Americans for Financial Reform Education Fund

Vanessa A. Countryman
Secretary
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549–1090

August 6, 2025

**Re: Executive Compensation Roundtable, File Number 4-855**

Dear Secretary Countryman:

The Americans for Financial Reform Education Fund (AFREF) appreciates the opportunity to comment on the Securities and Exchange Commission's roundtable on executive compensation disclosure requirements. AFREF is a nonpartisan and nonprofit organization formed by more than 200 civil rights, consumer, labor, investor, faith-based, and civic and community groups and is dedicated to advocating for policies that shape a financial sector that serves workers, communities and the real economy, and provides a foundation for advancing economic and racial justice. AFREF strongly urges the SEC to resist industry calls to weaken the current executive compensation disclosure framework, which furthers the SEC's three-part mission of protecting investors, maintaining fair, orderly, and efficient markets, and facilitating capital formation.

Comprehensive executive compensation disclosures are critical for investors' ability to make informed decisions about capital allocation and investment stewardship, including proxy voting. How a corporate board decides to compensate executives provides insights into a board's level of independence and accountability to shareholders as well as into a company's priorities. These disclosures improve investor confidence, which in turn promotes capital formation.

While companies complain about compliance costs, they — as the source of information about their own executive compensation practices — are much better positioned to absorb the costs of disclosing that information than investors, who would otherwise have to spend a significant amount of money gathering this information through either their own engagements with companies or third party providers. Also, it is worth noting that companies have already incurred the costs of setting up policies and systems for compliance with these rules.

Companies also complain that disclosures are too complex, but the fact is that they have significant control over the level of accessibility of their disclosures. In fact, SEC executive compensation rules largely require disclosures be provided simply and in plain English. To the extent that some companies' disclosures are overly complex, the fault lies with those issuers and is no reason to decrease the amount of disclosures available to investors, none of whom have called for less information. Instead, is it a reason for the SEC to spend more resources enforcing compliance with its rules' plain English requirements.

Below, we will delve more deeply into the importance of executive compensation disclosures and the current disclosure requirements, including the 2006 rule amendments and the three rules required by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank): the CEO to median worker pay ratio disclosure, pay versus performance, and clawbacks. These disclosures were the result of a long, hard-won fight to provide investors with the information they need to make informed investment decisions. They are also the result of extensive and lengthy comment periods and, in the cases of pay versus performance and clawbacks, it took more than a decade after the statute mandated these disclosures for them to become a reality. Any reduction in the scope or level of detail of the current disclosure requirements would be detrimental to investors and capital formation. Existing disclosures could be improved with more, not less information.

**The Importance of Executive Compensation Disclosures**

Comprehensive executive compensation disclosures are necessary for shareholders to determine whether boards of directors are representing their interests in negotiations with executives. In their 2006 widely acclaimed book "Pay without Performance: The Unfulfilled Promise of Executive Compensation,"[1] corporate governance experts Lucian A. Bebchuk and Jesse M. Fried demonstrate that unlike the prevailing view at the time that boards of directors negotiate at arm's length with executives over their pay in the best interests of shareholders, there are structural reasons why this is not the case. They point to the influence CEOs have over the director nomination process and director compensation, for example, and the natural desire to have a friendly and collegial relationship with management. They argue that these incentives resulted in "flawed compensation arrangements" that were "widespread, persistent, and systemic."[2] These arrangements present costs to shareholders, both in terms of excessive compensation and management incentives that are misaligned with shareholder interests.[3]

Bebchuk and Fried also argued that those who design executive pay packages "camouflage" how much pay executives are actually getting and how divorced the pay is from performance to avoid what they refer to as "outrage" costs in the form of increased risk of takeover and public embarrassment.[4] They showed that executives regularly received significant "stealth compensation," including in the form of pensions, deferred compensation, and perquisites (perks).[5] Another study

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[1] Bebchuk, Lucian and Jesse M. Fried."Pay Without Performance: The Unfulfilled Promise of Executive Compensation." Cambridge, Massachusetts: Harvard University Press. 2006.
[2] Bebchuk, Lucian and Jesse M. Fried."Pay Without Performance: Overview of the Issues."*Journal of Applied Corporate Finance.* Vol. 17, No. 4. 2005 at 9.
[3] *Ibid.* at 10-11.
[4] *Ibid.* at 16.
[5] *Ibid.*

found that executives also compelled boards to "rig" their incentive pay by giving more weight to performance measures in which they performed better.[6]

A key recommendation from Bebchuk and Fried to address these issues was transparency:

> Transparency would provide shareholders with a more accurate picture of total pay and its relationship to performance and thereby provide some check on departures from arrangements that serve shareholder interests. Furthermore, transparency would eliminate the distortions that currently arise when pay designers choose particular forms of compensation for their camouflage value rather than for their efficiency. Finally, transparency would impose little cost on companies because it would simply require them to disclose clearly information they have or can obtain at negligible cost.[7]

The urgent need for transparency was not just noted by academics, but also by investors. Major institutional investors as well as groups representing the interests of shareholders were among the thousands who wrote comments in support of the SEC's 2006 proposed rule on executive pay disclosures, demanding greater transparency and accountability.[8] With over 20,000 letters to the SEC in response to its 2006 proposed rulemaking,[9] it was clear that this issue was of great interest.

For example, the Council of Institutional Investors, an association of more than 130 corporate, union, and public pension plans with more than $3 trillion in assets at the time, described executive compensation as a longtime priority, expressing concerns about the size of compensation packages, how boards determine pay, pay disclosure, pay structure, and performance metrics used to determine pay. They noted that "[p]oorly structured pay packages may harm shareowner value by wasting owners' money, diluting ownership and creating inappropriate incentives that may damage a company's long-run performance," and that "[i]nappropriate packages may also suggest a failure in the boardroom, since it is the job of the board of directors and the compensation committee to ensure that executive compensation programs are effective, reasonable and rational with respect to critical factors such as company performance and industry considerations."[10] As another example, the California Public Employees' Retirement System (CalPERS), the largest public pension in the United States, wrote to strongly support the SEC's proposal and give recommendations for

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[6] Morse, Adair, Vikram Nanda, and Amit Seru. "Are Incentive Contracts Rigged by Powerful CEOs?" *Journal of Finance.* August 2009.
[7] Bebchuk, Lucian and Jesse M. Fried."Pay Without Performance: Overview of the Issues."*Journal of Applied Corporate Finance.* Vol. 17, No. 4. 2005 at 19.
[8] U.S. Securities and Exchange Commission (SEC). "Comments on Proposed Rule: Executive Compensation and Related Party Disclosure." Release Nos. 33-8655; 34-53185; IC-27218; File No. S7-03-06.
[9] SEC. [Press release.] "SEC Votes to Adopt Changes to Disclosure Requirements Concerning Executive Compensation and Related Matters." July 26, 2006.
[10] Council of Institutional Investors. Comment to the SEC. RE: File Number S7-03-06 Executive Compensation and Related Party Disclosure. March 29, 2006 at 1.

additional executive compensation regulations. They noted they had adopted an Executive Compensation Strategic Plan to increase executive compensation disclosures.[11]

**The 2006 Disclosure Rules Provide Important Step and Needed Transparency**

In 2006, the SEC heeded academics' and investors' calls for increased executive compensation disclosure by finalizing a rule requiring enhanced, comprehensive tabular and narrative disclosure of compensation amounts and a Compensation Discussion and Analysis (CD&A) detailing the material factors underlying compensation policies and decisions. The rule also required most disclosures to be provided in plain English. These disclosures significantly increased the information available to investors, including perks, making it more difficult for issuers to obfuscate parts of executive compensation packages. In the accompanying release, the SEC stated:

> We expect that the amended reporting requirements will enhance the efficiency of capital formation. Investors have stated that they believe that the improved transparency and completeness of executive compensation information resulting from these amendments will help them make more informed investment and voting decisions. Investors are likely to be more confident allocating capital to firms in which compensation practices are well-aligned with the investors' interests when investors possess more information regarding executive compensation. Improved transparency thus may encourage investors to commit their capital and thereby facilitate issuers' access to capital.[12]

These disclosures had a significant, positive impact on markets. For example, a 2016 study found that the new disclosures decreased incidences of self-interested management actions by reducing the information asymmetry between corporate management and investors.[13] Additionally, academics found a positive association between issuers the SEC identified as not being in compliance with the new disclosure requirements and excess CEO pay,[14] suggesting lingering opacity of executive compensation contributed to issuers' ability to perpetuate compensation practices that are not beneficial to investors. Investors appeared to find perks disclosure particularly important, with a study finding that issuers that hid significant CEO perks — which the researchers found were correlated with weak corporate governance — before the new rules went into effect were hit with a negative market reaction when their first proxy statements with perks disclosures were released.

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[11] California Public Employees' Retirement System (CalPERS). Comment to the SEC. RE: Executive Compensation and Related Party Disclosure, File No. S7-03-06. April 7, 2006 at 1.

[12] SEC. "Executive Compensation and Related Person Disclosure." Final Rule. Release Nos. 33-8732A; 34-54302A; IC-27444A. File No. S7-03-06. August 29, 2006 at 256.

[13] Espahbodi, Reza, Nan Liu, and Amy Westbrook. "The Effects of the 2006 SEC Executive Compensation Disclosure Rules on Managerial Incentives." *Journal of Contemporary Accounting & Economics*. 2016.

[14] Robinson, John R., Yanfeng Xue, and Yong Yu. "Determinants of Disclosure Noncompliance and the Effect of the SEC Review: Evidence from the 2006 Mandated Compensation Disclosure Regulations." *The Accounting Review*. 2011.

Some issuers even decreased or eliminated their perks after the new rules came into effect.[15] Overall, the 2006 disclosures became even more important after the Dodd-Frank Act came into effect, as it required issuers to let shareholders cast advisory votes on whether or not they approved of executives' pay packages (say-on-pay).[16]

While the 2006 disclosures were a significant step in the right direction, they were not a panacea. Academics and investors noted several limitations, including lack of comprehensive disclosure of performance measures used to determine compensation and incomplete perks disclosures. An academic analysis of the new disclosure requirements recommended the SEC require issuers disclose "the performance measure, the performance target, the actual performance, whether or not the target was achieved, and the amount earned from the performance."[17] Investors also recommended stronger disclosures of specific performance targets and metrics.[18] Perks disclosure was identified as a place where there was room for improvement. For example, one law review article noted that "disclosure loopholes permit companies to obfuscate the actual compensation paid to their executives in controversial forms," including "nonbusiness related use of the corporate jet for executives and their families, personal entertainment, home security, and tax reimbursements for these perquisites."[19] Another article recommended requiring disclosure of all perks, including by getting rid of the $10,000 threshold for disclosure.[20] Notably, investors also identified the need for issuers to adopt and disclose clawback policies, when executive pay could be clawed back in certain circumstances, including when it becomes clear that performance targets triggering incentive pay were not actually met.[21]

**Financial Crisis and the Dodd-Frank Act Usher in More Needed Disclosures**

There was significant renewed interest in executive pay reform in the wake of the financial crisis. The Financial Crisis Inquiry Commission, created by Congress to examine the causes of the financial crisis, found that pay packages often "encouraged the big bet—where the payoff on the upside could be huge and the downside limited. This was the case up and down the line—from the corporate

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[15] Andrews, Angela B., Scott C. Linn, and Han Yi. "Corporate Governance and Executive Perquisites: Evidence from the New SEC Disclosure Rules." *AAA 2009 Financial Accounting and Reporting Section (FARS) Paper*. 2009.
[16] Balsam, S., Boone, J., Liu, H., and Yin, J. "The impact of say-on-pay on executive compensation." *Journal of Accounting and Public Policy*. Volume 35, Issue 2. 2016.
[17] Donahue, Sean M. "Executive Compensation: The New Executive Compensation Disclosure Rules Do Not Result in Complete Disclosure." *Fordham Journal of Corporate & Financial Law*. Volume 13, Issue 13, Article 4. 2008 at 85.
[18] Council of Institutional Investors. Comment to the SEC. RE: File Number S7-03-06 Executive Compensation and Related Party Disclosure. March 29, 2006 at 2; CalPERS. Comment to the SEC. RE: Executive Compensation and Related Party Disclosure, File No. S7-03-06. April 7, 2006 at 2.
[19] Trombetta, Lauren. "Jet-Setting to Napa Vineyards and Las Vegas Casinos on the Company's Dime: How the SEC's Recent Enforcement Actions Expose the Need for Executive Perquisite Reform." *California Law Review*. Vol. 111. 2023.
[20] Donahue, Sean M. "Executive Compensation: The New Executive Compensation Disclosure Rules Do Not Result in Complete Disclosure." *Fordham Journal of Corporate & Financial Law*. Volume 13 Issue 13, Article 4. 2008.
[21] *See* CalPERS. Comment to the SEC. RE: Executive Compensation and Related Party Disclosure, File No. S7-03-06. April 7, 2006 at 2-3; Council of Institutional Investors. Comment to the SEC. RE: File Number S7-03-06 Executive Compensation and Related Party Disclosure. March 29, 2006 at 6.

boardroom to the mortgage broker on the street."[22] Indeed, SEC Chair Mary Schapiro said that "[m]any major financial institutions created asymmetric compensation packages that paid employees enormous sums for short-term success, even if these same decisions result in significant long-term losses or failure for investors and taxpayers."[23] Subsequent academic studies have further supported the conclusion that short-term incentives embedded in executive pay arrangements were significant contributors to the financial crisis.[24] Notably, while CEOs and other executives were able to cash out large amounts of their compensation before the crisis, long-term shareholders were left holding the bag.[25]

To address these executive compensation issues, the Dodd-Frank Act of 2010 included several provisions requiring the SEC to engage in rulemaking related to executive compensation, including a CEO to median pay ratio disclosure, pay versus performance disclosures, and listing standards for clawbacks.

***Pay Ratio Rule Requires Disclosure of CEO to Median Worker Pay Ratio, Providing Important, Decision-Useful Information to Investors***

The SEC finalized the pay ratio rule in 2017, requiring issuers to disclose their CEO to median worker pay ratio. A wide range of investors, policymakers, and academics, along with tens of thousands of concerned individuals, submitted comments to the SEC during the initial comments periods in 2013 and 2015, and again in 2017,[26] when the acting chair re-opened the issue shortly before corporations were to calculate their first ratios. There is no reason to revisit this rule.

In a 2017 letter opposing a delay in the rule's effective date, investors and investor groups with $3 trillion in assets under management outlined why this disclosure is material to investors.[27] They said the pay ratio disclosure allows investors to "make more informed decisions" on say-on-pay votes and provides a glimpse into human capital management data that "is otherwise difficult and costly

[22] National Commission on the Causes of the Financial and Economic Crisis in the United States. The Financial Crisis Inquiry Report. January 2011 at xix.
[23] *Ibid.* at 64.
[24] Bebchuk, Lucian. Executive Pay and the Financial Crisis. Harvard Law School Forum on Corporate Governance. February 1, 2012, citing Chesney, Marc et al. Managerial Incentives to Take Asset Risk. *Journal of Corporate Finance*. Volume 65. December 2020; DeYoung, Robert, Emma Y. Peng, and Meng Yan. "Executive Compensation and Business Policy Choices at U.S. Commercial Banks." *Journal of Financial and Quantitative Analysis (JFQA)*. Vol. 48, No. 1. 2015; Gande, Amar and Swaminathan L. Kalpathy. "CEO Compensation and Risk-Taking at Financial Firms: Evidence from U.S. Federal Loan Assistance." *Journal of Corporate Finance*. July 1, 2017; Suntheim, Felix. International Monetary Fund (IMF)."Managerial Compensation in the Financial Service Industry." August 27, 2010; Bhattacharyya, Sugato and Amiyatosh Purnanandam. "Risk-Taking by Banks: What Did We Know and When Did We Know It?" *AFA 2012 Chicago Meetings Paper*. November 18, 2011; Balachandran, Sudhakar V., Bruce Kogut, and Hitesh Harnal."The Probability of Default, Excessive Risk, and Executive Compensation: A Study of Financial Services Firms from 1995 to 2008." *Columbia Business School Research Paper*. February 1, 2010.
[25] Bebchuk, Lucian. Executive Pay and the Financial Crisis. Harvard Law School Forum on Corporate Governance. February 1, 2012.
[26] SEC. Comments on the Statement on the Commission's Pay Ratio Rule.
[27] Lee, Paul et al. SEC. "Re: Reconsideration of Pay Ratio Rule Implementation." March 22, 2017.

for investors to obtain on their own."[28] Additionally, the pay ratio provides insight into the impact of high CEO to median pay ratios on employee morale, as "[w]ide pay gaps between CEOs and other employees are associated with higher employee turnover, which can adversely affect a company's performance and thereby shareowner interests."[29] Lastly, the rule also lets investors see how the pay ratio changes over time at specific issuers and how it compares to other companies within the same industry, which the signatories note "can help inform investment decisions."[30]

***Pay Versus Performance Provides Critical Information to Investors***

The SEC finalized the pay versus performance rule in 2022 — a dozen years after the Dodd-Frank Act tasked it with doing so and after two comment periods. There is no reason to revisit this rule and heed industry demands to weaken it.

The statutory language requires "a clear description" of executive compensation, "including information that shows the relationship between executive compensation actually paid and the financial performance of the issuer, taking into account any change in the value of the shares of stock and dividends of the issuer and any distributions."[31] The rule directly answers that call by mandating disclosure of total shareholder return and compensation actually paid. It also requires the disclosure of net income, a company-selected measure, and three to seven additional performance measures the issuer determines are most important.

Despite its recent implementation, investors have shown how useful they find this information. A study found that the rule makes executive compensation information easier to understand and process, which in turn influences voting decisions.[32] Specifically, the study found that higher CAP figures correlate with changes in investor support for both executive compensation and compensation committee directors, in particular when disclosures before the rule's implementation

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[28] *Ibid.* at 1.
[29] Lee, Paul et al. SEC. "Re: Reconsideration of Pay Ratio Rule Implementation." March 22, 2017, citing Bloom, Matt and John G. Michel. "The Relationships among Organizational Context, Pay Dispersion, and Managerial Turnover." *Academy of Management Journal*. Vol. 45, No. 1. February 2002, and Wade, James B., Charles A. O'Reilly, III, and Timothy G. Pollock. "Overpaid CEOs and Underpaid Managers: Fairness and Executive Compensation." October 1, 2006. *See also* Bao, May Xiaoyan, Xiaoyan Cheng, and David Smith. "A path analysis investigation of the relationships between CEO pay ratios and firm performance mediated by employee satisfaction." *Advances in Accounting*. Volume 48. March 2020.
[30] Council of Institutional Investors. Comment to the SEC. Re: Reconsideration of Pay Ratio Rule Implementation. March 22, 2017 at 2. The letter cites a 2016 MSCI study, which found that issuers with wider pay gaps were less profitable than counterparts with smaller pay gaps between 2009 and 2014. Block, Samuel. MSCI. "Income Inequality and the Intracorporate Pay Gap." April 2016.
[31] Dodd-Frank Wall Street Reform and Consumer Protection Act. Pub. L. 111-203. July 21, 2010 at § 953(a).
[32] Dey, Aiyesha, Berk A. Sensoy, Austin Starkweather, and Joshua T. White. "Pay Versus Performance and Investor Voting Decisions." 2024.

were harder to interpret.[33] Similarly, another study found a strong correlation between misalignment between compensation actually paid and performance and votes against executive compensation.[34]

A key strength of the current rule is its standardization, which provides clear, objective, and comparable information that helps investors make informed investment, proxy voting, and engagement decisions. Replacing it with a principles-based or entirely company-defined disclosure regime would undermine its utility to investors, who advocated for standardized metrics to prevent companies from cherry-picking favorable outcomes.[35] Having a principles-based or entirely company-defined disclosure regime would allow executives to obscure the actual value and rationale of their pay, and weaken market integrity.

It is worth noting that companies were given considerable flexibility in the final rule through the inclusion of a measure of their choice, three to seven additional measures of their choice, choice in peer group selection, and narrative disclosure. Any critiques that the standardized pay versus performance disclosures might be one size fits all or misleading (i.e., not giving the whole picture) could always be remedied by the company, as the current framework provides companies with substantial opportunities to tailor their executive compensation disclosures and disclose more information they believe would be clarifying.

It is also worth noting that the final rule did not include all investor demands. Investors, advocacy groups, and scholars called for mandatory disclosure of all performance metrics used in determining pay.[36] The SEC should consider strengthening the rule to enhance disclosure requirements investors want, rather than discussing how to reduce disclosures that are already mandated to appease issuers.

***Recovery of Erroneously Awarded Compensation Rule ("Clawback Rule") Requires Companies to Have Needed Clawback Policies***

The SEC finalized the clawback rule in 2022 — a dozen years after the Dodd-Frank Act tasked it with doing so and after three comment periods. There is no reason to revisit this rule and heed industry demands to weaken it. In the wake of the financial crisis, many noted that executives were not exposed to longer-term negative consequences of their decision-making through strong

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[33] Dey, Aiyesha, Berk A. Sensoy, Austin Starkweather, and Joshua T. White. "Pay Versus Performance and Investor Voting Decisions." 2024.

[34] Gong, James Jianxin, Lee, Nian Lim (Vic), and Wang, Sophia I. "Do shareholders vote against executive compensation when pay is misaligned with performance?" *Advances in Accounting*. Volume 69. 2025.

[35] AFL-CIO. Comment to the SEC. Re: Reopening of Comment Period for Pay Versus Performance. March 2, 2022 at 2; As You Sow. Comment to the SEC. Pay versus Performance Release No. 34-74835; File No. S7-07-15. 2015 at 3.

[36] AFL-CIO. Comment to the SEC. Re: Reopening of Comment Period for Pay Versus Performance. 2022 at 3; Council of Institutional Investors (CII). Comment to the SEC. Re: File Number S7-07-15. 2015 at 3; Donahue, Sean M. "Executive Compensation: The New Executive Compensation Disclosure Rules Do Not Result in Complete Disclosure." *Fordham Journal of Corporate & Financial Law*. Volume 13, Issue 13, Article 4. 2008 at 86.

clawback provisions.[37] As previously noted, investors had long called for increased adoption and disclosure of clawback policies.[38]

What the rule requires is common sense: if pay goes out the door based on achievements later revealed to be false, that pay should be clawed back. There should be no exceptions to this basic concept. It should not matter by how much the executive missed the target, what type of restatement the company had to make, the amount of compensation at issue, or whether there was any intentionality behind the mistake. The bottom line is that executives should not retain compensation for financial goals they did not actually achieve. Notably, 78 percent of a representative sample of the S&P 500 made up of 200 large publicly traded companies exceed the SEC's requirements, with broader clawback provisions and additional triggers, such as ethical misconduct and reputational risk, and encompass a broader range of compensation.[39]

We appreciate the SEC's consideration of our recommendations to maintain the existing disclosures, and ideally improve them with more, not less information. For further discussion, please contact Meron Lemmi at meron@ourfinancialsecurity.org and Natalia Renta at natalia@ourfinancialsecurity.org.

Sincerely,

Americans for Financial Reform Education Fund

[37] National Commission on the Causes of the Financial and Economic Crisis in the United States. The Financial Crisis Inquiry Report. January 2011 at 62; Bebchuk, Lucian. Executive Pay and the Financial Crisis. Harvard Law School Forum on Corporate Governance. February 1, 2012.

[38] CalPERS. Comment to the SEC. RE: Executive Compensation and Related Party Disclosure, File No. S7-03-06. April 7, 2006 at 2-3; Council of Institutional Investors. Comment to the SEC. RE: File Number S7-03-06 Executive Compensation and Related Party Disclosure. March 29, 2006 at 6.

[39] Meridian Compensation Partners. "2024 Corporate Governance and Incentive Design Survey." 2024 at 32-33.