Ceres
Mobilizing Business Leadership
for a Sustainable World

July 20, 2016

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

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

Dear Chair White:

We are a group of asset owners and asset managers, representing $1.15 trillion in assets under management. We use a variety of strategies to reduce sustainability risks in our portfolios, such as reviewing companies' SEC filings, advocating for improved sustainability disclosure, engaging with companies on their sustainability practices, asking companies to provide voluntary reporting on environmental, social and governance (ESG) issues affecting their businesses, filing shareholder proposals, proxy voting, and assessing and managing such risks in our portfolios.

Based on our experience with these issues, we believe it is critical for the SEC to improve reporting of material sustainability risks in issuers' SEC filings, both because such disclosure is mandated by current law and because we need it to make informed investment and proxy voting decisions. We urge that the Commission not wait for the ultimate outcomes of current sustainability reporting initiatives, but instead immediately step up efforts to improve disclosure of material sustainability risks by US listed companies in their mandatory securities filings.

We recommend that the SEC approach sustainability disclosure as it would any other disclosure issue. Several elements need to be in place to ensure robust reporting that at the same time remains flexible as risks evolve due to regulatory changes, scientific findings, technology advancements, changing weather patterns and other developments. Meaningful disclosure can be elicited with appropriate disclosure rules or guidance in place, staff who are trained to understand sustainability risks and directed to focus on them, comment letters to issuers with deficient or questionable disclosures, other enforcement mechanisms, and regular dialogues with investors and issuers about their relevant needs and concerns.

Each of the leading voluntary sustainability disclosure frameworks includes useful elements that SEC staff should consider when enforcing existing rules and guidance, issuing interpretive guidance or proposing new line-item disclosure requirements. We recommend that SEC staff review the sustainability and climate-related reporting frameworks developed by the Global Reporting Initiative and CDP, and the sector-specific climate risk management and disclosure guides developed by members of the Global Investor Coalition on Climate Change (Ceres/INCR, IIGCC and IGCC). We also recommend you review the frameworks focused on financial reporting developed by the Climate Disclosure Standards Board, the Sustainability Accounting Standards Board, and the International Integrated Reporting Coalition.

Regarding climate change, we believe that existing SEC rules have not, as applied by the Commission to date, produced sufficient information for investors to evaluate material risks, which we believe are becoming increasingly significant to companies in multiple sectors. While we appreciate the Commission's 2010 interpretive guidance on climate change-related disclosure, its potential has been left largely untapped. Staff has issued very few comment letters regarding the inadequacy of current disclosures and has not pursued enforcement actions for failure to meet disclosure requirements, despite a very active financial risk and disclosure enforcement agenda in other areas. Such actions would go a long way towards ensuring that companies were updating their disclosures to reflect the evolving material risks associated with climate change.

In the last six years, although voluntary sustainability disclosure frameworks have become increasingly sophisticated, the disclosures provided by companies in SEC filings regarding material effects that sustainability issues may have "upon the capital expenditures, earnings and competitive positions" of registrants are still confined largely to large cap companies—and not even all of those—and many of the disclosures that are there have remained vague. In particular, it appears that companies have not provided MD&A disclosures that provide investors with sufficient detail regarding companies' internal analyses of the financial risks associated with "known trends, demands, commitments, events, and uncertainties that are reasonably likely to have a material effect on financial condition or operating performance." Climate change and governmental responses thereto, changing weather patterns, water scarcity and human rights issues in corporate supply chains all fall into these categories and need better company-specific disclosure to meet investors' needs.

In a number of cases, additional guidance or line-item disclosure requirements are needed to elicit consistent, comparable, decision-useful narrative and metrics-based sustainability information that is useful to investors. For example, the business plans of many oil and gas, electric power, and coal companies appear to pose material financial risks to investors, because they are based on forecasts for increasing demand that fail to take into account the accelerating transition to a low carbon global economy. Even as enforcement actions may be warranted to address materially inadequate disclosures by these companies under the existing rules, new disclosure rules regarding the alignment of business plans with the greenhouse gas reduction targets of the Paris agreement may be necessary. Similarly, water risks are one of the most significant and immediately felt physical and financial impacts of climate change on many companies in water-dependent sectors, and rules may be needed for investors to obtain decision-useful water risk and mitigation management information.

While many investors have engaged with or urged companies to provide better ESG disclosure and risk management, as long as this disclosure is perceived as voluntary, there will be many companies—including the majority of small and mid-cap companies—who continue to see it as immaterial. Moreover, this imposes a significant burden on investors who conduct engagements to persuade companies to disclose material ESG issues. With the increasing pressure to control fees and expenses, corporate ESG engagement is growing more expensive and difficult for some individual investors. SEC action is needed to provide a level playing field and give all investors comparable and useful material ESG information.

Thank you for your consideration of these comments. As the Commission works to improve the disclosure of material sustainability risks, we would welcome the opportunity to provide further input about the type of reporting we require. We would be pleased to meet with the Commission and its staff to discuss these issues further.

Sincerely,

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