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November 2, 2016

Brent J. Fields, Secretary
Office of the Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Dear Mr. Fields:

Subject: FILE NO. S7-15-16 – DISCLOSURE UPDATE AND SIMPLIFICATION

On behalf of the California Public Employees' Retirement System (CalPERS), thank you for the opportunity to provide comments on the Disclosure Update and Simplification proposed rule (Proposed Rule).

CalPERS is the largest public defined benefit pension fund in the United States with approximately \$300 billion in global assets. The CalPERS Investment Office's mission is to manage its assets in a cost effective, transparent, and risk-aware manner in order to generate returns to pay benefits. We manage these assets on behalf of more than 1.8 million public employees, retirees, and beneficiaries.¹

We appreciate the Securities and Exchange Commission's (SEC) review of SEC disclosure requirements to determine whether to retain, modify, eliminate, or refer them to the Financial Accounting Standards Board (FASB) for potential incorporation into Generally Accepted Accounting Principles (GAAP). However, we are concerned that the SEC may not have had the benefit of broad investor input prior to proposing the rule and that the Proposed Rule would effectively transform important regulatory disclosure requirements into GAAP standards at a time when the FASB is in the midst of revising these standards.

CalPERS views corporate financial reporting requirements, which encompass both GAAP and non-GAAP regulatory disclosures, as integral to the integrity of the capital

¹ See, <https://www.calpers.ca.gov/docs/forms-publications/facts-at-a-glance.pdf>, dated June 30, 2015.

markets. Robust corporate reporting provides investors transparent and relevant information about the economic performance and condition of businesses. Critical to improved disclosures, and the ability of investors to evaluate risks and returns and make capital allocation decisions, is the need to ensure financial reporting disclosures are meaningful, understandable, timely, complete, reliable, relevant, comparable, and consistent. CalPERS believes that the SEC's Disclosure Effectiveness Initiative is necessary, but we are concerned that the Proposed Rule could result in a reduction of transparency to the extent that disclosure depends primarily on GAAP rather than on SEC disclosure requirements.

We also believe that investors should be involved in a broader discussion regarding the materiality standard given the contemplated changes in its application proposed by the FASB. The Supreme Court has defined materiality only in particular contexts, namely in proxy solicitation and in the § 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 contexts. In *TSC v. Northway*, the Supreme Court held that "an omitted fact is material if there is a substantial likelihood that a reasonable shareholder would consider it important in deciding how to vote."² In applying this holding, it appears difficult to extend the materiality definition outside the relatively narrow scope of the Supreme Court's approved contexts. As such, we oppose modification of the historical use of materiality in a way that could result in reduced disclosures for investors. Instead, we support a more robust discussion about the definition of materiality and its use, with a focus on enhancing transparency.

We are concerned that the Proposed Rule does not appear to benefit from consideration of changes contemplated in the FASB Exposure Draft (Exposure Draft). We previously provided comments on the Exposure Draft³ and comments on Proposed Amendments to Concept Statement 8.⁴ We depend on the SEC's disclosure regime and believe that reliance on only GAAP before the FASB completes its work could create uncertainty for investors. It is important to understand what companies will be required to disclose under the FASB's approach in order to determine whether certain SEC disclosure requirements can be modified or eliminated. Moreover, the Proposed Rule seems premature given that it shifts disclosure responsibility to sections of GAAP that the FASB has specifically identified for modification. In Attachment A of this letter, we highlight the specific paragraphs where the SEC will transfer authority to provisions of GAAP that the FASB has identified for removal of minimum requirements.

² See *TSC Indus., Inc. v. Northway, Inc.*, 426 U.S. 438 (1976).

³ See, <https://www.calpers.ca.gov/docs/2015-12-08-proposed-accounting-standards-update.pdf>, dated December 8, 2015.

⁴ See, <https://www.calpers.ca.gov/docs/2015-12-08-proposed-amendments-statement-of-financial-accounting.pdf>, dated December 8, 2015.

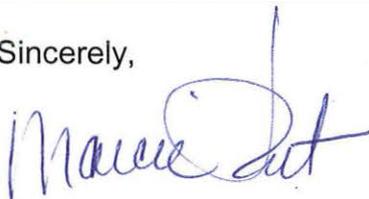
We are concerned that in each such case, current disclosure requirements could be weakened. For example, FASB has already indicated it may eliminate minimum disclosure requirements, so conversion of current SEC disclosure requirements into GAAP would effectively eliminate certain minimum thresholds. Moreover, such changes could reduce transparency by providing companies greater discretion in determining whether to disclose information that is currently required by both the SEC and GAAP. Consequently, the SEC should not reduce current disclosure requirements until the FASB Exposure Draft is complete, and we know how registrants will apply the FASB's new materiality definition and language changes.

In short, we favor enhanced disclosure from the current baseline and are opposed to the removal of any thresholds that will reduce disclosures or leave disclosure to further company discretion. We also oppose the reduction of the prominence of disclosures contemplated by the Proposed Rule. In each instance where moving to reporting solely under GAAP would eliminate a regulatory "bright-line" disclosure requirement, we are concerned that certain issuers will not disclose information at critical times. We are generally opposed to any changes that might prevent companies from providing the forward looking statements that would normally be provided in meeting the requirements of Regulation S-K.

Equity compensation plans are a clear example of where the Proposed Rule would shift disclosure responsibility to an area of GAAP that the FASB plans to address in ways that could fall below current requirements in terms of the quality of information or presentation. Given the ongoing shifts in the FASB's accounting standards, it appears premature to discuss overlapping requirements because we do not yet know what gaps will need to be filled. In sum, we urge the SEC to seek greater investor input prior to finalizing a rule and to consider our concerns about aspects of the Proposed Rule that would transfer certain disclosure issues to the FASB while the FASB has not yet completed its work on the Exposure Draft.

Thank you for the opportunity to provide our comments. If you have any questions, please do not hesitate to contact James Andrus at [REDACTED] or [REDACTED], or Don Pontes at [REDACTED] or [REDACTED].

Sincerely,



MARCIE FROST
Chief Executive Officer

Enclosure

Attachment A

We expect modifications to each ASC section identified in this Attachment in line with the changes made to ASC 718, as described in Appendix A of the FASB's Exposure Draft. We note that the FASB has not yet provided proposed language changes except for ASC 718-10-50-1a.

Section II. B.

5. Warrants, Rights, and Convertible Instruments (ASC 718-10-50-1, and ASC 718-10-50-2);
8. Earnings per Share (ASC 260-10-50-1a);
10. Bank Holding Companies (ASC 320-10-50-2, ASC 320-10-50-5, ASC 310-10-50-11B(c), and ASC 320-10-50-9b); and
11. Changes in Accounting Principles (ASC 250-10-50-1a).

Section III. C.

3. Repurchase and Reverse Repurchase Agreements, b. Disaggregated Disclosures (ASC 810-10-50);
3. Repurchase and Reverse Repurchase Agreements, c. Collateral Policy (ASC 860-30-50-1Aa);
4. Derivative Accounting Policy (ASC 815-10-50);
6. Insurance Companies, a. Liability Assumptions (ASC 944-40-50);
8. Interim Financial Statements-Changes in Accounting Principles (ASC 250-10-50-1);
9. Interim Financial Statements – Pro Forma Business Combination Information (ASC 805-10-50-2h.3);
10. Interim Financial Statements-Dispositions (ASC 360-10-50-3A);
11. Segments (ASC 280-10-50-22);
15. Warrants, Rights, and Convertible Instruments (ASC 470-20-50, and ASC 718-10-50-2); and

17. Equity Compensation Plans (ASC 718-10-50-1a) (ACTUAL EXAMPLE IN EXPOSURE DRAFT AND APPEARS TO EFFECTIVELY ELIMINATE INTENDED DISCLOSURE).

Section III. E.

2. Consolidation (ASC 810-10-50);
4. Assets Subject to Lien (ASC 860-30-50-1A);
7. Income Tax Disclosures (ASC 740-10-50); and
10. Interim Financial Statements – Retroactive Prior Period Adjustments (ASC 260-10-50-1).

In each case above, we oppose modification of any of the corresponding SEC disclosure requirements and further reliance on the GAAP provision because the FASB will likely change each reference ASC in a manner that will reduce transparency.

The other proposed transfers of responsibility to the FASB in the Proposed Rule should be considered in light of the general changes being made to the concept of materiality by the FASB. Such changes enhance company discretion and reduce transparency. It is unclear which disclosures will remain at the completion of the FASB's work on materiality. As such, the SEC should not have released the Proposed Rule prior to the FASB completing its work and the passage of time to determine how the FASB changes to materiality are applied by companies.