings, we recommend that it requires registrants to provide this in the same XBRL format (eXtensible Business Reporting Language) as other financial data in order to aid the comparability and consistency of the reported information.

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We refer the Commission to the Climate Change Reporting Taxonomy[14], which provides climate-related reporting elements in XBRL in line with the CDP Climate Change Information Request and the CDSB Framework. A sample report is also available on request.

340. In requiring structured data, the Commission has sought to make disclosure easier for investors to access, analyze and compare across reporting periods, registrants, and industries. Are there other technologies that could make disclosure easier for investors to access, analyze and compare? If so, how should we incorporate these technologies into our disclosure requirements?

We are not aware of other reporting languages that offer significant benefits over XBRL.

It is, however, important to note that XBRL is not a format for analysis, as sometimes misconstrued. We would like to clarify that eXtensible Business Reporting Language is a format to transmit information in a structured and standardized way, while keeping the context that is associated with each data point. In return, the software used for analysis is able to translate the data into the format it requires. But, though XBRL itself is not a format for analysis, is value lies within structuring data in a standardized way to retain information and enable a multitude of ways of using the reported information, including analysis.

[14] Climate Disclosure Standards Board & CDP, 2014. Climate Change Reporting Taxonomy. Available at http://www.cdsb.net/xbrl.