

## Public Statement

---

# Statement at Open Meeting: Proposal to Modernize and Simplify Disclosure Requirements

Chairman Jay Clayton

**Oct. 11, 2017**

Good morning. This is an open meeting of the United States Securities and Exchange Commission on October 11, 2017 under the Government in the Sunshine Act.

This also marks my first open meeting as Chairman. I am delighted that today the Commission will consider and vote on a recommendation from the staff to propose amendments based on the staff's Report on Modernization and Simplification of Regulation S-K. This proposal is a welcome first item on the Commission's rulemaking calendar during my tenure. I firmly believe in our disclosure-based regulatory system for public companies and the investor-oriented approach that we have followed for the past eighty-plus years. In this regard, it is important that the Commission and staff periodically review our rules to ensure that our disclosure requirements are achieving their important investor information and protection objectives in an effective and efficient manner. This is exactly what the Commission was tasked to do under the Fixing America's Surface Transportation Act, or the FAST Act. The FAST Act has given the Commission the opportunity to update our rules, simplify our forms, and utilize technology to make disclosure more accessible. An effective disclosure regime provides investors with the information necessary to make informed investment choices without imposing unnecessary burdens of time and money on issuers, and today's action embodies that goal.

Specifically, the FAST Act directs the Commission to issue a report providing specific and detailed recommendations on modernizing and simplifying Regulation S-K in a manner that reduces costs and burdens on registrants, while still providing all material information. It also requires recommendations to make it easier to read and navigate disclosure documents and to discourage unnecessary repetition and immaterial disclosure. The statute further requires the Commission to propose amendments to implement the recommendations within 360 days of the report date.

The proposed amendments are intended to improve the quality and accessibility of disclosure in filings by simplifying and modernizing our requirements. These proposed rule changes should result in significant savings of time and money for registrants without any reduction in material information and with increased accessibility. The proposed amendments also clarify ambiguous disclosure requirements, remove redundancies and further optimize the use of technology.

The proposed amendments we are considering today provide for improvements in all areas where the FAST Act report recommended action. In addition, as the report's recommendations developed into proposals, the staff identified areas for improvement consistent with the intent of the FAST Act and the staff's report. I want to highlight two of these recommendations – amendments to Management's Discussion and Analysis, or MD&A, and the confidential treatment process.

First, the proposed amendments to MD&A would permit registrants to forgo discussion of the oldest period if the information has been previously reported and, I emphasize, it is no longer material. This change would encourage registrants to take a fresh look at their MD&A to determine whether a discussion of the oldest year remains material to investors, and should discourage repetition of disclosure that is no longer material.

Second, the proposed rule changes would create efficiencies in the process to seek confidential treatment for commercially sensitive or confidential information, including personally identifiable information, or PII. The recommended proposal would permit registrants to omit from material contract exhibits confidential information that is not material and would cause competitive harm if publicly disclosed, without having to request confidential treatment from the Commission. This would change the current practice of requiring a registrant to provide an un-redacted copy of each exhibit and request confidential treatment. In addition, companies would be permitted to omit PII in all cases without submitting a confidential treatment request. I want to emphasize that exhibits would continue to be subject to filing reviews, and the staff would selectively assess whether redactions appear to be appropriate. Streamlining the confidential treatment process is consistent with the FAST Act mandate and should better safeguard confidential and sensitive information.

Furthermore, the proposing release includes amendments that are intended to modernize the disclosure requirements in Regulation S-K by requiring certain registrants to provide legal entity identifiers, or LEIs. Specifically, the proposals recognize that many registrants and their subsidiaries may not have LEIs, so the proposals would require disclosure of LEIs only for those registrants and subsidiaries that choose to obtain this identifier. Since these proposals are intended to allow investors to use LEIs to more quickly and precisely identify registrants and their subsidiaries, the proposing release also seeks feedback on the structured data format for LEIs that would be most useful to investors.

The recommendations in the proposing release demonstrate our continuing commitment and efforts to improve disclosure. The proposing release asks important questions about the proposed amendments and potential alternatives, and I encourage all interested parties to comment. I look forward to the public comments as we continue to explore the most effective means to improve our disclosure system.

Before I turn the proceedings over to Bill Hinman, the Director of the Division of Corporation Finance, to discuss the staff's recommendations, I would like to thank the staff for their dedication and thoughtful work on this proposal. The proposed amendments reflect input from the Division of Corporation Finance, the Division of Investment Management, the Division of Economic and Risk Analysis, the Office of General Counsel, the Office of the Chief Accountant and the Office of Strategic Initiatives. This was truly a collaborative effort and reflects coordination across the agency.

Specifically, I would like to thank Bill Hinman, Rob Evans, Shelley Parratt, Betsy Murphy, Karen Garnett, Felicia Kung, Tamara Brightwell, Rolaine Bancroft, Angie Kim, Shehzad Niazi, Daniel Morris, Mark Green, Sean Harrison, Jim Budge, Brigette Lippmann, Sebastian Gomez, Michele Anderson, Ted Yu, Michael Coco, Ellie Quarles, Elliot Staffin, Craig Olinger, Todd Hardiman, Christine Adams, Jonathan Ingram, Raymond Be, Matt McNair, Adam Turk, Patti Dennis, Heather Mackintosh, Matt Derby, and Justin Mims in the Division of Corporation Finance.

I also want to extend my thanks to Dalia Blass, Diane Blizzard, Sarah ten Siethoff, Michael Pawluk and Matthew DeLesDernier in the Division of Investment Management; Bob Stebbins, Bryant Morris, Connor Raso, Luna Bloom, Dorothy McCuaig, Monica Lilly, Marie-Louise Huth and Nelson Kuan in the Office of the General Counsel; Scott Baugess, Vanessa Countryman, Narahari Phatak, Adam Yonce, Christo Pirinsky, Mike Willis, Hermine Wong and Walter Hamscher in the Division of Economic and Risk Analysis; Jeff Minton, Kevin Vaughn, Giles Cohen, Duc Dang, Michal Dusza, Kevin Stout, Marc Panucci and Rahim Ismail in the Office of Chief Accountant; and Mark Ambrose and Chris Windsor in the Office of Strategic Initiatives.

I want to thank my fellow Commissioners and their staff for their input and engagement on the proposal that we are considering today. Their efforts ensured that these proposals were a Commission priority during a time of transition.

Now, I'll turn it over to Bill Hinman, our Director of the Division of Corporation Finance, with two final notes. First, I'm delighted that Bill is leading the disclosure effort because I've seen Bill work firsthand to ensure that investors are receiving a mix of information necessary to make informed investment decisions. Second, and continuing with that theme, I believe these proposals embrace an approach to disclosure that is important. Corporate leaders should respond to our disclosure requirements by conveying information to investors in a way that captures how they assess and

manage their businesses. Our approach to disclosure allows this and issuers should be pursuing it.