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Re: File Number S7-06-16

July 6, 2016

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

Dear Secretary,

I would like to commend the Commission on its issuance of the Regulation S-K concept release. It is comprehensive in its scope and in its address of many important issues facing investors at this time. I wish to comment on several of them. I am pleased to provide input, and would be happy to contribute to your efforts beyond merely issuing a comment letter.

Disclosure Framework

The Commission requests input on attributes of an effective disclosure system, asking for respondent specifics on matters such as automatic sunset provisions, rules-based versus principles-based approaches to disclosures, costs versus benefits testing, and tuning disclosures to meet levels of investor sophistication and acumen.

I believe that the best way to address these issues is to first decide who is the real audience for disclosures. (Questions 14-23.) Trying to deliver multiple levels of disclosure for different kinds of investors will only result in more unnecessary complications in the entire disclosure system and in delivering those disclosures. Rather than trying to tailor disclosures to different clienteles, such as professional investors in contrast to individual or retail investors, I recommend that the Commission consider adopting an approach that always takes into account the information that a prudent investor would require if he or she was contemplating a significant investment in a company's common stock. By "significant investment," I mean one that would have serious consequence to the investor's wealth in the event that the investment failed. The common stockholder has the last claim on the assets of the company and has the most to gain if a company is successful; their information needs should be the most comprehensive of all investors. While the fixed income markets are greater in size than the equity markets, the equity markets occupy a greater part of the public's consciousness through modern journalism and are strongly associated with the public's retirement funds. Insuring that common stock investors have adequate information for making decisions carries strong public policy implications.

If the Commission frames disclosure questions that way, the concept of investor clienteles vanishes. There would only be one category of disclosure necessary: that which would be necessary to make reasoned investment decisions. That might hew to the professional investor, but through the multitude of investment vehicles available, the professional investor is acting in the interests of the individual investor. As long as the information is readily accessible at little cost – something that the Commission has consistently provided – an individual investor is free to use whatever information they may desire.

The concept release asks if the Commission should establish principle-based or prescriptive disclosure requirements. (Questions 6-13.) This seems to be a binary issue: either one approach or another is supposed to provide adequate disclosure all the time, when in fact it may depend on the situation to which the disclosures relate. I believe that the Commission correctly addressed the issue when it undertook the Sarbanes-Oxley Act Section 108 study: it developed the concept of creating "objectives-oriented" standards which describe the objective of a standard, then provide enough detail and structure so that the standard can be applied consistently. This approach should be applied to disclosures as well. It could be an approach that uses the prudent investor's needs to help define the objectives of a disclosure standard. Such an approach would be driven by the situation a particular disclosure standard addresses, rather than always being locked into a prescriptive/principle-based framework.

The environment for accounting and disclosure standard setting is dynamic. Financial innovation bears an impact on it, and what might seem to be a less useful disclosure in one market cycle might be very useful in another one. Because of the fluidity of markets and the dynamic nature of financial innovation, I would not support the employment of automatic sunset provisions when the SEC issues new disclosure requirements. (Questions 1-5.) I would support, however, a post-audit review of new disclosure requirements by the Commission on a recurring basis. The post-implementation review process employed by the Financial Accounting Foundation is a comparable effort that should be adopted by the Commission.

Information for Investment and Voting Decisions

Core Company Business Information. The Commission requests input on the need for specific information currently provided by Regulation S-K. One particular requirement of interest is the description of the business' development over the last five years. (Questions 24-41.) I believe that there is value in producing this information, and in consistently having it appear in the same location for all companies even if it appears in a registration statement. Companies take less time to originate and develop than they once did, and it is not always possible to fully understand their business – and limits on their business, as well as their outlook – from a variety of sources. Having a description of their business, consistently presented, has been and will continue to be useful for investors. Furthermore, a consistent presentation also helps third-party data providers who will machine-package such information.

One particular area of opportunity to improve the information is the employee information. (Questions 54-59.) No single disclosure might be more basic than this one: every successful company has employees, and as the economy has become more service-oriented, employees have become even more crucial to a firm's success. Yet there's inconsistency in reporting their number across firms. This single data point would be very useful for investors: it would greatly enable consistent per-employee analysis of revenues and costs, and it would be particularly useful in making cross-company comparisons. Tabular format of ending and average employees for a given period would be useful, including full-time equivalent information. Matching such information to segments would be a welcome addition.

Company Performance, Financial Information & Future Prospects. The Commission requests respondents to comment on certain disclosures that are uniquely provided by Regulation S-K. One of these disclosures is the five-year presentation of selected financial information. (Questions 67-78.) While the Commission is concerned with the electronic distribution of financial data in the financial statements, one thing needs to be kept in mind: sometimes investors will actually read printed copies of the financial package. The five-year summary provides unique information that cannot be found when there is a change in accounting standards: investors can see the effect of a retrospective accounting change for five years instead of the usual three that is found in the actual financial statement presentation. This is useful to investors: trends in a firm's business are a useful analytical tool, and when the information is consistently applied over a longer period of time, the trend becomes more meaningful to the investor. Therefore, the information is serving investors best if it is retained, and a flexible approach should not be considered.

With regard to the Management's Discussion & Analysis (Questions 88-106), I believe that it is a very useful disclosure and that it would be unnecessary to require, perhaps, very large companies to present an executive summary for the MD&A. Such disclosures would detract from the story told by management in the MD&A. Electronic tagging, XBRL-style, would be most helpful, however, as many companies are now presenting non-GAAP supplementary earnings presentations that frequently draw heavily from the MD&A. These are not XBRL-tagged, and it would assist investors if there was machine-coding of this information somewhere. (It would also work if XBRL tagging was required in 8-K filings of earnings releases.)

With regard to the discussion of liquidity in the MD&A (Questions 113-124), I believe that investors would benefit from more discussion and disclosure of a firm's use of short-term borrowing as a funding source. Charts and graphs of short-term borrowing and repayment activities would be helpful presentations but not necessarily required. I believe they should be encouraged by the Commission, rather than required.

Regarding the contractual obligations table in the MD&A (Questions 131-136), I believe that it is a very useful presentation for investors. It could be made even more useful if it was consistently presented among companies by requiring the obligation information by single discrete years rather than being presented as groups of years (as in 2017 and 2018, instead of 2017-2018 combined). It would also be more useful if it were XBRL-tagged. Obviously, investors would be able to do more future cash outflow assessments on a greater number of companies if this were available, and enhance their ability to forecast cash flows.

The concept release asks for respondents' views on the information related to the securities of registrants. (Questions 183-204.) The information related to the purchases of securities could be greatly improved for investors. Investors do not necessarily need more granular or more frequent information about the purchase of stock by companies; quarterly reporting is required now, and is adequate. What is not sufficiently disclosed is the *reasoning* behind the timing of purchases of stock. There is never a clear rationale given as to why the purchase of shares by a firm is preferable to capital investment or other uses, such as debt reduction, dividend increases or special dividends. A disclosure outlining the reasoning would be enormously helpful to investors trying to understand the timing of purchases. Indeed, if the MD&A is supposed to present a firm's operations and financing "through the eyes of management," this kind of disclosure should *already* be present in filings. It isn't.

Scaled Requirements. I believe that scaled disclosure requirements (Questions 264-277) are a form of rules-based disclosure - in reverse. Rather than prescribing a set of disclosures, the practice of setting scaled disclosures exempts firms from disclosures that would benefit investors. For example, an emerging growth company need not present more than two years of audited financial statements in the registration statement for its initial public offering of common equity securities.

I do not support scaled disclosure requirements, nor extending them for more classes of (larger) companies than those that already enjoy them. Similarly, I do not support the elimination or reduction of XBRL tagging for any companies, regardless of size. The rationale behind scaled disclosure is that it saves the reporting company ill-defined "costs." The evolution of disclosures shows that they benefit investors; they fill an information gap for investors. Disclosures better inform investors about their risks and help them improve their own capital allocation, thereby benefitting markets and the economy as a whole. Minimizing disclosures in the name of cost savings does not improve capital markets and may well transfer costs to investors and capital markets.

Frequency of Interim Reporting. The concept release addresses the issue of interim reporting. (Questions 278-285.) It asks whether investors benefit from quarterly reporting. The answer is unequivocally "yes." Markets need consistent, impartial information to function effectively and efficiently. Reducing the frequency of the high-quality information in Form 10-Q would be a step in the opposite direction. I believe that security prices would become more volatile and incorporate a larger premium for uncertainty if interim reporting were reduced; it would be a detriment to our markets.

There is an argument that quarterly reporting detracts from management's ability to invest in long-term projects. There is little sense to that argument; if managers are not picking long-term investment projects effectively, it speaks more to their inability to manage rather than the frequency of their communications to investors. Plenty of companies have had no problem with investing in projects that produce no profits, and yet are able to obtain capital; for example, the technology and health care sectors are full of firms that invest heavily in research and development, reducing their near-term profitability. Yet they seem to have no trouble raising capital just because they report to investors every quarter.

Similarly, I would not support any semi-annual reporting for smaller reporting companies or emerging growth companies. They have a duty to report to their investors just like other companies.

In addition to maintaining the current quarterly reporting system, I would also recommend against more frequent reporting than quarterly. I believe the 8-K current events reporting system functions adequately for keeping investors informed during the intra-quarter period.

I recommend that one improvement be made to the quarterly reporting system, and that is to *require* the filing of the 10-Q at the same time that the earnings release 8-K is filed. Investors would be better served by having more information served with the earnings release - far better served than having more frequent (or less frequent) earnings reports. With the availability of the entire financial package, investors would be better informed to ask more insightful questions on earnings calls - which are the best chance they get to interact with management on a routine basis because of Regulation FD.

This might possibly delay the date of earnings calls beyond the current time frame companies now employ, but certainly not longer than the time it takes for the 10-Q to be filed. If managements don't like the idea of investors asking informed questions on earnings calls because they've had a chance to see the 10-Q, they can simply drop the earnings calls - they're not required. Even if the 10-Q is filed on the same day, *after* the earnings release, it would still improve the lot of investors rather than waiting for days and weeks for the 10-Q's issuance.

This is not an impossible mission. There are plenty of firms that already simultaneously file the earnings release 8-K and their entire 10-Q on the same day.

10-Q Filings (between 3/15/16 and 6/15/16)

	Total	Same Day As 8-K	% of Total
Large Accelerated Filers	1,930	679	35.2%
Accelerated Filers	1,348	456	33.8%
Non-Accelerated Filers	<u>587</u>	<u>155</u>	<u>26.4%</u>
	3,865	1,290	33.4%

We have performed an analysis of the filing dates of 10-Qs and earnings release 8-Ks filed between March 15, 2016 and June 15, 2016 for large accelerated filers, accelerated filers, and non-accelerated filers, and found that, in total, about a third of all filers, file both reports on the same day. Non-accelerated filers simultaneously file over 25% of the time – and you’d expect them to have the greatest difficulty doing so, because of their limited size, and the supposed complexity of reporting. The table at left summarizes our findings.

Presentation and Delivery of Important Information

Company Websites. The concept release asks whether firms should be permitted to incorporate required information from their websites by reference, and if so, should they be allowed to omit the required information from their SEC filings. (Questions 307-318.) I would not recommend this incorporation by reference, as I think investors would be better served by having the entire financial statement package stationed in one location. I also believe this would be a benefit to third-party data providers who use the SEC filings as their raw material. Furthermore, I believe that it would be more difficult for the SEC to effectively ensure that the required information was actually being provided to investors than if it was always included in the EDGAR database.

Specific Formatting Requirements. The concept release also asks whether more prescriptive formatting in SEC filings is desirable. (Questions 319-328.) I believe that more prescriptive formatting of information would invoke a familiarity that would improve readability of SEC reports for investors, and would also be more likely to provide third-party data providers with efficiencies in processing the SEC filings.

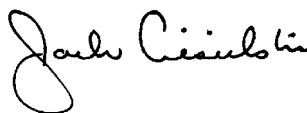
Structured Disclosures. The concept release asks whether structured disclosures are useful for investors and requests feedback on how they might be improved. (Questions 330-340.) The XBRL system is the best example of structured disclosures and our firm’s experience using it has improved greatly in the last few years. There is still much more that could be done, however. We have found that company-specific custom extensions, while necessary, make for non-comparability among companies, and this causes major problems with any large-scale comparison that one might attempt. We have also found that while the quality of the tagging has improved, it could be bettered.

Whatever resources the Commission can spare in this area would be welcomed by investors. It is ironic that as the “information revolution” continues to pick up momentum, the integration of XBRL and structured data in SEC filings is still in its relative infancy – and that the solution proposed by many firms is to reduce disclosures rather than pursue more modern means to manage the information. Congress should earmark more SEC funding for the modernization of EDGAR and the XBRL endeavor.

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The concept release represents a huge effort on the part of the SEC and its range and comprehensiveness is impressive. I realize it is only a first step, but I congratulate the Commission on its effort to include investors in its first step in revitalizing the Regulation S-K requirements. The size and sweep of the project is enormous and I encourage the Commission to continue to seek input from investors through simple outreach, roundtables and focus groups rather than simply relying on comment letters. I believe the Commission’s efforts would benefit from the information provided by live questions and answers. As such, please do not hesitate to contact me if you would like to have further discussion of the matters discussed in this letter – or any other issues in the concept release that may not have been addressed here. Best regards.

Sincerely,



Jack Ciesielski