Jon Lukomnik
[redacted]

September 27, 2017

Honorable Jay Clayton
Chairman
US Securities and Exchange Commission
110 F Street, N.E.
Washington, D.C. 20549

Honorable Kara Stein
Commissioner
US Securities and Exchange Commission
110 F Street, N.E.
Washington, D.C. 20549

Honorable Michael Piwowar
Commissioner
US Securities and Exchange Commission
110 F Street, N.E.
Washington, D.C. 20549

Re: Human Capital Management Disclosures Rulemaking Petition, File 4-711, 07/06/2017

Dear Chairman Clayton:

I am writing to support, directionally, the request for rulemaking submitted by the Human Capital Management Coalition. However, I first wanted to congratulate you on your appointment and thank you for your considered comments to date on the direction you see for the SEC moving forward.

By way of background, I am the Executive Director of the Investor Responsibility Research Center Institute (a not-for-profit which publishes reports of interest to institutional investors and which has been cited by a number of SEC officials)[1], a Trustee on the Van Eck mutual funds, a member of the Standing Advisory Group of the PCAOB[2], a member of the Deloitte Audit Quality Advisory Committee, a cofounder of the International Corporate Governance Network, the former investment advisor for the New York City pension funds, and the co-author of two books on the asset management industry and the finance sector generally.[3] I have been the investment advisor for, or a trustee overseeing, more than $100 billion in assets over my career.

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[1] See, for example, www.sec.gov/news/speech/2013-spch110313mjw
[2] The opinions herein are my own and do not represent the PCAOB, any Board Member of the PCAOB, or the SAG.
[3] "What They Do With Your Money: How the Financial System Fails Us and How to Fix It", Yale University Press, 2016 and "The New Capitalists: How Citizen Investors Are Reshaping the Corporate Agenda".

The Investor Responsibility Research Center Institute is a research institute values its non-advocacy, non-partisan position as a means to creating research that is as objective as possible. Therefore, it takes no position on the rulemaking position. However, I feel compelled to do so in my personal capacity as a long-time institutional investor and as a current retail investor. I fear that financial reporting is facing a slow-moving, but existential crisis. While the United States is blessed with a robust disclosure framework for information contained in traditional financial statements, and while the SEC has been vigilant in maintaining that framework, today's capital markets increasingly are valued based on information that is not GAAP, and therefore not standardized. This information is important, and valued by investors, but it can be, and should be, improved in terms of quality and consistency.

As has often been noted, equity markets are discounting mechanisms which try to estimate future value of corporate securities. Increasingly, that means examining such intangible corporate assets as intellectual property, business methods, brands, and, as this rulemaking petition notes, human capital. In contrast, traditional financial statements are backward-looking and fairly poor at measuring intangible corporate differentiators.[4]

I do not suggest that GAAP is not valuable. It is. GAAP remains the touchstone to which other metrics need be anchored to reality. However, as the SEC itself has noted companies are increasingly using non-GAAP metrics, necessitating a new CD&I[5]. There is a simple reason for that: non-GAAP metrics are useful to companies in explaining their businesses, and investors find them insightful. While we typically think of non-GAAP metrics as those derived from GAAP (e.g. EBITDA), they also include key performance indicators (e.g. same store sales) and, increasingly, those metrics related to sustainability such as the ones proposed by the Sustainability Accounting Standards Board.[6] The HCM Coalition's rulemaking request is firmly in this vein of disclosure, and I believe investors would, indeed, find such disclosure useful.

I am mindful of the effort issuers would need to expend to meet the HCM Coalition's request, though well-governed companies will likely have much of the information available through their human resources functions. However, as suggested above, all the types of disclosure that investors would find useful, and which would therefore improve the capital market's ability to intermediate efficiently, continue to expand; the inevitable result of the explosion in sources of value creation available in today's information era (and in the ability of investors to analyze data). Therefore, in addition to generally supporting the HCM Coalition's petition, I encourage you to begin considering, systematically, how our disclosure regimen can evolve to appropriately provide the information investors need while balancing the cost to issuers. There have been a number of suggestions, such as reducing quarterly reporting to semi-annual reporting (as exists in some other major jurisdictions) and providing further guidance about the nature of the Management Discussion and Analysis and the Risk Factor discussions in the 10K reports[7] so that they are less boilerplate and more corporate

[4] The difficulty traditional accounting has in measuring intangible assets perhaps should be expected. Today's financial statements are directly descended from a system invested by a Franciscan friar in1494, which was brilliantly designed for merchants selling fish and vegetables. That system is still relevant, particularly for those segments of industry reliant on capital intensive assets, but its utility for investors and capital allocation is reduced when the relationship between capital expended and future value creation is more variable.

[5] www.sec.gov/divisions/corpfin/guidance/nongaapinterp.htm

[6] www.sasb.org

[7] "The Corporate Risk Disclosure Landscape", EY as primary contributor, IRRC Institute, 2016.

specific. I do not endorse any specific suggestion(s), but do encourage you to think about this issue holistically and to make it a hallmark of your tenure, as it would improve both investor protection and capital formation.

I thank you for your time and attention.

Sincerely,

Jon Lukomnik