



Pension Investment  
Association of Canada

Association canadienne des  
gestionnaires de caisses de retraite

July 17, 2016

Brent J. Fields  
Secretary  
United States Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-1090  
Via email: rule-comments@sec.gov.

Dear Mr. Fields:

**Re: Concept Release: Business and Financial Disclosure Required by Regulation S-K -  
File Number S7-06-16**

This submission is made by the Pension Investment Association of Canada (“PIAC”) in response to a request for comments to the Security and Exchange Commission’s Concept Release on Business and Financial Disclosure Required by Regulation S-K (“the Concept Release”).

PIAC has been the national voice for Canadian private and public pension funds since 1977 in matters related to pension investment and governance. Senior investment professionals employed by PIAC’s member funds are responsible for the oversight and management of over \$1.5 trillion in assets on behalf of millions of Canadians. PIAC’s mission is to promote sound investment practices and good governance for the benefit of pension plan sponsors and beneficiaries. PIAC’s positions on public policy reflect the fiduciary framework in which member funds operate and its commitment to work in the best interests of plan members.

We welcome the opportunity to provide comments to the SEC regarding efforts to modernize Regulation S-K (“Reg S-K”). Our comments primarily focus on the disclosure of sustainability matters, with additional comments on select areas that we feel enhance disclosures in general or foster a more cohesive treatment of sustainability disclosures.

PIAC members are pension plans with a focus on delivering returns to pay benefits over the long term. As such, we are supportive of improvements in the reporting of material risk factors, including environmental, social and governance (“ESG”) factors so that we can make better investment decisions.

## Core Company Business Information

PIAC is of the view that the disclosure of ESG-related information is already required by Reg S-K, where it is likely to be material to a company's business.

Item 101 (c) requires disclosure of thirteen specific items to assist investors' understanding of the registrant's business. For example, the number of employees is used as a gauge of company size. However, depending on the nature of the business, it may not be as relevant for assessing the economic impact of the company's operations (which is perhaps the ultimate objective). PIAC is of the view that there is potential to rationalize disclosure requests through industry-specific tailoring.

Standardized industry guidance that include material ESG or sustainability risks would reduce the amount of disclosures required without losing relevant information for the investors. It would also assist investors to better focus on the risks that are material to the registrant. This should not be an onerous undertaking as there are already many existing standards at the industry-level. The Sustainability Accounting Standards Board (SASB) could be leveraged to combine industry-relevant disclosures across a number of facets, including sustainability.

Along a similar vein, industry guidance would help make the MD&A more effective. While the principles-based approach currently adopted should lead to companies with high exposure to climate-related risks to provide commentary on climate strategy in the MD&A, it is not currently being done or done well. Industry-specific guidance could assist registrants in identifying the key risks that should be discussed in the MD&A.

## Principles-based and rules-based disclosure

We believe there are benefits to investors in both principles-based and rules-based disclosures. Principles-based disclosures offer greater flexibility and quicker responsiveness to changing expectations and best practices, providing more robust and complete disclosure. The benefit of rules-based disclosures is the ease with which readers can extract data and facts. We believe that a disclosure regime that relies on a combination of both approaches would support investors' abilities to make informed decisions by providing context, substantiation, and ease of identification and comparison. An example where principles-based and rules-based disclosure approaches have been successfully integrated is the CD&A.

The lack of guidance and standardization has resulted in disclosures that tend to use boilerplate language and are not always substantiated. As such, the disclosures are often not decision-useful. Investors require data that is clear, comprehensive and comparable across industries. These characteristics are not found in public filings today. Instead, investors must rely on voluntary disclosures that are not geared to their needs, nor anchored in materiality.

We acknowledge that this concept release's origin stems from the JOBS Act mandate to evaluate Reg S-K to improve the disclosure regime for both investors and registrants.<sup>1</sup> We believe ESG reporting is increasingly important to shareholders who are evaluating a company's performance and a potential for long-term value creation. Demand for ESG reporting is here to

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<sup>1</sup> <https://www.sec.gov/rules/concept/2016/33-10064.pdf>

stay and will only increase.<sup>2</sup> <sup>3</sup>By requiring standardized industry specific, materiality-based ESG disclosure, the SEC will provide clarity to registrants who currently operate in a piecemeal disclosure environment. For many issuers, ESG disclosure will be consolidated and simplified, thus increasing efficiency and satisfying the original JOBS Act mandate.<sup>4</sup>

#### Disclosure of Information Relating to Public Policy and Sustainability Matters

***Q. 216 Are there specific sustainability or public policy issues that are important to informed voting and investment decisions? If so, what are they? If we were to adopt specific disclosure requirements involving sustainability or public policy issues, how could our rules elicit meaningful disclosure on such issues? How could we create a disclosure framework that would be flexible enough to address such issues as they evolve over time? Alternatively, what additional Commission or staff guidance, if any, would be necessary to elicit meaningful disclosure on such issues?***

We believe that disclosure on sustainability issues is important to make informed voting and investment decisions, and we believe that any new disclosure requirements should be anchored in materiality. Meaningful disclosure would include: i) information that allows investors to understand what issues are likely to be material; ii) how companies are managing the issues; and iii) the metrics needed to evaluate performance and risk management practices.

Investors require standardized information that links sustainability or ESG factors to the company's business strategy and operations. The Commission and issuers should consider leveraging the Sustainability Accounting Standards Board's industry standards<sup>5</sup> to aid issuers in determining what ESG factors are likely to be material to their industry. The promotion of standardized industry-specific metrics would allow for comparison of peer performance and benchmarking within an industry. It may also reduce the reporting burden on issuers given SASB's focus on industry-relevant sustainability metrics. As such, investors will be able to make more informed investment decisions.

***Q 217. Would line-item requirements for disclosure about sustainability or public policy issues cause registrants to disclose information that is not material to investors? Would these disclosures obscure information that is important to an understanding of a registrant's business and financial condition? Why or why not?***

PIAC does not believe that line item requirements would be appropriate for ESG information since only certain ESG issues are material for each company or industry. The creation of specific line item requirements for ESG issues may result in unnecessary and immaterial reporting from issuers.

We would advocate for a sector or industry-specific approach that is focused on relevance and materiality. Such an approach would also provide the flexibility for the Commission to address the evolving nature of ESG issues. We also encourage registrants to provide narrative or

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<sup>2</sup> Sustainable Business & Finance: Customers using ESG Data, <https://www.bloomberg.com/bcause/customers-using-esg-data>

<sup>3</sup> CFA Institute, ENVIRONMENTAL, SOCIAL AND GOVERNANCE SURVEY, p. 5 (June 2015), [https://www.cfainstitute.org/Survey/esg\\_survey\\_report.pdf](https://www.cfainstitute.org/Survey/esg_survey_report.pdf)

<sup>4</sup> Jean Rogers, Re: Concept Release on Business and Financial Disclosure Required by Regulation <https://www.sec.gov/comments/s7-06-16/s70616-25.pdf>

<sup>5</sup> SASB Materiality Map (2016):<http://materiality.sasb.org/>

explanations to give investors appropriate context for assessing (any) industry-specific line items disclosures.

***Q 220: Are there sustainability or public policy issues for which line-item disclosure requirements would be consistent with the Commission's rulemaking authority and our mission to protect investors, maintain fair, orderly and efficient markets and facilitate capital formation, as described in Section III.A.1 of this release? If so, how could we address the evolving nature of such issues and keep our disclosure requirements current?***

See answer to Q. 217. PIAC believes line-item disclosure is ill-suited for ESG items.

***Q 218: Some registrants already provide information about ESG matters in sustainability or corporate social responsibility reports or on their websites. Corporate sustainability reports may also be available in databases aggregating such reports. Why do some registrants choose to provide sustainability information outside of their Commission filings? Is the information provided on company websites sufficient to address investor needs? What are the advantages and disadvantages of registrants providing such disclosure on their websites? How important to investors is integrated reporting, as opposed to separate financial and sustainability reporting? If we permitted registrants to use information on their websites to satisfy any ESG disclosure requirement, how would this affect the comparability and consistency of the disclosure?***

PIAC feels that allowing issuers to use the information on their public websites to satisfy any ESG disclosure requirements would not be sufficient and would not result in the comparability and consistency of disclosure that is desired, unless cross-referenced or linked from the main filing.

The information provided in a company's CSR or Sustainability report is meant for a broader group of stakeholders and contains information that is not always relevant for investors. Furthermore, the information is not standardized or comparable across companies and industries. They are often intended to meet other stakeholder objectives.

We believe voluntary disclosure through different forums increases the probability that investors have to sort through non-material information from an investment perspective. For example, researchers at the Harvard Business School in 2015 found that only 20% of disclosed items in the sustainability data set they used were material by SASB standards.<sup>6</sup> The current environment makes accessing material information on ESG subjects, and therefore reaching informed investment decisions, harder for investors.

Mandatory, consistent disclosure within the company's public filings would help to remedy this issue by assisting investors to make a fully informed decision, increasing efficiency in the overall market. The SEC's mission is to "protect investors, maintain fair, orderly, and efficient markets, and facilitate capital information."<sup>7</sup> Streamlining the process investor's use to access material ESG-related information will assist the Commission to satisfy their mission. This is not to say that companies should discontinue their CSR or sustainability reporting if the Commission

<sup>6</sup> 2016 Canadian Investor Survey: New Insights Into What Investors Want From Disclosure, <http://www.simple-logic.com/wp-content/uploads/2016/06/2016-Canadian-investor-study.June2-2016.pdf>

<sup>7</sup> Introduction – The SEC: What We Do: The Investor's Advocate, <http://www.columbia.edu/~hcs14/SEC.htm>

indeed includes mandatory ESG reporting in Reg S-K. These reports are valuable for communicating to the issuers' broader stakeholders but are not sufficient for investors' specific needs.

Including mandatory and consistent disclosure within the company's public filings would also improve its level of confidence and its credibility to given the internal and/or external certifications required for those filings.

***Q 219: In an effort to coordinate ESG disclosures, several organizations have published or are working on sustainability reporting frameworks. Currently, some registrants use these frameworks and provide voluntary ESG disclosures. If we propose line-item disclosure requirements on sustainability or public policy issues, which, if any, of these frameworks should we consider in developing any additional disclosure requirements?***

We would again point to the SASB standards as a well thought out framework for identifying industry-specific material ESG issues that should be included in mandatory disclosures. We believe it is appropriate for public filings because it is informed by industry and investor working groups, anchored in materiality, consistent with U.S. securities laws, geared toward investors, and will be cost effective for issuers. The commission may also look to CDP for metrics that relate to climate change and the future recommendations of the FSB Task Force on Climate-related Financial Disclosures<sup>8</sup>.

***Q 221: What, if any, challenges would registrants face in preparing and providing this information? What would be the additional costs of complying with sustainability or public policy line-item disclosure requirements, including the administrative and compliance costs of preparing and disseminating disclosures, beyond the costs associated with current levels of disclosure? Please quantify costs and expected changes in costs where possible.***

As pointed out in the Concept Release, most issuers are already compiling this data for their CSR or sustainability reports, the CDP, other stakeholders or investor surveys, or when necessary to comply with certain regulatory requirements. We recognize that companies that are currently relying on boilerplate disclosures may require some additional resources. However, we do not believe the obligation to include more comprehensive information in SEC filings is overly burdensome, particularly as it should relate to financially-relevant risk management processes.

#### Information Delivery

We support the Commission's efforts to facilitate the improved readability and navigation of disclosure documents. We view cross-referencing as one way to enhance disclosures as it eliminates repetition and provides investors quick access to additional explanatory information. With cross-referencing, investors can efficiently navigate to relevant information that provides further context to a specific disclosure. Data tagging is an additional disclosure enhancement. The ability to extract data from a disclosure document greatly improves an investor's ability to consume the information provided, therefore enhancing the utility of that disclosure.

Furthermore, PIAC supports the Commission testing the changes in disclosure formatting and delivery. It is through such efforts that a greater understanding of both the impact of the

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<sup>8</sup> <https://www.fsb-tcfd.org/>

disclosure and its unintended consequences can be achieved, which will serve to guide further enhancements.

Conclusion

Thank you for this opportunity to provide our views on the Concept Release. Please do not hesitate to contact Katharine Preston, Chair of the Investor Stewardship Committee (416-681-2944, [kpreston@optrust.com](mailto:kpreston@optrust.com)), if you wish to discuss any aspect of this letter in further detail.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Lisa Jankov", with a stylized flourish at the end.

Lisa Jankov,  
Chair