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June 11, 2021

The Honorable Gary Gensler
Chair
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Via Email to rule-comments@sec.gov

Re: Public Input Welcomed on Climate Change Disclosures

Dear Chair Gensler:

Grant Thornton LLP appreciates the opportunity to comment in response to your inquiries on climate change disclosures. We are providing our perspective as informed from serving public companies as independent accountants and interactions with public company boards, audit committees, executives, and investors regarding environmental, social, and governance (ESG) topics, of which climate change is an important component. We encourage the Securities and Exchange Commission (SEC) to continue its outreach to investors, registrants, and other stakeholders in considering a potential ESG reporting system.

We have observed that investors are increasingly incorporating climate change and broader ESG information into investment and voting decisions. In response, our registrant clients' interest in providing appropriate and relevant ESG disclosures has meaningfully increased. Accordingly, the growing attention to and importance of ESG reporting and disclosures, both domestically and internationally, is undeniable.

Our recent discussions with executive management and board members around ESG reporting indicate they have many of the same questions the SEC has asked in its request for comment. Some additional questions raised by management and boards that warrant consideration by the Commission include:

- What are the responsibilities of a registrant's board of directors for ESG reporting and disclosures?
- Will registrants be required to identify ESG "experts" in addition to "financial experts" to serve on the board of directors going forward?

- Will ESG disclosures significantly increase compliance, liability, and insurance costs; generate additional potential legal actions; or, create personal liability when the entity has made a good-faith effort to provide transparent ESG disclosures?

Progress towards mandated ESG reporting and disclosures will necessitate collaboration between the SEC and various rule-making and regulatory bodies, the global community, legislators, and other governmental agencies. Topics that may warrant further consideration for meaningful collaboration may include:

- Linkage of ESG reporting and disclosures to the SEC's three-pronged [mission](#) to 1) protect investors; 2) maintain fair, orderly, and efficient markets; and 3) facilitate capital formation;
- The concepts of materiality and reasonable investor relative to the broad scope of ESG issues;
- The jurisdictional authority for standard setting, rulemaking, oversight, and legislation for ESG reporting and disclosures for registrants;
- The legal liability associated with inadequate or misleading disclosure of ESG information; and
- The ramp-up of time and costs for registrants to implement and maintain ESG reporting and disclosure systems, controls, and governance.

Notwithstanding any potential obstacles and difficulties, we believe that well-documented, generally accepted ESG reporting and disclosure principles and standards for registrants will be necessary for any potential ESG reporting system.

To accomplish this outcome, we respectfully offer the following suggestions to the Commission:

- Continue outreach to registrants, investors, and other stakeholders;
- Make reasonable efforts to ensure the development and adoption of global generally accepted ESG reporting and disclosure principles and standards for registrants;
- Give thoughtful consideration to the time periods reported and included in periodic filings;
- Gauge the readiness of registrants to provide ESG reports and disclosures, which varies significantly and might impact the timing for adopting any potential ESG reporting system;
- Carefully study the concept of materiality as related to ESG reporting and disclosure under U.S. federal securities law to determine any direct, indirect, and consequential impact; and

- Consider the reliability and credibility of ESG reporting and disclosures under any potential ESG reporting system.

Continue outreach

We encourage the SEC to continue to actively reach out and engage with registrants, investors, and other stakeholders regarding standards and principles around ESG reporting and disclosures. As described herein, the stakeholders are many, both local and international, with varied interests. In order to achieve the mission of the SEC, these stakeholders should be engaged and listened to, and should generally agree with the Commission's outcomes.

Use of global generally accepted ESG standards and principles

For a number of important reasons, including, but not limited to, U.S. market competitiveness, duplicative costs to registrants and therefore investors, and the usefulness, comparability, and reliability of ESG reports and disclosures, we believe U.S. markets would benefit from global generally accepted ESG reporting and disclosure standards and principles. Adopting global generally accepted ESG reporting and disclosure standards and principles (as opposed to the SEC creating its own new framework) would reduce the likelihood of registrants having to deal with differing ESG reporting and disclosure standards and principles across jurisdictions and would also reduce the risk that the investment already made by registrants to develop ESG reporting would become obsolete.

Following is a select list of recent activities and events demonstrating collaboration and compromise to achieve global conformity on ESG reporting and disclosures:

- In September 2020, five leading organizations in sustainability disclosures—the Carbon Disclosure Project, the Climate Disclosure Standards Board, the Global Reporting Initiative, the International Integrated Reporting Council, and the Sustainability Accounting Standards Board (SASB), hereafter referred to as the Group of Five—[announced](#) their intent to work collaboratively towards a global sustainability standard-setting framework. In December 2020, the Group of Five [published](#) a paper that includes an example climate-related financial disclosure standard.
- The Trustees of the International Foundation on Reporting Standards (IFRS) Foundation, following their September 2020 [Consultation Paper](#) on sustainability standards, announced in March 2021 that they are [continuing](#) steps towards the development of an International Sustainability Standards Board (ISSB) within the existing governance structure of the IFRS Foundation.
- In its September 2020 [open letter](#) to the Chair of the Sustainable Finance Task Force of the International Organization of Securities Commissions (IOSCO), the Group of Five indicated its willingness to allow its disclosure frameworks and standards to form the basis of the ISSB's technical content and requested IOSCO to engage with the IFRS Foundation to advance a global solution.

- In February 2021, the IOSCO Board communicated its intent to work with the IFRS Foundation to establish the ISSB. The technical content to be addressed by the ISSB would leverage the existing efforts of the Group of Five and would follow the “building blocks” approach to developing disclosure standards, starting with sustainability topics pertinent to enterprise value.
- The European Commission recently proposed to extend sustainability reporting requirements to nearly 50,000 additional companies in the European Union. As planned, the European Commission’s proposed [Corporate Sustainability Reporting Directive](#) would build on, and contribute to, global standardization initiatives.

These activities and events may provide the path to leverage existing work in the development of global generally accepted ESG reporting and disclosure standards and principles, perhaps leading to a standardized set of global principles under the governance structure of the IFRS Foundation, an entity familiar to the SEC.

Depending on the content of global generally accepted ESG reporting and disclosure standards and principles, we believe that the SEC should be able to add additional requirements as a supplement to the global standards on an as-needed basis in the future. For example, some U.S.-based investors have expressed interest in industry-specific ESG reporting and disclosure standards and principles, such as those issued by the SASB, which include 77 specific disclosures for industries on the basis that financially material metrics vary across industries. If global standards do not capture industry-specific items, the SEC could include such items in any potential ESG reporting system.

Time periods reported and included in periodic filings

Presently, it is unclear how ESG reports and disclosures will be made available to the investing public and other stakeholders and which periods will be included for comparability. When considering the period(s) to be reported, it might make sense to provide flexibility in any potential ESG reporting system in order to avoid an overload of reported data as of specific time periods, such as quarterly or year-end dates. For example, if in the future the SEC requires quantitative disclosures about climate change or ESG matters in Form 10-K, the time period to be addressed in the filing could be flexible, such as any 12-month period ending during the year preceding the filing deadline of Form 10-K, which would be applied on a consistent basis from year to year. This practice would allow for annual updates to reported ESG information but would also allow management to focus on the quality of the related disclosures outside an otherwise busy year-end financial reporting and closing process.

Additionally, we believe that prior-period ESG data and information for some registrants may not currently be captured in the normal course, be readily available, or even exist at all. As such, we suggest that an allowance for these shortcomings at the time of any future adoption would be prudent. In any case, the cost and effort for governance, infrastructure, and personnel to prepare and file ESG information will vary greatly among registrants, depending on the frequency of filings, the time periods covered, and any independent assurance services required.

Readiness of companies to provide ESG reports and disclosures

Based on our interactions with registrant clients and others contemplating public capital raises, the readiness of companies to identify, accumulate, record, summarize, and report ESG information, as well as to provide internal controls over such reporting in a verifiable and reliable manner, varies broadly. This disparity is exacerbated by the lack of generally accepted ESG standards and principles for reporting and disclosures. Therefore, a thorough analysis of registrants' preparedness to adopt, implement, and maintain any potential ESG reporting system in the future might be needed to determine an appropriate effective date of any potential ESG reporting system.

In our view, an ESG disclosure system that applies only to accelerated or large accelerated filers might incorrectly imply that ESG risks and opportunities do not exist for all issuers. As a result, we believe investors would be best served by having any potential ESG reporting system apply to *all* issuers. However, smaller reporting companies and emerging growth companies may require more time and flexibility in the adoption of any potential ESG reporting system.

Impact of materiality

The concept of materiality, as used in SEC Staff Accounting Bulletin No. 99, *Materiality*, has been defined by federal law and legal precedent derived from securities law court cases. However, for ESG reporting and disclosures, there is no such track record to assist registrants, investors, and other stakeholders with the materiality concept and its application. Therefore, it seems prudent to perform a rigorous analysis of the concept of materiality related to ESG matters, including, but not limited to, any direct, indirect, and consequential impact.

We are aware that certain ESG reporting and disclosure standards utilize a "comply or explain" approach, under which the preparer must provide the required information or explain why it is not provided. In contrast, SEC disclosure requirements reflect principles-based and prescriptive disclosures, wherein information that is not deemed to be material under the securities laws may be properly omitted, without an explicit justification. As such, any "comply or explain" approach considered by the SEC should be evaluated to determine whether it might create an unreasonable burden on registrants, or whether a "comply or explain" approach might create confusion compared to current practice wherein companies are not required to explain the omission of immaterial prescriptive disclosures.

ESG reporting and disclosure reliability and credibility

Tantamount for any effective reporting and disclosure is trust. Trust is built on the quality, reliability, and credibility of the information filed by registrants. For financial reporting, this is accomplished through the application of generally accepted accounting principles, generally accepted auditing standards, federal securities law, SEC rules and regulations, and qualified and licensed independent accountants to

audit the information filed, among many other things. High-quality financial statements are reinforced by the registrant's Disclosure Controls and Procedures (DCP) and Internal Control over Financial Reporting (ICFR). We believe applying the DCP principles to any potential ESG reporting system is an appropriate level of rigor that will adequately protect investors without burdening registrants with a more stringent requirement, such as the requirement for management's evaluation of ICFR, especially during the first few years of providing ESG disclosures.

As non-U.S. jurisdictions implement sustainability reporting requirements, regulators and lawmakers are incorporating independent assurance into new requirements. For example, the European Union's Corporate Sustainability Reporting Directive [proposal](#) would require limited assurance on reported sustainability information; if the proposal is adopted, the assurance requirement is anticipated to move from limited assurance to reasonable assurance.

If the SEC does adopt an ESG reporting system, we believe independent assurance of that information would benefit investors as opposed to allowing the disclosures to effectively be self-policed by registrants. If independent assurance is required, we believe registered public-company auditors are uniquely qualified to provide such assurance. This assertion is supported by the Center for Audit Quality 2021 report entitled [Auditors & ESG Information, Lending Trust and Credibility to ESG Information](#).

We would be pleased to discuss our comments with you. If you have any questions, please contact Jim Burton, Partner, ESG and Sustainability, [REDACTED]
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Sincerely,

/s/ Grant Thornton LLP