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January 22, 2018

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

Sent via Email to: rule-comments@sec.gov

Re: File Number S7-09-17

Dear Secretary,

I write with interest in the proposed amendment of 17 C.F.R. Part 200, and the promulgation of regulations, to be codified at 17 C.F.R. §§ 200.80-200.80(g), by the Securities and Exchange Commission (the “SEC” or, alternatively, the “Commission”) regarding agency compliance with the Freedom of Information Act (the “FOIA”), 5 U.S.C §522, as amended by the FOIA Improvement Act of 2016 (the “Improvement Act”), Public Law 114-185, 130 Stat. 538. Please consider this letter submission of comments upon this proposed rule in response to the Commission’s notice of proposed rulemaking and request for comments, as published in the *Federal Register*, on January 3, 2018, 83 Fed. Reg. 291-302. I support this new rule and I believe it achieves the Commission’s primary objectives as stated in the notice: to make revisions required by the Improvement Act, as well as to amend beyond the scope of the Improvement Act and utilize the necessary amendment to also “clarify, update, and streamline” current SEC regulation. 83 Fed. Reg. 292 (2018).

The supplementary information in the notice of this proposed rule states that the new rule essentially “codifies several existing practices” of the SEC, such as electronic responses to information requests and determination of the fees charged therefor. 83 Fed. Reg. 293 (2018). The SEC is longstanding, truly, in its fair reliance upon the incentives inherent within the American economy, and its principles of capitalism, to utilize advances in science and technology, primarily of the profit based commercial sector and marketplace, to the benefit of not only securities investors but also to the benefit of the nation.

In summary, the proposed rule permits reliance by major corporations upon information technologies currently in use, yet ensures individual requesters that their requests will be neither costly

nor burdensome, with codification of a permissive outline of fees to be charged. 83 Fed. Reg. 299 (2018) (to be codified at 17 C.F.R. § 200.80(g)(3)(i)). The proposed rule revises SEC FOIA request and response procedures to require the SEC to make disclosures of information available to the public in both the existing, traditional paper form as well as in various newly available electronic forms. 83 Fed. Reg. 295 (2018) (to be codified at 17 C.F.R. § 200.80(a)). The new rule also provides all with assurances as to issues of privacy and financial records and data. 83 Fed. Reg. 295-296 (2018) (to be codified at 17 C.F.R. §200.80(b), (c)).

As in this instance, the SEC periodically refines and revises its own internal standards and procedures. It relies upon these informal decisions to transform intra-agency custom unto newly promulgated governing regulation. This proposed new rule is such an example. This rule provides user friendly information in which all participants, or, as denominated by the SEC “stakeholders,” in the global economy may share through due compliance, from the small individual investor, to the small, medium and large domestic or multinational business entity.

The new rule expressly acknowledges the various uses made of government information by diverse international market participants. For, it categorizes and defines anticipated requesters of information, from the individual investor, the commercial entity, the publicly interested academic or scientific organization, to the journalist of the fourth estate. 82 Fed. Reg. 298-301 (2018) (to be codified at 17 C.F.R. §200.80(g)).

The SEC further achieves great clarity for the benefit of the public, as well as for the other branches of government, in that this new rule proposes to also define and explain the services the SEC offers and relies upon in responding to requests for information. 82 Fed. Reg. 298-302 (2018) (to be codified at 17 C.F.R. §200.80(g)). The rule states that a “search” for information maintained by agencies of the Federal government is agency action to determine whether information is relevant to a specific request, contra distinct from a “review” of records maintained by agencies of the Federal government, which is agency action to determine whether specific information requested is exempt from disclosure as required by law. 82 Fed. Reg. 299 (2018) (to be codified at 17 C.F.R. §200.80(g)(2)(vii), (viii)). And, the SEC charges fees for these defined services which vary according to the category of a specific information requester. 82 Fed. Reg. 299-300 (2018) (to be codified at 17 C.F.R. §200.80(g)(3), (4)).

The new rule places the burden of compliance with SEC FOIA request procedures, not upon the requester of information but, rather, upon the SEC itself. In that, the new rule requires that SEC staff members provide individual guidance to requesters, both before the requester initiates a request, and after the SEC acknowledges having received a request. 82 Fed. Reg. 296 (2018) (to be codified at 17 C.F.R. §200.80(b)(3)). The new rule, though cautioning requesters that the SEC Office of FOIA Services is primarily responsible for evaluating information requests, expressly provides guidance for requests “misdirected” to a division or office of the SEC other than the Office of FOIA Services. The rule also indicates that the SEC will collaborate, both intra-agency within the SEC and among the other Federal agencies, if necessary in order to respond to a request for information. 82 Fed. Reg. 296 (2018) (to be codified at 17 C.F.R. §200.80(c)(2), (3)).

In drafting and promulgating regulation over a practitioner's continuum, the SEC achieves equilibrium in the burden of regulatory compliance to be borne itself, as the governing agency, and as to that to be borne by the public. It, thus, internally evaluates regulatory alternatives prior to offering a new rule for public review. The SEC both protects and encourages investment and maintains market efficiency, and thereby produces national prosperity and capital growth. It gleans, from public participation, research that provides diversity in thought in policy making, examination and enforcement, and so provides both information and guidance to private investors.

I thank you greatly for considering my comments on this rule. And, I may certainly be contacted as indicated above.

Sincerely,

Lori G. Nuckolls

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