July 28, 2011

Directorate General Internal Market and Services
European Commission
1049 Brussels, Belgium

VIA EMAIL: markt-complaw@ec.europa.eu

RE: European Commission Green Paper on the EU Corporate Governance Framework

Dear Sir/Madam:

I am writing on behalf of Teachers Insurance Annuity Association of America ("TIAA") and its companion company, College Retirement Equities Fund ("CREF") (collectively, "TIAA-CREF") to share our thoughts on the European Commission's (the "Commission") 2011 green paper on the EU Corporate Governance Framework ("Green Paper").1 TIAA-CREF is a United States based financial services organization with $470 billion in assets under management, as of June 30, 2011, and is a leading provider of financial services in the academic, research, medical and cultural fields. CREF, one of the US’s largest institutional investors, holds over 7,000 publicly-traded companies across the globe.

We commend the Commission for undertaking such a thorough review of the corporate governance landscape across the European Union. TIAA-CREF has long held the belief that strong corporate governance is an important aspect of well functioning markets and a crucial element in sustaining long-term shareholder value. Thus, for over 30 years TIAA-CREF has been a leading advocate on behalf of shareholder rights and good corporate governance. With a significant portion of our equity investments in companies within the European Union, we have a strong interest in ensuring companies within this part of the world operate under sound corporate governance practices.

Many of our views on the issues presented by the Commission in the Green Paper are discussed within our recently revised TIAA-CREF Policy Statement on Corporate Governance.2 Thus, we attach a copy of that statement to our submission and focus our comments herein on the three subjects the Commission identified as the “heart of good corporate governance;”3 boards of directors, shareholder responsibility and the “comply or explain” framework.

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3 Green Paper, p. 3
1. Boards of Directors

One of the primary roles of the board of directors is oversight of the company’s risk management, from the direct responsibilities of the audit committee to the more abstract oversight of strategy and risk appetite. As corporations have become more complex, the demands on directors to successfully accomplish these critically important tasks have significantly increased over the past decade. It is therefore increasingly important that boards be comprised of talented and diverse individuals with the capacity to meet these demands. Both our experience and a significant body of research suggest that a broad diversity of perspectives can enhance the quality of decision making.4 We do not believe, however, that diversity should be defined in the same way for all companies. Diversity of perspectives can be achieved through consideration of a number of different criteria, including gender, ethnicity, geographical origin, educational background, professional experience or any number of other factors. As such, it is the responsibility of the company to explain why the current composition of the board is appropriate.

The importance of the board’s remuneration decisions have also increased both as a result of increasingly complex remuneration schemes and shareholder focus. We believe companies should be required to disclose their executive remuneration program in a clear, concise statement subject to a non-binding shareholder vote. Such a system promotes accountability and communication, both of which contribute to an efficient market. Furthermore, basic disclosure guidelines, establishing a minimum level of information, would benefit all market participants.

2. Shareholders

We believe shareholders must be responsible, active market participants. When institutional investors use external asset managers there is an additional responsibility to ensure that these asset managers also meet their responsibilities as market participants. Such active market participation will, at times, require communication and collaboration among shareholders without any interest beyond corporate governance improvements. It is imperative that rules and regulations do not prevent reasonable discourse.

In the execution of their responsibility to treat their proxy votes as a valuable asset, it may be reasonable for shareholders to use information from a variety of advisors, including proxy advisory firms, as an input when making their vote decisions. We believe that too much focus is put on the ultimate recommendations made by the proxy advisors. However, it is possible that additional transparency regarding the application of their policies would minimize these concerns. Given the global diversity in disclosure regimes and overall quality, shareholders benefit from having consistent reliable information sources.

3. The ‘Comply or Explain’ Framework

A one size fits all approach to corporate governance may fail to account for the fact that each company’s situation is unique. However, we strongly believe that when a company deviates for generally accepted corporate governance best practices, it is responsible for providing shareholders with a reasonable explanation for doing so. As such, we are generally in favor of a comply or explain framework for corporate governance. While shareholders should monitor explanations for thoroughness, it may also be appropriate for monitoring bodies to provide oversight. As such, monitoring bodies should be empowered to take action when they find disclosure lacking. Ensuring

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companies are held accountable for their explanations is essential to a well functioning comply or explain framework.

In closing, we thank the EC for providing the opportunity for public comment through the release of the Green Paper. Again, we commend the EC for undertaking the immense project of identifying areas for convergence of corporate governance practices across the European Union. If you would like to discuss any of the issues raised in this letter or the TIAA-CREF Policy Statement on Corporate Governance, please don't hesitate to contact me at (212) 916-4344 or JFeigelson@tiaa-cref.org or my colleague, Stephen L. Brown, Director of Corporate Governance and Associate General Counsel at (212) 916-6930 or SLBrown@tiaa-cref.org.

Sincerely,

Jonathan Feigelson
Senior Managing Director, General Counsel and
Head of Corporate Governance