

22 October 2019

The Honorable Jay Clayton, Chairman
Securities & Exchange Commission
100 F Street, Northeast
Washington, DC 20549
VIA EMAIL: rule-comments@sec.gov

RE: Proposed Rule – Modernization of Regulation S-K Items 101, 103, and 105 [Release Nos. 33-10668; 34-86614; File No. S7-11-19]

Dear Chairman Clayton,

On behalf of FCLTGlobal, we would like to express our appreciation for the opportunity to provide comments on the Modernization of Regulation S-K. In particular, our remarks will focus on the treatment of human capital disclosure requirements in the proposed rule. Please find below a short background on our organization, details on the process that we used to shortlist human capital disclosure metrics from a wide range of Environmental, Social and Governance (ESG) and other frameworks, and the shortlist itself.

Background on FCLTGlobal and its research

FCLTGlobal is a not-for-profit organization that works to encourage a longer-term focus in business and investment decision-making by developing practical tools and approaches to support long-term behaviors across the investment value chain.

Started as the Focusing Capital on the Long Term initiative in 2013, our organization was founded in July 2016 by the Chief Executive Officers (CEOs) of the Canada Pension Plan Investment Board and McKinsey & Company, together with BlackRock, The Dow Chemical Company, and Tata Sons. In addition to our Founders, today we involve approximately 50 Members from across the investment value chain, including asset owners, asset managers and corporations. While we do not speak on behalf of our Members, our Members are broadly committed to accomplishing long-term tangible actions to lengthen the timeframe of capital allocation decisions.

We work closely with our Member organizations to conduct research, including a thorough investigation of the predictors of long-term value creation. For corporates, this includes appropriate capital allocation, higher fixed investment, greater board gender diversity, greater presence of long-term investors, and the absence of ESG controversies. This research is included in our recent publication, [*Predicting Long-term Success*](#),¹ and the complete set of our research is available on our website at www.fcltglobal.org.

¹ “Predicting Long-term Success,” FCLTGlobal, 2019, available here: https://www.fcltglobal.org/docs/default-source/publications/predicting-long-term-success-for-corporations-and-investors-worldwide.pdf?sfvrsn=8f00228c_2
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Overview of Approach and Process

With respect to human capital disclosure requirements, as described in the proposed amendment of Item 101(c) (Narrative Description of the Business), we would make the following points. First, we believe that investors need metrics to incorporate human capital-related pre-financial drivers of long-term value into their investment processes. Because these measures are not currently reflected in financial statements, they are not included in quantitatively driven investment processes, an increasingly important part of institutional investing. Second, corporations are overwhelmed by myriad, non-standard data requests for pre-financial, intangible, or ESG information. Third, the landscape is complicated by the many alternative and competing frameworks in existence. Agreeing on a shortlist of standard “pre-financial”, decision-relevant metrics for investors that cut across industries could be a near-term step forward.

Accordingly, we reviewed 22 ESG and other frameworks that sustainability experts and other business and policy leaders have developed. These experts and leaders include the US Securities and Exchange Commission, 3M, CDP (Climate Disclosure Project), the Climate Disclosure Standards Board, the Coalition for Inclusive Capitalism, the Corporate Reporting Dialogue, Datamaran, Ernst & Young, the European Union, Greenhouse Gas Protocol, GRI (Global Reporting Initiative), Her Majesty’s Government (the UK government), the Impact Management Project, the International Integrated Reporting Council, the International Organization for Standardization (ISO), Nasdaq, the One Planet Summit Sovereign Wealth Funds Working Group, the Principles for Responsible Investment, Social Accountability International, the Sustainability Accounting Standards Board, the Task Force on Climate-Related Financial Disclosures, and the United Nations.

Since investment decisions are often driven by quantitative information, we suggest the below four criteria be applied to identify a shortlist of relevant pre-financial human capital metrics:

- (i) Metrics are material to investors interested in a company’s long-term success;
- (ii) Similar to financial metrics, they are assurable by auditors or other independent third parties;
- (iii) Metrics are uniformly defined and consistently calculated to ensure comparability; and
- (iv) Metrics are universally applicable across countries, sectors, and contexts.

Companies may naturally choose to provide additional disclosures, beyond these baseline pre-financial standard metrics, as consistent with their own views on measures most material to their own business models and the principles-based approach to reporting that is suggested in the proposed amendments to the rule.

Shortlisted metrics

Using the above criteria, our research identified six metrics specific to human capital measurement which may be appropriate for inclusion as examples in the proposed amendments to Item 101(c). These metrics are personnel turnover, leadership diversity, the gender pay gap, employee health and safety, employee training, and total monetary losses from legal proceedings. We tabulated these metrics, the rationales for each one, their specific sources from among the frameworks, and potential uniform methodologies below for the Commission’s consideration.

Metric	Rationale	Source	Example Methodology
Personnel turnover	Turnover can be an indicator of human capital development; changes in turnover can be a leading indicator of change	EPIC ² SASB Nasdaq	All terminations from the organization during the period (voluntary or involuntary)/total employee base at the beginning of the period; terminations to include part-time and full-time staff and not to include intra-company transfers, changes in roles or leaves of absence
Leadership diversity	If diverse boards create long-term value, it is likely diverse management teams do too	EPIC SASB UN SDGs	% of named executive officers in the proxy statements by gender
Gender pay gap	Gender diversity can be an indicator of long-term performance	UK rule Nasdaq UN SDGs	<ul style="list-style-type: none"> • Mean & median gender pay gap in hourly pay • Mean & median bonus gender pay gap • % of males & females receiving bonus payment • Proportion of males and females in each pay quartile
Employee health and safety	Conforms to spirit of SASB employee health and safety standards for numerous industries	SASB, Nasdaq, European Directive on Disclosure of Non-Financial and Diversity Information	(i) Total recordable incident rate (TRIR), (ii) fatality rate for (a) FTEs and (b) contract employees
Employee training	Investing in employees continued education is an indicator of human capital development	GRI EPIC	Total spend on training per employee or per hour
Total monetary losses from legal proceedings	Losses from legal proceedings and settlement payments to employees may indicate cultural, safety, or governance issues	N/A	(i) Total monetary losses from legal proceedings and (ii) Total settlement payments to employees during the last calendar year

We appreciate the opportunity to submit these comments and thank the Commission for their attention. We would be happy to embark on further discussion of pre-financial metrics, including our criteria for their selection, and welcome questions at research@fcltglobal.org or +1 617-203-6599.

Respectfully,

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² Embankment Project for Inclusive Capitalism (EPIC) is an initiative of the Coalition for Inclusive Capitalism, in partnership with EY