

**From:** Ciara C Torres-Spelliscy  
**Sent:** Monday, March 10, 2014 11:14 AM  
**To:** OFM Performance and Planning  
**Subject:** Comment on SEC Strategic Plan

Dear Chair White,

Please find my comment attached.

Thank you for your consideration.

Prof. Torres-Spelliscy

March 10, 2014

Mary Jo White  
Chair  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549

Re: SEC Strategic Plan – Corporate Political Spending Transparency

Dear Chair White:

I welcome the opportunity to comment on the draft strategic plan as issued by the Securities and Exchange Commission (SEC) in accordance with the Government Performance and Results Act Modernization Act of 2010.

I agree that the SEC should focus on providing critical information concerning public companies to investors through certain mandatory disclosures. In particular, one rule is still badly needed and is sorely missing: a rule requiring transparency of corporate political spending by public companies.

Transparency is Needed for Political Spending at Public Companies

In 2010 the ground shifted dramatically in terms of what was legal for corporations to do in partisan political fights. Before the Supreme Court ruling in *Citizens United v. FEC* — the case that changed all of this — it was illegal for a corporation, large or small, to spend money on federal political ads. After *Citizens United*, although giving directly to a federal candidate is still banned, spending an unlimited amount of corporate resources on political advertisements in support of or in opposition to a candidate became legal in every state and in every federal election from the smallest House race to the Presidency.

---

<sup>1</sup> For identification purposes only. This comment only reflects the view of its author and not her university.

The trouble is the SEC's disclosure rules have not kept pace with the corporate right to spend, and there are gaps that allow corporations to mask their identity when they spend in politics. In particular, there is no rule at the SEC that requires public companies to tell their shareholders what they spend in partisan elections. Corporations that spend in politics are using what Supreme Court Justice Louis Brandeis once referred to as "other people's money." Those other people are investors and they deserve to know the truth.

Disclosure of corporate political spending is a poor candidate for private ordering, which will give investors a partial picture of how many corporate resources are being used in American elections. Investors deserve to see all political spending from all public companies so that they can compare firms apples to apples

#### The SEC is the Appropriate Regulator

This rule-making is within the SEC's bailiwick. For a broader discussion of this, please see my law review article, Ciara Torres-Spelliscy, *Safeguarding Markets from Pernicious Pay to Play: A Model Explaining Why the SEC Regulates Money in Politics*, 12(2) CONNECTICUT PUBLIC INTEREST L. J. 361 (2012-2013), <http://ssrn.com/abstract=2184554>.

Reflecting investors' interest in enhanced political spending disclosure, a rulemaking petition at the Securities and Exchange Commission (SEC) requiring public companies to disclose their political spending to shareholders attracted a record level of support for SEC rulemaking, with more than 750,000 comment letters submitted – the vast majority in support from retail investors, institutional investors, and the public.<sup>2</sup>

#### Conclusion

The Commission should act now to start a notice of proposed rulemaking (NPRM) on a corporate political spending disclosure rule.

Sincerely,



Ciara Torres-Spelliscy  
Assistant Professor of Law

---

<sup>2</sup> File No. 4-637, *Petition to Require Public Companies to Disclose to Shareholders the Use of Corporate Resources for Political Activities*. <https://www.sec.gov/rules/petitions/2011/petn4-637.pdf>. 2011.