



10 Longs Peak Drive  
Broomfield, Colorado

September 8, 2015

VIA EMAIL

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

Re: File Number S7-13-15; Possible Revision to Audit Committee Disclosures

Dear Sir:

Thank you for the opportunity to respond to the Concept Release regarding audit committee reporting of its responsibilities with respect to its oversight of the independent auditor. Ball Corporation (“Ball,” “the company,” “we” or “our”) is a U.S.-based Fortune 500, multi-national manufacturer of metal packaging products and of aerospace and other technologies and services with sales in 2014 of \$8.6 billion and total assets of approximately \$7.6 billion, and is publicly traded on the New York Stock Exchange.

In this response we did not separately address each of the 74 questions; we have instead responded to each of the general topics included within the Concept Release and to any specific questions where we feel strongly. To the extent we address your specific questions, for ease of review; we have referenced the numbers associated with your questions.

We commend you for taking on this topic to solicit feedback. The oversight of auditors provided by audit committees is important to protecting investors and adding value to the capital markets. An overarching comment we feel is valuable to make up front is the need to not create rules that are one-size-fits all on this topic. It should be principles based and allow audit committees the flexibility to determine the extent of disclosure needed to sufficiently inform investors of what is relevant and important.

**1. Do the current audit committee reporting requirements result in disclosures that provide investors with useful information? Why or why not? Are there changes to the current audit committee disclosure requirements that the Commission should consider that would better inform investors about the audit committee’s oversight of the audit and the independent auditor?**

The current audit committee reporting requirements provide investors useful information. It is important to provide disclosures that meet the needs of the users, after appropriately considering the costs and benefits of providing the information. Overall, we see a benefit to users for investing and voting decisions from understanding the process an audit committee follows to provide oversight of the audit and the auditor relationship. The existing and any future disclosures need to strike an appropriate balance between providing the user with useful information and the effective utilization of time and resources to aggregate, document and vet such disclosures. With that said, we feel strongly that incremental/additional disclosure regarding the nature and substance of discussions between the auditor and audit committee should be minimized. More importantly, we believe it is highly likely that additional disclosure of this type would have the unintended consequence of “chilling” the robust and substantive dialogue that audit committees and auditors currently have. Muting the interaction and dialogue with the auditor will make audit committee oversight of the outside auditor more challenging, an outcome which is at odds with one of the key goals Congress embraced under Sarbanes-Oxley.

Additionally, the incremental benefit of such disclosure regarding the nature and substance of discussions is minimal. Investors derive the most benefit from understanding the qualifications and expertise of members of the audit committee who provide oversight of the auditors, the responsibilities of the audit committee, the process followed by the audit committee to execute their responsibilities, and the information regarding the auditor that may be available within the public domain (e.g. PCAOB inspection reports, audit firm quality reports, etc.).

**2. Are there existing disclosure requirements in this area that should be revised, reconsidered or removed? If so, which ones? How and why should they be changed?**

While companies could do more to enhance current disclosures, in general, we believe the current information reported by audit committees is sufficiently useful for investors to understand the responsibilities and activities of the audit committees in regard to their responsibility to provide oversight of the auditor.

**3. Would investors find additional or different audit committee reporting requirements useful given the committee's strengthened and expanded role in overseeing a company's independent auditor that resulted from the Sarbanes-Oxley Act? For example, to what extent is information regarding how the audit committee discharges its responsibilities useful to investors given the nature of the requirements and likely variability in performance? Also, are there particular audit committee responsibilities for which information would be likely more or less useful and why?**

We think the current disclosures related to the processes and activities of an audit committee are sufficient. Disclosure within the audit committee report of the expanded role in overseeing a company's auditor is important; but once disclosures begin to include additional specific information regarding how those responsibilities were discharged, it can become detrimental to the reporting company and investor. Audit committees already have extensive responsibilities given current requirements and established governance best practices. Requiring additional disclosure responsibilities and corresponding expectations will place an additional burden on audit committees; which could potentially change the amount of time audit committees allocate to overseeing the auditor and would increase the difficulty of identifying and retaining qualified audit committee members.

Additionally, we believe increased disclosure of how an audit committee discharges its responsibility will create confusion among investors, which may lead to incorrect conclusions and decisions by investors. The nature and extent of discussions between audit committees and auditors varies significantly between companies, even when they are within the same industry and is heavily dependent upon the facts and circumstances that exist with each company. Moreover, while discussions between audit committees and auditors may be the same, there is still significant risk of inconsistent disclosure among companies and investors could potentially draw inappropriate conclusions by comparing and contrasting disclosures among companies. Even if there were clear and consistent disclosures by all companies, we fail to see how expanded disclosures will enable investors to meaningfully differentiate between companies based on the quality of audit committee oversight.

**4. What, if any, are potential challenges that issuers or audit committees may face that the Commission should consider as it assesses potential changes to disclosures in this area?**

As highlighted in the response to the first question, the single most significant challenge is balancing the definition of "sufficient disclosure" to investors and the willingness of audit committees and auditors to share information with one another. This is at least partially due to audit committee and auditor concern as to how additional disclosure will be interpreted by the investor, as well as the potential for increased risks of litigation. In particular, qualitative disclosures of the nature and substance of audit committee communications and interactions would put a target on the back of the audit committees and could lead to second guessing of audit committee processes.

We also have a concern that additional disclosure will expand the length and complexity of proxy statement disclosures, which will perpetuate the issue of disclosure overload for investors. This is especially true if additional disclosure is required about the communications the auditor is required to have with the audit

committee in accordance with Public Company Accounting Oversight Board (PCAOB) standards. Having to disclose items required by the existing standards regarding auditor communications would add lengthy disclosure by audit committees given the extent of these required auditor communications. This would further be exacerbated if the PCAOB auditor communication standards are subsequently amended to include additional required communications.

**5. Are there other areas where changes to the current audit committee disclosure requirements would be desirable? If so, what are they?**

We can see a benefit of providing additional disclosure, or at a minimum more consistent disclosure among companies, of audit committee and audit firm qualifications. We can also see a benefit of having a set of criteria established to disclose the profile of an audit firm, which may include information such as the number of offices, number of partners, number of professionals, number of CPAs, number of audits of registered companies, summary information related to recent PCAOB inspections, the number of restatements related to periods originally audited by the firm, etc. This list of examples should not be viewed as either a comprehensive list of items or a list of items that should be required; as we believe it is important to provide audit committees flexibility to determine the extent of disclosure given their specific facts and circumstances.

We also think additional disclosure regarding the specific responsibilities of the audit committee, in the context of the overall board of directors, would be helpful. This may include information related to responsibilities and oversight for cyber security, the internal audit function, enterprise risk, etc.

**A. Audit committee's Oversight of the Auditor**

**1. Additional Information Regarding the Communications Between the Audit Committee and the Auditor**

Overall, we do not see a need to significantly expand audit committee disclosures of communications between the audit committee and the auditor for many of the reasons stated above. This is especially true for specific disclosures related to the nature and substance of matters discussed. We do not see significant incremental value to investors as a result of such disclosure; rather, there is a high likelihood that such a requirement will have the unintended consequence of "chilling" communications between the auditor and the audit committee. If disclosure of such items were required, there would be an inordinate amount of time and money invested by companies, audit committees and their legal counsel to aggregate and vet the discussions and develop the disclosures. Interpretation risk, or the concern of having different readers form different conclusions could lead to incorrect conclusions and increased litigation risks, will change behavior and will constrain the dialogue between the audit committees and the auditor.

Although it will be important to create consistency in communications, we do think there are opportunities to expand the disclosure of items and matters discussed between the auditor and audit committee. Audit committees could increase disclosure related to the topics discussed on a subject, which may be best presented in a bullet point or table of content format that covers the required communications. The Audit committees should have discretion regarding the extent of communication related to topics that are not required communications, after weighing the potential benefits and costs of disclosure. Following is an example of areas of possible expanded disclosure of topics discussed between the auditor and audit committee that may be included in the audit committee report:

- Audit Planning - significant risks, scoping of accounts and locations, materiality and use of others, audit timeline of activities, audit fee, independence considerations, and fraud considerations
- Audit Execution and Completion - status of the audit, journal entry procedures, accounting estimates procedures, discussion of significant unusual transactions, accounting policies and practices, alternative accounting treatments, identified misstatements corrected and uncorrected, going concern evaluation, control deficiency communications, disagreements with management, consultations with other

accountants, difficult or contentious matters, results of fraud procedures performed, audit report, and audit firm quality control procedures

#### **A. Audit committee's Oversight of the Auditor**

##### **2. The Frequency with which the Audit Committee Met with the Auditor**

All formal audit committee meetings, where the auditor participated, should be identified and communicated by the audit committee. We believe this should be confined to meetings where minutes of the audit committee are currently required. Informal dialogue or meetings, including phone calls or emails, between the audit committee and auditor should not be disclosed because of the potential for misinterpretation by investors both in terms of frequency and with regard to content as well as the unintended effect of "chilling" communications between auditors and audit committees.

#### **A. Audit committee's Oversight of the Auditor**

##### **3. Review of and Discussion About the Auditor's Internal Quality Review and Most Recent PCAOB Inspection Report**

We think it is important for the auditor to have a discussion with the audit committee regarding the internal and external inspection results of their engagement, their firm, and their industry as a whole to provide appropriate perspective as to the engagement team, firm and industry. The audit committee should disclose the topics covered during the meeting, but should not include specific disclosure related to the substance of the discussions for the same reasons stated above.

#### **A. Audit committee's Oversight of the Auditor**

##### **4. Whether and How the Audit Committee Assesses, Promotes and Reinforces the Auditor's Objectivity and Professional Skepticism**

Communications between management, the auditor, and the audit committee during the course of the audit and review of the financial statements appropriately reinforces auditor objectivity and skepticism. We do not consider additional disclosure from the audit committee as necessary or beneficial to investors.

#### **B. Audit Committee's Process for Appointing or Retaining the Auditor**

##### **1. How the Audit Committee Assessed the Auditor, Including the Auditor's Independence, Objectivity and Audit Quality, and the Audit Committee's Rationale for Selecting or Retaining the Auditor**

Consistent with the discussion above, audit committee disclosure of the specifics related to the assessment of the auditor and rationale for selecting or retaining the auditor is not beneficial to an investor, especially after considering the potential tangible and intangible costs and risks. We do support expanded disclosure of the criteria used by the audit committee to evaluate the auditor, which may include:

- Engagement team and firm experience and qualifications
- Internal and external engagement and firm review results
- Audit fees
- Geographic footprint of firm relative to the breadth of the company's operations
- Openness of communication with the audit committee

#### **B. Audit Committee's Process for Appointing or Retaining the Auditor**

##### **2. If the Audit Committee Sought Requests for Proposal for the Independent Audit, the Process the Committee Undertook to Seek Such Proposals and the Factors They Considered in Selecting the Auditor**

We do not believe there is a need for expanded disclosure regarding proposals for the independent audit. As noted above, we do support expanded disclosure of the criteria used by the audit committee to conclude on the selection or retention of the auditor, which should adequately address the criteria utilized in appointing the auditor.

## **B. Audit Committee's Process for Appointing or Retaining the Auditor**

### **3. The Board of Directors' Policy, if any, for an Annual Shareholder Vote on the Selection of the Auditor, and the Audit Committee's Consideration of the Voting Results in its Evaluation and Selection of the Audit Firm**

We believe disclosure of information by the audit committee should be the same, whether or not a nonbinding vote is consistent with the audit committee's recommendation. Disclosures should focus on the criteria used by the audit committee to conclude on the selection or retention of the auditor.

## **C. Qualifications of the Audit Firm and Certain Members of the Engagement Team Selected By the Audit Committee**

### **1. Disclosures of Certain Individuals on the Engagement Team**

We do not see a significant benefit or cost associated with disclosure of certain individuals on the engagement team; however, we do understand there is significant concern by audit firms to said disclosures for a number of reasons including the following:

- Naming of engagement team members, by itself, is not meaningful information to investors
- Inappropriate emphasis may be placed on the specific partner, instead of the firm
- The use of this information may be harmful personally and professionally to the individual
- Inappropriate or inconsistent inferences may result from partner changes

## **C. Qualifications of the Audit Firm and Certain Members of the Engagement Team Selected By the Audit Committee**

### **2. Audit Committee Input in Selecting the Engagement Partner**

Other than the criteria described in B1 above, we do not believe additional disclosure is useful.

## **C. Qualifications of the Audit Firm and Certain Members of the Engagement Team Selected By the Audit Committee**

### **3. The Number of Years the Auditor has Audited the Company**

We do not believe disclosure of the number of years an auditor has audited a company is meaningful to an investor. There is a significant risk of inappropriate inference, negatively or positively, associated with such disclosure. Concerns over potential lack of skepticism and objectivity are appropriately mitigated through processes such as mandatory partner rotation, annual review/appointment of the auditor by the audit committee, and firm and regulator inspection reporting that is available to the audit committee.

## **C. Qualifications of the Audit Firm and Certain Members of the Engagement Team Selected By the Audit Committee**

### **4. Other Firms Involved in the Audit**

Although others may be involved in an audit, we look to a single firm for responsibility and accountability. Therefore, disclosure of additional entities or individuals involved in the audit could create confusion regarding who is responsible for performing the audit.

## **D. Location of Audit Committee Disclosures in Commission Filings**

We believe it is appropriate to include all audit committee disclosure in the audit committee report in the proxy statement.

## **E. Smaller Reporting Companies and Emerging Growth Companies**

This is not applicable to Ball Corporation; however, we believe smaller reporting companies and emerging growth companies should strongly consider compliance with the requirements of larger companies.

**55. Should additional disclosures, such as those presented in Section VI, be required, or should they be voluntary as they are today? Should the Commission consider requiring specific disclosures, or requiring certain categories of disclosures? If so, which categories?**

While we believe that most of the topics covered in the Concept Release do not need additional disclosure by the audit committee, where we believe additional disclosure is useful and the benefit outweighs the cost, it should be required. At the same time, if an audit committee believes additional disclosure for any of the topics included within this Concept Release is needed for their circumstances, we do not think there should be any restrictions limiting the extent of disclosure by an individual audit committee.

**60. Would the disclosures discussed herein result in boilerplate information? If so, how could the requirements be crafted to avoid boilerplate disclosure?**

Yes, we do think many of the disclosures will make it nearly impossible for companies to avoid boilerplate presentation of information primarily because of litigation and interpretation risk. Even though it will likely become boilerplate presentation, many of these disclosures are still useful, especially as they relate to the topics discussed with the auditors.

**63. If the Commission were to proceed with requiring some or all of the disclosures proposed above, should the disclosures be made by all issuers? For example, should the disclosures be required only for those subject to the proxy rules? Should they be required for foreign private issuers? Why or why not? Should there be accommodations made for certain types of companies or certain circumstances? If so, what should they be?**

The disclosures would be appropriate for all issuers.

**64. If the Commission proceeds with requiring some or all of the disclosures proposed above, should there be a requirement to update these disclosures for changes between proxy or information statements? If so, what should trigger amended disclosures? Should any such updates be made quarterly or more frequently?**

Based on the nature of the information provided, annual disclosure is adequate.

**67. If the Commission proceeds with requiring some or all of the disclosures proposed above, under existing reporting deadlines, would there be sufficient time to prepare these disclosures? Would there be difficulties in making these disclosures?**

Based on the additional disclosures we support in this letter, we believe there is sufficient time to prepare these disclosures for inclusion in the proxy statement.

**68. Would the additional disclosures discussed above help minimize information asymmetries that may exist between management and investors? If so, how? What other benefits may accrue from providing this information?**

Many of the additional disclosures discussed above would help minimize the information asymmetries that exist between management and investors; however, it would create less symmetry among investors and other companies due to the risk of varying interpretations of the disclosure requirements and it is likely that disclosures would become generic and boilerplate.

**69. Expanded disclosures may have direct and indirect economic impacts on market participants. What direct and indirect economic impacts would these disclosures have on market participants? Are there any unintended consequences that could result from such disclosures with respect to audit firms, individual audit partners, audit committee members, audit committees, issuers, investors, or others? For instance, could potential changes chill or overly formalize audit committee communications with auditors? Are there specific liability implications with respect to additional disclosure made by the audit committee? If so, please describe.**

As noted above, a very real and significant unintended consequence that could result from significant disclosure of the substance of discussions between the audit committee and the auditor is the “chilling” effect that could cause communications to become overly formal. This will hinder an audit committee’s ability to provide appropriate oversight of the auditor and contradicts the committee’s need for robust dialogue with the auditor.

**72. If audit committees are required to provide disclosure that relates to information provided by the auditor (and it is not currently required to be communicated by the auditor under existing PCAOB auditing standards), would changes to PCAOB auditing standards be necessary to ensure that additional information beyond existing required communications is provided to the audit committee?**

We do not see a need to provide changes to the PCAOB auditing standards based on the additional disclosure we support. However, to the extent needed, the PCAOB audit requirements should conform to the requirements of the SEC.

**73. Are there improvements that the Commission should consider to the reporting on the audit committee’s oversight of the accounting and financial reporting process or internal audits? For instance, should the audit committee disclose how it interacts with the company’s management?**

For the reasons stated throughout this response, we believe it is appropriate to include disclosure of the items where the audit committee is responsible for providing oversight. The disclosure should not include specifics associated with discussions with management or internal audit, other than providing a general understanding of the topics discussed.

We appreciate your consideration of our comments. Please contact me at [REDACTED] if you have any further questions regarding our comments on the Concept Release.

Sincerely,



Shawn M. Barker  
Vice President and Controller

cc: Robert W. Alspaugh, Audit Committee Chair  
Michael J. Cave, Audit Committee Member  
Hanno C. Fiedler, Audit Committee Member  
Stuart A. Taylor II, Audit Committee Member  
John A. Hayes, Chairman, President and Chief Executive Officer  
Scott C. Morrison, Senior Vice President and Chief Financial Officer