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August 19, 2025

Vanessa Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

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

Dear Ms. Countryman,

This letter is submitted on behalf of Business Roundtable, an association of more than 200 chief executive officers ("CEOs") of America's leading companies, representing every sector of the U.S. economy. Business Roundtable member companies have a combined total market capitalization of approximately $32 trillion—accounting for a significant portion of the total value of U.S. publicly traded companies. Collectively, Business Roundtable companies generate $12.7 trillion in annual revenues and employ over 21 million people.

We appreciate the opportunity to respond to the May 16, 2025 request for public input by the U.S. Securities and Exchange Commission (the "Commission" or "SEC") in connection with its June 26, 2025 roundtable on executive compensation disclosure requirements (the "Request for Input").

## OVERVIEW

Business Roundtable is pleased to provide comments to the Commission on executive compensation disclosure requirements. We share the concerns articulated by Chairman Atkins in connection with the roundtable and commend the Commission for undertaking a retrospective review of its rules.[1] We strongly agree that such a review is necessary to assess whether the current disclosure requirements yield material information and whether companies can provide such information in a cost-effective manner. While not all Business Roundtable members have the same experience and/or concerns, this letter highlights key

[1] *Statement on the Upcoming Executive Compensation Roundtable*, Statement by Commissioner Paul S. Atkins (Chairman), May 16, 2025, *available at* https://www.sec.gov/newsroom/speeches-statements/statement-upcoming-executive-compensation-roundtable (noting that, "[w]hile it is undisputed that these requirements, and the resulting disclosure, have become increasingly complex and lengthy, it is less clear if the increased complexity and length have provided investors with additional information that is material to their investment and voting decisions").

issues with current executive compensation disclosure requirements that we believe the Commission should further examine.

Business Roundtable recognizes the importance of providing investors with material information about executive compensation policies and practices. However, over the past two decades, the Commission's rulemakings—including those implementing provisions of the Dodd-Frank Act—have resulted in disclosure obligations that are increasingly prescriptive and complex and often go beyond statutory mandates.[2] These requirements can unduly influence compensation practices, undermine capital formation and diminish the appeal of U.S. public markets.

This growing complexity, compounded by the influence of proxy advisory firm recommendations that effectively require Dodd-Frank say-on-pay votes be held annually, dictate formulaic compensation practices and constrain the ability of independent board compensation committees to design and explain compensation programs tailored to their companies' unique strategies, challenges and goals. Our members' boards and compensation committees fulfill their fiduciary responsibilities through careful deliberation generally with the assistance of independent experts. These directors are deeply committed to aligning executive compensation with long-term value creation. Business Roundtable therefore urges a return to a disclosure regime that prioritizes clarity, materiality and flexibility—empowering boards to make informed, context-specific decisions and to communicate those decisions in a way that they feel may be more meaningful.

Since the Commission's most recent comprehensive overhaul of the executive compensation disclosure framework in 2006, the market environment and investor expectations have evolved significantly. Moreover, practical experience has shown that many of the current requirements fall short of their intended objectives. Business Roundtable supports the efforts of the Commission to modernize these rules. A holistic reassessment of the framework is not only warranted—it is long overdue.

## RECOMMENDED AREAS OF FOCUS

The Request for Input appropriately raises critical questions about the current executive compensation disclosure framework, including whether existing rules provide material information; whether they reflect how boards actually make compensation decisions; and whether companies can comply in a cost-effective, efficient manner. Business Roundtable appreciates the Commission's willingness to engage in a thoughtful reassessment of these issues, especially with an eye toward simplifying disclosures and returning to a clearer, more principles-based approach.

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[2] *See* Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376, §929R (2010).

We provide our perspective on these important questions below, organized into two priority areas of focus:

(i) The need to reevaluate certain rules implemented under the Dodd-Frank Act; and
(ii) The need to streamline and modernize Item 402 of Regulation S-K.

In both areas, we urge the Commission to reject a one-size-fits-all approach in favor of a framework that respects differences in business models, industries and governance practices—and that restores flexibility to boards exercising their fiduciary responsibilities. We look forward to continuing to be a part of a constructive dialogue as the Commission considers how to best modernize and refocus its executive compensation disclosure rules.

Executive Compensation Disclosure and Related Requirements Adopted to Implement the Dodd-Frank Act

The Commission's implementation of several executive compensation-related provisions of the Dodd-Frank Act has resulted in disclosure requirements that are inconsistent with both the legislative intent expressed by the Senate Banking Committee (and in some cases the statute itself) and the Commission's own obligations to adopt rules that are efficient, appropriately tailored and subject to rigorous cost-benefit analysis. In particular, the Senate Banking Committee emphasized that these rules should not be overly prescriptive.[3] Yet, in practice, the Commission has adopted a series of rules that impose substantial compliance burdens without commensurate benefit. Further, in many instances, the current disclosure requirements are driving compensation decisions or influencing compensation practices; this is not, and should not be, the purpose of disclosure requirements.

Business Roundtable believes the Commission must reevaluate these rules with a focus on restoring balance—ensuring that disclosure obligations serve the purpose of providing material, decision-useful information, without unduly constraining the ability of boards to exercise their fiduciary responsibilities.[4]

Specifically, we are concerned that the pay-versus-performance and pay ratio disclosure requirements impose significant costs and complexity, without corresponding value. Indeed, we understand that these topics are not generally raised by investors during engagements with companies, and some investors have even acknowledged that putting together these disclosures is a futile exercise. From a company's perspective, while well-intentioned, the rules often seem to prioritize standardization over substance and can obscure, rather than

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[3] *See* Report of the Senate Committee on Banking, Housing and Urban Affairs to accompany S. 3217, S. REP. NO. 111-176, at 135 (2010).

[4] Business Roundtable acknowledges that, in some instances, the Commission may lack the authority to adopt these proposed reforms without corresponding amendments to the underlying statutory mandates.

illuminate, the relationship between pay and performance. Similarly, the clawback requirements—implemented through mandatory listing standards—require companies to adopt rigid, one-size-fits-all policies that do not permit board discretion, even in cases involving immaterial or inadvertent accounting errors for which the impacted executive bears no responsibility. Such constraints on board judgment run counter to sound governance principles and risk undermining long-term shareholder value.

Our recommendations below are aimed at better aligning these rules with the original legislative objectives of the Dodd-Frank Act, restoring board flexibility, and advancing the Commission's core mission to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation.

i. *Pay-Versus-Performance*

The pay-versus-performance rule requires companies to produce complex, costly disclosures, tables and graphs that do not result in improved disclosures of the relationship between pay and performance. Before adoption of the rule, many companies voluntarily provided (and have continued to provide) disclosures in various forms in the Compensation Discussion and Analysis ("CD&A") section that meaningfully addressed the relationship between pay and performance. These tailored disclosures were often clearer, more informative and more aligned with how boards actually evaluate executive compensation than disclosures made under the current pay-versus-performance rule.

Indeed, the prescriptive approach mandated by Item 402(v) of Regulation S-K has resulted in standardized disclosures that are frequently misunderstood, and in many cases misleading. Among other issues:

- The prescriptive "compensation actually paid" formula is problematic for a number of reasons, including that it bears no relationship to compensation that is in fact actually paid—the formula introduces significant methodological complications that result in distortion (the formula is typically not employed in realizable/realized pay analysis or compensation assessments) and the rule results in significant costs for many companies to retain outside consultants to assist with the complex calculations;
- The lack of flexibility to calculate compensation actually paid in an alternative manner (e.g., the total included in the summary compensation table) is overly burdensome;
- The aggregation of compensation of multiple named executive officers that may receive significantly different compensation can result in misleading disclosures;
- There appears to be no basis for the assumption that total shareholder return is a representative measure for all, or even a majority of, companies;
- The requirement to include peer performance information is completely unsupported by the underlying statute and is repetitive of information included in the Annual Report on Form 10-K;

- The requirement to include a comparison of total shareholder return to two different peer groups when a company changes its peer group (i.e., the old and new groups) is extremely cumbersome;
- In many cases, the requirement to identify the "most important" financial performance measures to link compensation to company performance significantly oversimplifies a complex set of considerations; and
- The requirement to present data over a five-year period instead of just the most recent year obscures how boards have changed compensation programs and performance evaluations over time.

The mandated pay-versus-performance tables often fail to reflect how boards assess compensation decisions, requiring companies to include disclaimers noting that the figures presented do not correspond to actual compensation received or to board evaluation methods. This disconnect undermines the goal of providing useful, transparent disclosure. Importantly, Section 953(a) of the Dodd-Frank Act does not require such a rigid, tabular approach.[5] The Commission itself acknowledged in its final rule that the statute affords discretion in how the requirement is implemented.[6] Business Roundtable urges the Commission to replace the current prescriptive format with a principles-based framework that allows companies to communicate the pay-for-performance relationship in a manner that reflects their individual business models and compensation philosophies. A more effective approach would be to require companies to disclose how the compensation committee evaluates pay for performance, including the specific metrics and factors used to determine both target and actual compensation. This would provide more meaningful insight into how companies align executive pay with performance without the distortion introduced by the current standardized tables, thus improving clarity, relevance and accuracy, while also reducing immaterial complexity.

ii. *Pay Ratio*

Business Roundtable has long opposed the pay ratio disclosure rule, which requires companies to disclose the ratio of CEO compensation to that of a median employee. As noted in our prior

[5] Section 953(a) of the Dodd-Frank Act required the Commission to "by rule, require each issuer to disclose . . . a clear description of any compensation required to be disclosed by the issued under [Item 402 of Regulation S-K], 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."

[6] Pay Versus Performance, 17 CFR Parts 220, 232, and 240 (Oct. 11, 2022), at 10, *available at* https://www.sec.gov/files/rules/final/2022/34-95607.pdf.

comment letters,[7] we continue to believe that this statutory mandate should be repealed or, at minimum, significantly revised.[8]

The pay ratio rule is fundamentally flawed. It generates an arbitrary and often misleading figure that varies widely based on factors unrelated to executive compensation practices—such as the use of seasonal or part-time workers, outsourcing models, or the geographic distribution of a company's workforce. These variables make the disclosure unsuitable for meaningful comparison across companies or industries and reduce its utility.

Further, the rule imposes high compliance costs without advancing the Commission's core mission of protecting investors, maintaining fair, orderly, and efficient markets, and facilitating capital formation. The statutory requirement in Section 953(b) of the Dodd-Frank Act could be satisfied in a more cost-effective and tailored manner. In the absence of full repeal of the statutory mandate, Business Roundtable urges the Commission to consider amendments that would reduce the burden and improve the relevance of the disclosure. These include:

- Allowing, but not requiring, companies to exclude all non-U.S. employees from their calculations;
- Permitting companies to omit part-time, seasonal and temporary workers; and
- Extending the period during which the same median employee can be used.

These changes would mitigate some of the compliance burdens while preventing misleading or distorted comparisons that may confuse, rather than inform.

iii. *Clawback*

The Commission's clawback rule—implemented through Rule 10D-1 and corresponding exchange listing standards—goes beyond the requirements of Section 954 of the Dodd-Frank

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[7] *Comments on Proposed Rules for Implementing the Pay Ratio Disclosure*, Business Roundtable, Dec. 2, 2013, *available at* https://www.sec.gov/comments/s7-07-13/s70713-565.pdf; *Comments on Proposed Rules for Implementing the Pay Ratio Disclosure*, Business Roundtable, July 21, 2015, *available at* https://www.sec.gov/comments/s7-07-13/s70713-1573.pdf; *Statement on Reconsideration of Pay Ratio Rule Implementation,* Business Roundtable, Mar. 23, 2017, *available at* https://www.sec.gov/comments/pay-ratio-statement/cll3-1664780-148922.pdf; and *Comments to SEC on Reconsideration of CEO Pay Ratio Rule*, Letter from John Hayes, Aug. 2, 2017, *available at* https://www.businessroundtable.org/comments-to-sec-on-reconsideration-of-ceo-pay-ratio-rule.

[8] The Commission itself has struggled to articulate the value of the pay ratio rule, noting in its 2013 rule proposal that "[t]he lack of a specific market failure identified as motivating the enactment of this provision poses significant challenges in quantifying potential economic benefits, if any, from the pay ratio disclosure." Pay Ratio Disclosure, 17 CFR Parts 229 and 249 (Sept. 18, 2013), at 91, *available at* https://www.sec.gov/files/rules/proposed/2013/33-9452.pdf. *See also Statement on Reconsideration of Pay Ratio Rule Implementation*, Acting Chairman Michael S. Piwowar, Feb. 6, 2017, *available at* https://www.sec.gov/newsroom/speeches-statements/reconsideration-pay-ratio-rule-implementation.

Act, which required the SEC to adopt a clawback rule and the exchanges to put in place listing standards requiring that companies adopt and comply with a clawback policy, disclose such clawback policy and annually disclose any activity thereunder.[9]

Most notably, Rule 10D-1 mandates recovery of incentive-based compensation not only in the case of material "Big R" restatements but also for immaterial "little r" restatements, regardless of whether any misconduct or wrongdoing occurred.[10] This expansive scope has created an inflexible, punitive regime that undermines board discretion and fiduciary responsibility. Boards are now required to pursue clawbacks even in cases involving honest accounting errors or technical restatements, with no ability to assess whether such action is fair, appropriate, or in the best interests of the company and its shareholders. Moreover, the required recoupment calculations do not account for taxes already paid, creating further administrative burdens and inequities.[11]

Business Roundtable supports the principle of holding executives accountable when they are unjustly enriched due to financial misstatements. However, we believe the current rule strikes the wrong balance. In this regard, many companies have independently adopted clawback policies that are customized to their own circumstances, and in many cases these policies are more expansive than are required by the Dodd-Frank Act. We urge the Commission to revisit Rule 10D-1 and adopt a more balanced, principles-based approach that maintains accountability while restoring appropriate discretion to boards. Allowing boards to evaluate the circumstances surrounding a restatement—particularly for immaterial errors—and to determine whether recoupment is warranted would better align with sound corporate governance and the statutory intent of Section 954. In addition, Business Roundtable encourages the SEC to revisit Rule 10D-1 and to require the recoupment of excess compensation only on a post-tax basis.

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[9] Business Roundtable's comments on the SEC's rule proposal may be found in *Proposed Rule 10D-1 for Listing Standards for Recovery of Erroneously Awarded Compensation Pursuant to Section 954 of the Dodd-Frank Wall Street Reform and Consumer Protection Act*, Business Roundtable, Sept. 14, 2015, *available at* https://www.sec.gov/comments/s7-12-15/s71215-42.pdf; and *Reopening of Comment Period for Listing Standards for Recovery of Erroneously Awarded Compensation*, Business Roundtable, Nov. 22, 2021, *available at* https://s3.amazonaws.com/brt.org/BRT-ClawbackLetterFinal2021.11.22.pdf.

[10] Business Roundtable also encourages the Commission to revisit the Form 10-K requirement to include checkboxes on the cover page relating to corrections of errors in previously-issued financial statements.

[11] Listing Standards for Recovery of Erroneously Awarded Compensation, 17 CFR Parts 229, 232, 240, 249, 270, and 274 (Jan. 27, 2023), at 77, *available at* https://www.sec.gov/files/rules/final/2022/33-11126.pdf (noting that "Recovery on a pre-tax basis permits the issuer to avoid the burden and administrative costs associated with calculating erroneously awarded compensation based on the particular tax circumstances of individual executive officers, which may vary significantly based on factors independent of the incentive- based compensation and outside of the issuer's control. While we acknowledge the views of the commenters who opposed a pre-tax basis for recovery, we are adopting such an approach because it better effectuates the statutory intent of Section 10D in that it seeks to ensure recovery for the benefit of shareholders of the full amount of erroneously awarded compensation paid to the executive").

iv. *Other Dodd-Frank Act Mandates*

In addition to the rules discussed above, Business Roundtable encourages the Commission to reexamine other executive compensation-related mandates adopted under the Dodd-Frank Act, including those related to say-on-pay, say-on-frequency and hedging disclosure.

While each of these rules was adopted to satisfy a statutory directive, the SEC's rules are unduly prescriptive, and their cumulative effect has contributed to an increasingly complex and formulaic disclosure regime that has contributed to the outsized influence of proxy advisory firms. Companies often feel compelled to conform to rigid templates that emphasize compliance over clarity, and that leave little room for tailored explanation of how executive compensation decisions support long-term corporate strategy. In addition, the narrative disclosure that companies often feel compelled to add on top of the required disclosures to provide a meaningful picture of their compensation results in ever lengthier and more overwhelming disclosures.

We recommend that the Commission consider how these rules—individually and collectively—can be modernized to better focus on material information, reduce immaterial and duplicative content and allow boards to communicate more effectively with shareholders.

<u>Comprehensive Review of Item 402 of Regulation S-K</u>

Business Roundtable strongly supports a comprehensive reassessment of Item 402 of Regulation S-K, which has become increasingly dense and difficult to navigate since its last major overhaul in 2006. While many companies strive to provide extensive, investor-focused compensation disclosures, the current framework—layered with nearly two decades of rule amendments and staff guidance—often hinders rather than helps that effort.

Business Roundtable believes that certain components of Item 402 of Regulation S-K should be recalibrated to focus on providing a clear explanation of how executive pay aligns with company performance, strategy and long-term value creation.

We recommend that the Commission streamline and modernize Item 402 in the following ways:

- **Limit disclosure to truly material information**, focusing especially on the compensation of principal executive officers ("PEOs") and principal financial officers ("PFOs"). More specifically, Business Roundtable recommends limiting disclosures to a more targeted group – i.e., to the PEO and PFO only, or to the PEO, PFO and a more limited number of other named executive officers ("NEOs") (for example, one additional NEO or only the three highest paid NEOs serving at the end of the fiscal year).
- **Reduce duplicative and immaterial tabular disclosures**, such as the outstanding equity

awards at fiscal year-end, pension benefits, nonqualified deferred compensation and termination payments tables, which often confuse more than clarify. Based on prior member input, these tables have not been a focus of investors in engagement, and disclosures in the summary compensation table otherwise provide sufficient information.

- **Reform the summary compensation table** to better reflect actual pay for the year in question. Aligning the timing of cash incentive and equity award reporting would significantly enhance clarity. In particular, both cash-based compensation and equity-based compensation should be reported for the performance year for which it was awarded.
- **Simplify and clarify calculation instructions** for retained tabular disclosures to reduce compliance costs and inconsistencies.
- **Eliminate Item 402(x)**, which requires disclosure of equity grants made close in time to the release of material nonpublic information. This provision is unnecessary given existing CD&A requirements and is unlikely to yield new material insight.

In addition, we urge the Commission to revisit the rules governing perquisites disclosure, which have become increasingly difficult to interpret and administer. In particular, the Commission should:

- Increase the current perquisites disclosure threshold, which has not been adjusted since 2006, to a more meaningful amount (e.g., $100,000) and index the threshold for inflation;
- Reconsider the treatment of security-related arrangements as perquisites, particularly given the heightened threats faced by senior executives in today's environment; and
- Add commonsense exclusions—such as for cybersecurity protections, costs associated with Hart-Scott-Rodino filings for individuals based on their acquisition of securities related to equity compensation, expatriate employee costs available as part of a company program available to all expatriate employees, home office equipment and business continuity tools.

While we have provided examples of specific areas of potential focus for the Commission's review, we urge the Commission to broadly re-evaluate the overall scope of Item 402 of Regulation S-K and publish a proposal for further public comment.

**PROXY ADVISOR REFORM**

A meaningful review of executive compensation disclosure requirements must also take into account the outsized influence of proxy advisory firms, whose evolving expectations have been a significant driver of disclosure volume and complexity.

As detailed in Business Roundtable's April 2025 white paper, *The Need for Bold Proxy Process*

*Reforms*,[12] proxy advisory firms—despite limited regulatory oversight—exert significant influence over shareholder voting outcomes. In particular, their compensation-related guidelines have effectively established standardized design and disclosure expectations that companies feel compelled to follow, even when they are inconsistent with their compensation philosophy and, in the case of disclosures, are not material.

This influence has created a number of unintended consequences:

- Companies include pages of immaterial and/or irrelevant disclosure in an effort to head off negative voting recommendations—even when such information is not material for that company;
- Companies feel pressured to adopt boilerplate compensation designs that conform to proxy advisor templates rather than tailoring pay to their strategic priorities, undermining board discretion, including with respect to annual incentive bonus plans. The one-size-fits-all, formulaic approach drives practices to the mean, stifles innovation, and limits a company's ability to outperform. Ultimately, there is no substitute for a well-informed, independent compensation committee that sets pay based on a deep understanding of company performance and the context in which it was achieved.
- Companies are disincentivized from taking into account risk mitigation or compliance objectives as these are deemed to be "discretionary" components and therefore a negative factor in proxy advisor determinations as to whether to recommend in favor of a say-on-pay proposal;
- Companies feel compelled in many instances to invest in tools and services sold by proxy advisory firms in order to navigate those firms' proprietary methodologies;
- Proxy advisors' informal "supermajority" voting expectations can result in adverse recommendations even when companies previously received majority support, thereby disenfranchising a lawful shareholder majority;
- Proxy advisory firm policies essentially mandate that companies' say-on-pay votes be held annually, which can force companies into hasty compensation decisions in response; and
- Boards and management must expend significant time, effort and resources to manage the proxy advisors' misguided interference.

The cumulative effect is a disclosure system that values appeasement over clarity and standardization over substance, making it harder to identify truly important information and, more broadly, undermining capital formation and the appeal of U.S. capital markets.

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[12] *The Need for Bold Proxy Process Reforms*, Business Roundtable, Apr. 23, 2025, *available at* https://www.businessroundtable.org/the-need-for-bold-proxy-process-reforms.

## CONCLUSION

As Chairman Atkins noted in the Request for Input, the SEC's executive compensation disclosure rules were initially championed as a clear and easy-to-comply-with disclosure regime. Business Roundtable strongly supports a return to this original purpose—one rooted in clarity, materiality and relevance.

We commend the Commission for undertaking this important review and urge it to take this opportunity to modernize the executive compensation disclosure framework in a way that serves investors, strengthens corporate governance and reduces unnecessary regulatory burden. That includes reevaluating prescriptive mandates that produce boilerplate or immaterial disclosures, restoring flexibility to boards of directors to exercise sound judgment and recognizing the role of external actors—particularly proxy advisory firms—in driving unnecessary complexity and dictating compensation decisions.

We also encourage the Commission to rigorously assess the costs and benefits of existing and future disclosure rules, consistent with its statutory obligations. Executive compensation disclosure is a critically important governance topic. Getting it right will not only improve transparency but also empower companies to better align pay with long-term performance and shareholder value creation.

We would be happy to discuss these comments or any other matters you believe would be helpful. Please contact Will Anderson, Vice President, Business Roundtable, at wanderson@brt.org or (202) 496-3257.