Email: [redacted]

Date 21 October 2019

Via email rule-comments@sec.gov (File No. S7-11-19)

Legal & General
INVESTMENT MANAGEMENT

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Ms. Vanessa A. Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street NE
Washington DC
20549-1090

Dear Ms. Countryman,

**Re: Modernization of Regulation S-K Items 101, 103, and 105 (File No. S7-11-19)**

Legal & General Investment Management (LGIM) is one of the largest international investors globally with $1.4 trillion assets under management (AUM), as at 30 June 2019. We manage assets for a wide range of global clients, including pension schemes, sovereign wealth funds, fund distributors and retail investors. LGIM is headquartered in the United Kingdom (UK) and has substantial investments across the world, including $202 billion AUM in Legal & General Investment Management America (LGIMA) which is based in the United States.

As a significant investor, we have a responsibility to ensure that global markets operate efficiently and uphold the highest level of corporate governance and sustainability standards in order to protect the integrity of the market over the long term. It is therefore very important to us to clearly and consistently represent our views across the jurisdictions in which our assets lie.

LGIM is a member of the 'Human Capital Management Coalition' (HCMC), a cooperative effort among 28 global institutional investors representing over $4 trillion in assets to further elevate human capital management as a critical component in company performance and in the creation of long-term value. More information about the Coalition is available at http://www.uawtrust.org/hcmc. LGIM is also a member of the 'Sustainable Accounting Standards Board' (SASB) Foundation, whose mission is to is to establish industry-specific disclosure standards across environmental, social, and governance topics that facilitate communication between companies and investors about financially material, decision-useful information. Their strongly believe that such information should be relevant, reliable and comparable across companies on a global basis. We would like to note our strong support of their letter of the 17th October 2019 sent to you on the same topic to that we are writing to you now.

In this light, LGIM is pleased to offer the following comments in response to the U.S. Securities and Exchange Commission's (SEC or Commission) proposed rule, "*Modernization of Regulation S-K Items 101, 103, and 105,"* (the "*Proposed Rule*"). Our comments below focus on proposed changes to reporting rules governing Item 101(c) in Regulation S-K regarding the Narrative Description of Business, and on human capital-related disclosures in particular.

We strongly believe that the SEC should introduce a combination of rules-based disclosures with quantitative metrics that allow for comparability, and more open-ended principles-based disclosures that allow for differences in industry and individual company practices are necessary to provide investors with the most valuable information about human capital management and reflects investors' stated preferences. Human capital management information is not just valuable for Equity investors but for Fixed Income also, who are continually looking for further metrics to accurately measure how companies are managed.

We appreciate the SEC's focus on ensuring investors get the information they need to make the best decisions on behalf of their beneficiaries, their clients, and – in the case of individual investors – themselves and their families. The HCMC first asked the Commission in 2017[1] to pursue rulemaking that would lead to stronger disclosures from issuers about their human capital management policies, practices and performance through a process that included input from investors, issuers, and other key market participants. LGIM also responded to this rulemaking.

We offer our thoughts on some specific questions in the Commission's current release below.

We have engaged with the SEC and met several of your colleagues over recent months and years and would like to thank you for considering our views. Should you wish to discuss this letter further then please do not hesitate to contact us.

Yours sincerely,

**Clare Payn**
Head of Corporate Governance, North America.

**John Hoeppner**
Head of US Stewardship and Sustainable Investments.

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[1] Human Capital Management Coalition. (2017) *Rulemaking Petition to Require Issuers To Disclose Information About Their Human Capital Management Policies, Practices And Performance,* as submitted to the U.S. Securities and Exchange Commission on July 6, 2017. Retrieved from https://www.sec.gov/rules/petitions/2017/petn4-711.pdf.

**12. Should we shift to a more principles-based approach for Item 101(c), as proposed? Would registrants find it difficult to apply the principles-based requirements?**

We do not believe a principles-based approach alone would efficiently produce practical information that is consistent, comparable and useable, that would respond to investors needs and strengthen the long-term performance of a company.

In the absence of clear rules on reporting of key human capital information, companies will tend to qualitatively highlight positive performance and omit suboptimal performance, leading to inconsistent data and lack of comparability. Including rules-based disclosure requirements (with quantitative metrics) would help to close this information gap and provide the consistent high-quality information for investors to make well-informed decisions about a company's business, risks, and prospects for investment. Indeed, since the passage of the '33 and '34 Acts, the SEC has often responded to a changing market and revisited disclosure standards to ensure they continue to remain useful and robust enough for investors.

Research from the 'Embankment Project on Inclusive Capitalism' has linked a company's financial value with human capital reporting. For example, in the UK issuers are required to report detailed human capital information. Companies with stronger human capital reporting show a return on invested talent (ROIT) – defined as the dollar return per one dollar invested in talent – that is nearly 3 times higher than the ROIT of non-disclosers and operating margins that are 33 percent higher than those of non-disclosers. Including mandatory quantitative disclosures would benefit issuers through simplifying and clarifying 'what' and 'how' they should report, thereby improving readability and consistency of disclosures across the market.

An important and recent example of how the human capital management disclosures are changing ahead of legislation and regulation is the international 'Workforce Disclosure Initiative' (WDI). The WDI was launched in 2017 as a response to investor-led concerns that public reporting by companies on workforce issues does not provide the sort of meaningful and comparable information and quantitative data that they seek. The initiative also responds to the growing interest of companies to measure and better understand their own workforce challenges. The initiative now has 137 investor signatories across the world with over $15 trillion AUM. Participation also indicates that companies are demonstrating leadership by being prepared to work collaboratively towards the goal of greater transparency and ultimately towards better outcomes for their business and their workers. This direction of travel is consistent with the meetings we have with directors in the US. Directors are often specifically highlighting to us that strengthening their human capital management disclosures is high up on their agenda. We would like to see action in this area across all US listed companies.

**13. Would the proposed principles-based requirements elicit information that is material to an investment decision? If not, how might Item 101(c) be further improved? Are there any additional disclosure topics that we should include in Item 101(c) to facilitate disclosure? Alternatively, should we exclude any of our proposed disclosure topics?**

As stated above, the proposed principles-based requirements alone will unlikely yield the meaningful information about human capital management practices for investors to make well-informed investment decisions. A 'combined' or 'hybrid' approach, that includes clearly defined baseline disclosure standards that will be of interest to investors and universally-applicable across sectors would be most efficient. Human capital management has always been important and is becoming more prominent as we are

seeing an increase in requests for information from investors in this area, not just in equity but credit also. This 'combined' approach, with consistent quantitative metrics, is consequently becoming more urgent and vital in the investment decision making process.
Key metrics could include: workforce diversity (both Gender and Ethnicity); company pay ratio (median employee pay as compared to CEO levels); employee turnover; number of full time, part time and contingent workers; workforce costs; gender breakdown of the workforce by job function and/or business unit (e.g. management, executive level); workforce education levels and skillsets; country level breakdown of global employee headcount.

We continually strongly encourage companies to annually disclosure material information that is helpful for investors to understand approaches to human capital management. In this regard, LGIM - as part of a group of investors with a cumulative AUM of $3.3 trillion - wrote to S&P 500 companies in 2018. In the letter we encouraged companies to contextualise their existing pay ratio disclosures (median employee pay as compared to CEO) through systematically sharing quantitative supplemental information (some of which are included above).

In the UK companies with more than 250 staff are required by law to publish the following metrics annually: Gender pay gap (mean and median); Gender bonus gap (mean and median); Proportion of men and women receiving bonuses; Proportion of men and women in each quartile of the organisation's pay structure; and Ratio of CEO's pay to median, lower and upper quartile of employees (starting reporting in 2020). As part of the UK government's work to upgrade the already strong corporate governance and business environment, it is also presently reviewing and likely to mandate companies to report annually on the ethnicity pay gap.

**21. Should disclosure regarding human capital resources, including any material human capital measures or objectives that management focuses on in managing the business, be included under Item 101(c) as a listed disclosure topic, as proposed? Should we define human capital? If so, how?**

Disclosure of human capital resources should include material human capital management measures or objectives that management focuses on in managing the business.

To create long-term value, companies are becoming more aware of the necessity to deliver value for all of their stakeholders – customers, employees, suppliers, communities and shareholders. To quote Jamie Dimon (CEO of JPMorgan Chase & Co. and Chairman of Business Roundtable), "*Major employers are investing in their workers and communities because they know it is the only way to be successful over the long term.*". All human capital related disclosures should be provided in a way that helps investors understand the workforce strategy and how it relates to the company's long-term business strategy.
In the UK there is regulation that requires directors to act in a way (and report on) that will most likely promote the success of a company. In making strategic decisions to achieve this objective, directors are required to take into consideration several factors but importantly its workforce. Section 172 of the Companies Act 2006 provides that "*A director of a company must act in a way he considers, in good faith, would be most likely to promote the success of the company for the benefit of its members as a whole, and in doing so have regard (amongst other matters) to… (b) the interests of the company's employees…".*

The HCMC provided the following definition of human capital in its 2017 rulemaking petition: *"There is broad agreement that human capital encompasses the knowledge, motivation, skills and experience of a company's workforce, as well as alignment with the company's mission and values"*.

**24. Should we retain an explicit requirement for registrants to disclose the number of their employees? Alternatively, should we permit registrants to disclose a range of the number of its employees and/or a range for certain types of employees?**

The current reporting requirement (number of employees) is alone not useful and insufficient for investors with a clear overview of the company's workforce. As stated above, we believe the mandatory reporting metrics should be enhanced. It is important to capture all categories of works (full time, part time and contingent – which should also be clearly defined categories) as it will allow investors to understand changes in business strategy and industry changes.

Reporting on much of the suggested metrics will not be burdensome, as many U.S. public companies already track basic workforce data such as headcount and workforce costs for administrative purposes like payroll. Companies can leverage existing human resources analytic tools that are commonly used for data collection. Indeed, we see the relative ease to collect such data when US companies are focused on reviewing and comparing director remuneration.