



December 11, 2017

Mr. Brent J. Fields, Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Subject: File No. S7-08-17 - Proposed Rule: FAST Act Modernization and Simplification of Regulation S-K

Submitted via rule-comments@sec.gov

Dear Mr. Fields:

This letter is being submitted by Financial Executives International's (FEI) Committee on Corporate Reporting (CCR) in response to the Securities and Exchange Commission's (SEC or the Commission) request for comment on the proposed rule: FAST Act Modernization and Simplification of Regulation S-K as referenced above.

FEI is a leading international organization of more than 10,000 members, including Chief Financial Officers, Controllers, Treasurers, Tax Executives and other senior-level financial executives. The Committee on Corporate Reporting (CCR) is a technical committee of FEI that reviews and responds to research studies, statements, pronouncements, pending legislation, proposals and other documents issued by domestic and international agencies and organizations. CCR member companies represent approximately \$7.5 trillion in market capitalization and actively monitor the regulatory activities of the SEC. This letter represents the views of CCR and not necessarily the views of FEI or its members individually.

Executive Summary

We commend and support the SEC's initiatives to improve disclosures for the benefit of both investors and public companies. This proposed rule (the Proposed Rule) is an important step towards achieving this objective. In our view, the quality and presentation of information provided to investors by companies has been negatively impacted by the requirements and associated layers of rules and regulations that, in certain cases, has resulted in compliance objectives undermining effectiveness and usefulness of communication. We recognize the importance of providing relevant, decision-useful information to investors to enable informed investment, credit and voting decisions, and the key role financial executives play in that process as controllers and principal accounting officers. As previously communicated, we support a principles-based approach to improving and simplifying disclosures that is



focused on the communication of material information to investors in a flexible and meaningful way.¹ We believe that the vast majority of the amendments outlined in the Proposed Rule are aligned with such an approach. For this reason, we are overall supportive of the Proposed Rule, with some additional suggestions as described in the attached Appendix.

We believe that key stakeholders in the U.S. financial reporting regulatory regime (i.e., the FASB, SEC, and PCAOB) should evaluate how to remove impediments to improve disclosure and support mechanisms that facilitate continuous improvements in disclosures. We believe the revisions in the Proposed Rule significantly help in this regard.

While the Proposed Rule provides improvements to SEC reporting, we expect companies across a wide range of industries and sectors will continue to find additional innovative ways to make disclosures more user-friendly and relevant. We encourage the SEC to recognize, encourage and continue to advance these efforts.

Please refer to the attached Appendix for further discussion on amendments that represent significant improvements as well as detailed recommendations on the limited areas of the Proposed Rule that we do not support.

Conclusion

We encourage the SEC to bring key stakeholders together to consider how to continue the effectiveness efforts that are underway. We support a modernized reporting regime that embraces technology and innovative ways of thinking about disclosure. We believe it will not only lead to better capital formation, as investors will have access to enhanced and more relevant information, but will also allow the disclosure regime to become the gold standard for other capital markets across the world.

As financial officers of public companies, we recognize the responsibility we have to the financial markets to produce accurate, informative and reliable financial information, along with the importance of providing meaningful disclosures to investors to facilitate efficient capital formation. While we primarily represent the preparer community in our views, it is important to note that we do also represent the view of investors within our own organizations. Many of our own organizations actively engage in investment opportunities (i.e., in considering acquisitions, mergers, managing our own investment portfolios and pension plans, etc.), where financial information and disclosure are extremely important to our own investment decisions. Therefore, we recognize and support efforts to make

¹ Refer to our [comment letter](#), dated October 3, 2016 and submitted in response to the SEC's Concept Release on Business and Financial Disclosure Required by Regulation S-K, for a detailed description of our view on the principles-based framework and related concepts on materiality and flexibility that serves as the cornerstone of our recommendations.



financial disclosure more meaningful to investors. We welcome the opportunity to discuss our recommendations with the SEC and would be glad to answer any questions you may have.

We view the Proposed Rule as a meaningful step forward in the SEC's ongoing disclosure effectiveness initiative, and we stand ready to participate in continued discussions on this topic.

Sincerely

Mick Homan

Mick Homan
Chairman, Committee on Corporate Reporting
Financial Executives International

Cc: Wes Bricker, Chief Accountant, Office of Chief Accountant
Mark Kronforst, Chief Accountant, Division of Corporation Finance
Kyle Moffatt, Associate Director, Division of Corporation Finance



Appendix

Consistent with our comments above, we are supportive of the SEC's Proposed Rule to modernize and simplify certain disclosure requirements.

We commend the SEC for the proposed amendments that facilitate the modernization of disclosures. These amendments address requirements that are no longer relevant given the current availability of certain technology and the accessibility of previously filed information, i.e. those that emphasize reliance on electronic filings, encourage use of hyperlinks (e.g., to streamline the requirements associated with incorporation by reference), and rely on past filings available on Edgar (e.g., lifting the requirement that registrants with established reporting histories report material contracts fully performed within two years of the filing date). We are supportive of the amendments in this proposal that encourage this more modern approach to SEC reporting.

We believe that the most significant amendments included in the Proposed Rule are in line with a principles-based framework that is focused on material information while also allowing for flexibility. Highlighted below are some of the key amendments that we support as well as some recommendations for further improvement.

Year-to-Year Comparisons

The proposal to revise Item 303 to allow registrants discretion in determining whether to include MD&A related to the comparison of the two earliest years presented in the financial statements, is aligned with our prior recommendations to focus on materiality and flexibility. This allows the registrant to streamline disclosures and to help its investors focus on the most pertinent information and results while leveraging the information available in prior filings.

Given this benefit, we believe it is important that companies can readily support a decision to omit such information. Rather than stating such information can be omitted if not material, we believe that the Proposed Rule should endorse omission unless there has been a material change to the previous disclosures.

We support the SEC's decision not to propose replacement of the earliest year information with a hyperlink to the respective information in the prior year filing. While a requirement to hyperlink would streamline filings, an explicit requirement to hyperlink is somewhat at odds with the recognition that the information is generally not material because of its age and the fact that it is already available.



We also support the proposal to eliminate the reference to the five-year selected financial data in Instruction 1 of Item 303(a). Because there are requirements to disclose trend information elsewhere in the financial statements, this proposal simplifies reporting by eliminating duplicative information. Further, we do not believe removal of this requirement will discourage registrants from disclosing pertinent trend information under general MD&A requirements.

Description of Property

We believe the proposed amendment to clarify the requirements around the description of property in Item 102 allows registrants the appropriate flexibility in determining which physical properties are material to the registrant. It also provides the appropriate flexibility in determining what information about those properties is material and meaningful for investors. For this reason, we also recommend that information about uncertainties in connection with properties should only be included to the extent it is material.

Risk Factors

We believe the current principles-based Item 503(c) is generally effective as management has the opportunity and flexibility to highlight their most significant risks. We believe the proposal to eliminate the example risk factors enhances the principles-based nature of this disclosure. Removal of the examples may assist registrants in further refining and/or identifying the risks specific to their business. Therefore we support their removal and do not recommend that different or additional examples be provided in their place. Further enhancements could be made by improving the clarity and interpretation of existing rules. For example, providing a more robust framework for companies to consider when deciding whether a risk factor should be disclosed, or specific guidance for interpreting the terms “speculative” and “risky” as used in Item 503(c), could also enhance application of the existing rules.

Exhibits

Consistent with our prior recommendations, many of the amendments proposed to the Exhibit requirements reflect a principles-based approach that is focused on materiality. For example, we support allowing omission of schedules and attachments that do not contain material information, as well as those allowing redaction of immaterial and/or confidential information without having to first request confidential treatment from the SEC. We also support amendments that allow the removal of information that is not necessary for an investor to understand the economics of the agreement.



On the other hand, we do not believe the proposed amendment requiring a new 10-K Exhibit detailing the rights and obligations of each class of registered securities is necessary because it provides information that is very similar to the disclosure obligations under Form 8-K and Schedule 14A. We recommends the SEC reconsider if there is significant incremental benefit provided by this amendment.

In addition, we do not support the proposed amendments to Item 601(b)(21)(i) requiring disclosure of a legal entity identifier (“LEI”), if one has been obtained, of the registrant and of each subsidiary listed in Exhibit 21. We recognize that the SEC recently adopted rules that require certain registrants and funds to obtain LEIs. However, we are not convinced that such rules are necessary outside of the financial services industry. Further, the Proposed Rule cites support on this topic from commenters who believe such information improves investors’ understanding of registrants’ risk profiles. We believe that the requirements in Item 503(c) to disclose risk factors related to a registrant’s offering or business, particularly in light of the related proposed amendments to this item, best describes a risk profile. Additionally, for registrants with numerous subsidiaries or affiliates operating globally, it would be costly and time consuming to maintain LEIs. Given that there is currently no global standard for LEIs we do not believe that the inclusion of this information would provide benefits to investors that would outweigh the level of effort to assemble.

Five-year limit on incorporation by reference

As mentioned above, we commend the SEC for the numerous amendments proposed to modernize disclosures. In particular, we support the proposal to eliminate the five-year time limit on incorporation by reference. We believe this requirement is obsolete given current electronic filing requirements and the number of exceptions that exist to the rule. Certain companies will benefit considerably from this amendment because it will significantly reduce the number of exhibits filed each year.

Tagging Cover Page Data

We do not believe there is significant incremental value from tagging the information on the cover page of Form 10-K, Form 10-Q, Form 8-K, Form 20-F, and Form 40-F using Inline XBRL (or, if the Commission’s recent proposal to require Inline XBRL for the submission of operating company financial statements is not adopted, in an XBRL exhibit to the relevant filing) because registrants are currently required to tag most of these data points according to Regulation S-T and the Edgar Filer Manual.



Other

We also recommend reconsidering certain of our prior recommendations that we believe to be simple changes that can further streamline financial filings.² For example, we recommend elimination of the Ratio of Earnings to Fixed Charges exhibit, the use of a separate “company profile” section in EDGAR to compile business-related disclosures that are not expected to significantly change, elimination of Item 303(a)(4) on off-balance sheet arrangements, removal of the requirement to file an auditor’s “preferability letter” and elimination of Item 201(b) that requires disclosure of the number of holders of each class of common shares.

² Refer to our [comment letter](#), dated October 3, 2016, for a detailed description of these other recommendations.