

June 15, 2021

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

**Re: Harmonization of ESG Reporting Requirements – a European Perspective.**

Dear Chair Gensler, Commissioners, and Director Coates:

On behalf of Whistleblowing International and the National Whistleblower Center (“NWC”), we appreciate the opportunity to respond to the Securities and Exchange Commission’s (“SEC”) Request for Information on Climate Change Disclosures (“RFI”) issued by the Commission on March 15, 2021.<sup>1</sup>

Whistleblowing International (“WI”) is a global network of activists, journalists, experts and legal professionals who can advise potential whistleblowers on the best way to report wrongdoing – to maximize the positive impact of their information, while limiting their risks. Whistleblowing International’s staff has more than 30 years of experience assisting whistleblowers and crime witnesses, investigating their reports, and working toward corrective actions and are actively involved in whistleblower policy developments in the European Union. Whistleblowing International frequently collaborates with National Whistleblower Center, and together we present an answer to the Commission’s question about harmonization of ESG reporting standards.

NWC is a tax exempt, non-partisan public interest organization, that has been dedicated to protecting whistleblowers, educating them about their rights and advocating for policy of their behalf such as National Whistleblower Day and adding key whistleblower protections into the Dodd-Frank Act, the Sarbanes-Oxley Act, the Whistleblower Protection Enhancement Act and numerous other federal laws for over 30 years.

NWC and WI commend the SEC for the increased interest and initiative the agency has taken around sustainability-related financial disclosure. The SEC whistleblower program has been an incredible success and an example to the world, establishing best practices for whistleblower protections and fighting corporate crime. By considering ESG reporting requirements, the

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<sup>1</sup> See Public Input Welcomed on Climate Change Disclosures, Hon. Allison Herren Lee, Sec. and Exch. Comm’n, Mar. 15, 2021, available at <https://www.sec.gov/news/public-statement/lee-climate-change-disclosures>.

Commission continues to take the lead on effective enforcement and protecting investors worldwide.

In this comment we respond to Question 9, regarding global standards, and explain how the SEC adopting mandatory climate and environmental, social, and governance (“ESG”) reporting standards correlate with European efforts and can potentially outshine those efforts – providing the world with an example of how whistleblowers can help protect our environment and hold companies accountable for ESG commitments.

Prominent cases, such as the Volkswagen emissions scandal have shown that national requirements, especially from the U.K. and U.S., tend to have extraterritorial effects. Therefore, the topic of harmonization is important to the cooperation of climate change and ESG disclosures, and whistleblowing legislation across territorial boundaries. The design of successful laws and policies often requires insights that are generalizable across a sufficiently large population to allow scalable, widespread application. Harmonizing ESG disclosures and whistleblowing legislation, across the US and the EU would encourage such a widespread application, leading to positive knowledge and behavioral spillover effects – but, the EU has failed to harmonize its whistleblower protections with the United States highly effective laws.

While the EU has taken important steps regarding reporting requirements in its Sustainable Finance Disclosure Regulation (“SFDR”), there are gaps in their Regulatory Technical Standards and their EU Whistleblowing Directive. In contrast the U.S. is a leading actor in whistleblowing legislation, where whistleblowers disclosing climate-related crimes could be protected by several powerful US whistleblower laws, but still has a lack of regulatory frameworks mandating ESG disclosures. This issue would be remedied if the SEC were to complement its powerful whistleblower laws with strong ESG reporting requirements that included a requirement to report any violations or sanctions under related global standards.

If we agree that climate related crimes are an international challenge requiring climate related disclosures, it is important to consider how adopting mandatory reporting requirements might impact the largescale harmonization of a single set of global policy standards applicable to companies around the world. Further, requiring mandatory disclosure of compliance with local regulations is critical to investor decision making as violations abroad will impact domestic investors.

In this regard, it is imperative that the Dodd-Frank Act whistleblower program recognize its global reach and ensure that whistleblowers who reside outside the United States are fully protected, even if the legislation in their home countries is not as rigorous as requirements in the United States, and even if the local regulators do not enforce climate laws. The Dodd-Frank Act whistleblower program is the *only* transnational whistleblower program that affords non-U.S. citizens with realistic protections – including a well-managed confidentiality program, a rewards program, and a highly effective Whistleblower Office.

This enforcement resource must be fully exploited both to protect whistleblowers, incentivize worldwide disclosures, and protect our environment and economy by creating a deterrent effect on future violations.

Please feel free to contact us with any questions or comments. We would be eager to meet and discuss these recommendations. Please contact Dakotah Manson, at [REDACTED] to schedule a meeting.

Sincerely,

Siri Nelson, Executive Director, National Whistleblower Center  
Wendy Addison, Policy Analyst and Whistleblower, on behalf of Whistleblowing International

Cc:

Hon. Hester Peirce, Commissioner  
Hon. Allison Herren Lee, Commissioner  
Hon. Elad Roisman, Commissioner  
Hon. Caroline Crenshaw, Commissioner  
Mr. John Coates, Acting Director of Corporation Finance  
Ms. Renee Jones, Director of Corporation Finance