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March 15, 2019

Office of the Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Via Email to rule-comments@sec.gov

Re: File Number S7-26-18

Request for Comment on Earnings Releases and Quarterly Reports

Dear Office of the Secretary:

Grant Thornton LLP appreciates the opportunity to comment on the Securities and Exchange Commission's (SEC or Commission) December 18, 2018 *Request for Comment on Earnings Releases and Quarterly Reports*. We applaud the Commission's efforts to reduce the costs to reporting companies associated with quarterly reporting while maintaining or improving investor protection. We are providing our firm's perspective gained primarily from serving public companies as independent accountants, including interaction with the SEC staff in this capacity. We encourage the Commission to continue its outreach to investors, registrants, and other stakeholders as part of any future rulemaking activity on this topic.

Executive summary

In preparing our comments, we considered the Commission's objective to reduce the burden of quarterly reporting to issuers without compromising investor protection. We also considered the disparate objectives of the Form 8-K earnings release and the interim report on Form 10-Q. From our perspective as independent accountants, our comments focus on three main themes:

- While we support the objectives of the Request for Comment, we note that auditors and financial statement users may experience operational challenges due to the potential changes to the format, content, and frequency of earnings releases and quarterly reports
- We believe there are critical aspects of investor protection provided by the SEC's current requirements that should be retained in any future rulemaking on this topic.
- We encourage the Commission to consider other actions it could take to achieve the objective of the Request for Comment and have provided potential alternative or complementary actions for consideration.

Potential interim reporting alternatives

Overall, we believe current quarterly reporting practices provide flexibility to balance investors' needs to receive both timely updates regarding companies' results, as well as assurance from management and the independent accountant regarding the reliability of interim financial information. Our remarks below discuss certain challenges that could arise with respect to various alternatives described in the Request for Comment.

'Supplemental Approach'

As described in the Request for Comment, the "Supplemental Approach" appears similar to the flexibility currently available to companies under General Instructions D.1 and D.2 of Form 10-Q.¹ In our experience, registrants rarely rely on this accommodation. We believe there are operational challenges that prevent registrants from doing so; these challenges, discussed in further detail below, may also present limitations with respect to the Supplemental Approach.

Timing considerations

Typically, the financial information disclosed in the Form 8-K earnings release does not include interim financial statements that comply with the requirements of Accounting Standards Codification (ASC) Topic 270, *Interim Reporting*, and with either Regulation S-X, Article 10, *Interim financial statements*, or Rule 8-03, *Interim Financial Statements*. In our experience, when a registrant releases earnings information before filing Form 10-Q, it often has not yet completed drafting the entire Form 10-Q, including full interim financial statements, or completed its related internal review process. Accordingly, the independent accountant's review, which follows the registrant's process, is often incomplete when earnings are released before a registrant files Form 10-Q. These timing considerations may prevent companies from including full interim financial statements in the Form 8-K earnings release and from relying on Form 10-Q General Instruction D.1.

If companies were to include interim financial statements that comply with ASC 270 and S-X Article 10 or Rule 8-03 in the Form 8-K earnings release, we believe that the earnings release process could potentially be delayed. As discussed above, in our experience, currently many companies have not completed full interim financial statements when earnings are released. If companies included full interim financial statements in the Form 8-K earnings release, it might delay the release of information to the market, which may not meet investors' expectations. Further, we believe the efficiency gained from presenting the interim financial statements only in the Form 8-K earnings release and incorporating them by reference into Form 10-Q would be

¹ General Instruction D.1 permits companies to incorporate information by reference from a document that meets some or all of the requirements of Part I of Form 10-Q. General Instruction D.2 directs registrants to Exchange Act Rule 12b-23 with respect to other information that may be incorporated by reference in response to all or some of Part II of Form 10-Q.

minimal, as evidenced by the lack of reliance on Form 10-Q General Instruction D.1, even as concurrent earnings releases and Form 10-Q filings have increased.²

Independent accountant's involvement with the Form 8-K earnings release

Currently independent accountants have no responsibility under professional standards related to the Form 8-K earnings release. In our experience, most audit teams perform some procedures over earnings release information, which are limited to reading the release and, in some instances, comparing the financial statement information to the registrant's books and records. However, if a quarterly Form 8-K earnings release included complete, auditor-reviewed interim financial statements and was incorporated by reference into the quarterly report on Form 10-Q, the auditor would have increased responsibility related to the Form 8-K earnings release under professional standards.³ If financial statements were included in a Form 8-K earnings release before an independent accountant completed its review, companies may need to disclose in Form 8-K that such information has been produced from internal records and lacks external validation or independent review.

Companies often include non-GAAP financial measures in Form 10-K or Form 10-Q, but this information is sufficiently segregated from the financial statements and auditor's report thereon (if applicable), so that it is clear to a reader what the auditor's report applies to. In a Form 8-K earnings release, we are concerned that the delineation between information, such as non-GAAP financial measures, and the GAAP financial statements may not be as clear. This lack of clarity could lead to investor confusion over what is within and outside the scope of the independent accountant's audit or interim review. This could further exacerbate the existing expectations gap between what auditors are required to do with "other information" under PCAOB AS 2710, *Other Information in Documents Containing Audited Financial Statements*, or PCAOB AS 4105, *Reviews of Interim Financial Information*, and what investors perceive auditors to be doing with that information.

If the SEC continues to explore the Supplemental Approach, it would be important for the SEC to coordinate with the PCAOB to further the PCAOB's research project on the auditor's role with respect to other information and company performance measures, including non-GAAP measures. As interim financial reporting evolves, and particularly if Form 8-K becomes a source of GAAP financial statements, it will be important for the PCAOB to provide sufficient guidance for auditors navigating a new issuer reporting construct. The SEC may consider ways to increase transparency regarding the level of auditor involvement with respect to interim financial information.

Separation of interim financial statements

The Request for Comment solicits feedback on whether Commission rules, accounting standards, and auditing standards should allow for the interim financial

² [Release No. 33-10588](#), *Request for Comment on Earnings Releases and Quarterly Reports*, footnote 36.

³ PCAOB Auditing Standard (AS) 4105, *Reviews of Interim Financial Information*, paragraph .18.f.

statements to be separated so that certain parts could be presented only in the earnings release to satisfy the Form 10-Q requirements.

We believe this approach could further exacerbate the challenges for auditors that are described in the previous section because it may become more difficult for users to delineate the interim financial statements from other information outside the interim financial statements. The SEC may need to amend the form and content of Forms 8-K and 10-Q in order to clarify for users what information would be within the scope of the independent accountant's interim review.

Further, we believe that separation of the interim financial statements may result in confusion for financial statement users in several respects. To the extent that there is future diversity in practice among issuers with respect to where portions of the interim financial statements are located, this may result in confusion or inefficiency on the part of financial statement users. In addition, we believe that the interim financial statements are most useful as a complete package, including related footnote disclosures, and that separating components of the interim financial statements may cause a decline in utility.

Supplemental Approach available to some issuers

While we fully support the ability of smaller companies to tailor their disclosures commensurate with their size, the proliferation of categories of registrants and accommodations available could increase the complexity in reporting as registrants and their advisers navigate the various filing scenarios. In our experience, when issuers transition between scaled and general reporting requirements, the cost of incremental complexity, including research of the various reporting options and consideration of the diversity in practice among comparable companies, may offset some of the benefits of the scaled reporting.

Overall, we feel that the Supplemental Approach does not appear to result in a meaningful cost reduction for reporting companies or an improvement in investor protection and may instead introduce the operational challenges described above.

Semiannual reporting model

If the SEC pursues rulemaking activity that reduces the amount or frequency of interim financial information, we encourage continued dialogue with investors to ensure that the consequences of less frequent reporting are fully understood. As more fully described below under "Elements of investor protection to be retained in future rulemaking," we do not believe that less frequent reporting maintains the level of investor protection provided by the current Form 10-Q requirements.

In addition, we are uncertain whether preparers would experience a meaningful cost savings if the frequency of interim reports was reduced, for several reasons:

- First, companies may continue to prepare and potentially obtain an interim review of quarterly interim financial statements for other reasons. We believe many companies would likely continue to provide quarterly reports in response to investor demand. For example, although the Commission does not require foreign private issuers to provide quarterly financial information, many foreign private

issuers currently do so, which may indicate that their investors desire financial reporting on a quarterly basis or that local exchanges require some level of quarterly reporting. Further, we believe companies would continue to produce certain components of quarterly reporting for other purposes, such as internal segment reporting packages or debt covenant compliance reports.

- Second, quarterly interim financial statements may also be required in connection with an offering of securities. For example, even in the absence of required quarterly interim reports, underwriters or other requesting parties may still request more recent interim financial information be disclosed and may request comfort on such interim financial information. In order to provide negative assurance on such interim financial information, the independent accountant would be required under professional standards to perform an interim review.⁴ In addition, the independent accountant may only provide negative assurance regarding subsequent changes in specified financial statement items as of a date less than 135 days after the most recent period for which the accountant has performed an audit or review.⁵ As a result, in a semiannual reporting model, underwriters or other requesting parties may request the independent accountant to perform a review of more recent interim financial statements in order to obtain negative assurance comfort on the subsequent change period. Accordingly, in many cases the cost of the quarterly review would be incurred regardless of a Form 10-Q obligation, absent any change to auditing standards.
- Finally, a decline in the frequency of required interim reporting might prompt smaller entities with limited accounting resources to decrease the frequency with which certain internal controls are executed, which could in turn lead to financial statement errors and inefficiency. For example, certain manual reconciliations, if performed on a less frequent basis, may be cumbersome to effectively complete and review due to the volume of data accumulated over longer periods of time. To the extent that issuers reduce the frequency of performing certain detective internal controls, the risk increases that financial statement errors will go undetected for a longer period, potentially resulting in costly remediation efforts.

Flexible reporting frequency

The Request for Comment also seeks feedback on whether the Commission should allow for additional flexibility by permitting reporting companies, or certain categories of reporting companies, to select a periodic reporting frequency that best suits the needs of the registrant and its investors. In such a scenario, we believe many of the same considerations discussed under “Semiannual reporting model” would apply. Further, we believe additional operational challenges may arise if issuers are permitted to select a reporting frequency.

For example, absent clear guidance or requirements regarding how often a registrant may change its reporting frequency, companies may take advantage of this flexibility

⁴ PCAOB AS 6101, *Letters for Underwriters and Certain Other Requesting Parties*, paragraph .37.

⁵ PCAOB AS 6101, paragraphs .46 - .47.

to avoid reporting interim information when operating results are not favorable. While we do not support the notion of a flexible reporting frequency, if the SEC pursues this approach, we believe future rulemaking should address the registrants to whom this option would be available, as well as how often, and the underlying conditions when, eligible reporting companies would be able to change their reporting frequency election, including consideration of investor feedback on these issues.

When a registrant changes its reporting frequency, it may result in inefficiencies in preparing the current interim report and the related independent accountant's review. For example, if a registrant reports on a semiannual basis one year and transitions to quarterly reporting the next year, assuming that comparable prior-year quarterly information would be required in the current quarterly report, the registrant would have to prepare the comparable prior-year quarterly financial statements and disclosures, and the auditor would be required to perform review procedures over that information. Such operational challenges may result in incremental delays and costs in the year the registrant transitions from semiannual to quarterly reporting.

Elements of investor protection to be retained in future rulemaking

While we expect financial reporting to improve and evolve over time, we caution that the current requirements were developed as a result of considerable experience and input from stakeholders through years of thoughtful rulemaking activity. Continued discipline with respect to the preparation of interim financial information is essential to the quality of such financial information and investor protection. The discussion below highlights certain incremental requirements of Form 10-Q that we believe are vital to investor protection and should be retained in any future interim reporting model.

Controls and management's certifications

Form 10-Q requires management to report on the effectiveness of the registrant's disclosure controls and procedures⁶ as of the end of the interim period, as well as on any change in internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting.⁷ In addition, Form 10-Q requires certification by the principal executive and financial officers.⁸ These requirements do not apply to Form 8-K earnings releases. In our view, these Form 10-Q requirements directly impact the positive quality of the quarterly financial information by emphasizing management's responsibility for effective disclosure controls and procedures, internal control over financial reporting, and the completeness and accuracy of the quarterly report.

Recent trends in the timing of earnings releases may indicate that reporting companies also value the assurance provided by these incremental procedures. As

⁶ Form 10-Q Part I, Item 4, reference to Regulation S-K Item 307, *Disclosure controls and procedures*.

⁷ Form 10-Q Part I, Item 4, reference to Regulation S-K Item 308, *Internal control over financial reporting*.

⁸ Securities Exchange Act of 1934 Rules 13a-14, *Certification of disclosure in annual and quarterly reports*, and 15d-14, *Certification of disclosure in annual and quarterly reports*.

noted in the Request for Comment, many companies have shifted toward issuing earnings releases concurrently with the Form 10-Q filing. Based on our experience, we believe this trend may indicate companies' hesitation to release earnings information before filing the quarterly report on Form 10-Q due to the risk that earnings information may be revised during the course of the incremental procedures underlying the preparation of Form 10-Q.

Independent accountant's review of interim financial statements

Today, the majority of issuers do not make reference to the independent accountant's review and thus are not required to and do not include the accountant's report in Form 10-Q.⁹ As a result, it is possible that some investors are not fully aware of the interim review or may not understand the nature and extent of the procedures performed by independent accountants in connection with quarterly reviews. Accordingly, as part of any future rulemaking activity that might impact the independent accountant review requirement, we believe the SEC should undertake investor outreach to understand investors' knowledge of and views regarding the level of auditor involvement with interim financial information.

In our view, the interim review by an independent accountant promotes management's responsibility for the reliability of the interim financial statements. For example, the required communications¹⁰ from the independent accountant to the audit committee provide an important element of independent oversight that reinforces management's accountability for reliable financial reporting. Accordingly, we believe it would be detrimental to investor protection to modify interim reporting requirements in such a way that interim financial information is not, at some point in the quarterly reporting process, subject to review by an independent accountant.

Prescriptive interim disclosures and consistent reporting frequency

We expect the SEC's disclosure regime to evolve with technological advances and changes in how users consume financial information. Although we support the scaled reporting available in today's disclosure requirements and the continued focus on disclosure effectiveness, we believe that some degree of prescriptive interim disclosure requirements is a useful tool to facilitate the completeness of interim financial reporting.

In a more flexible quarterly reporting framework where companies are permitted to provide only a qualitative update including a discussion of material developments, companies may choose to highlight only certain financial statement information such as revenues. Such interim disclosures may not provide investors with a complete and accurate view into the registrant's financial position and liquidity on a timely basis. For example, for companies with liquidity concerns, incremental information currently

⁹ Regulation S-X, Rule 10-01(d), *Interim review by independent public accountant*.

¹⁰ PCAOB AS 4101, paragraphs .33 - .34, require the independent accountant to communicate to the audit committee certain items not previously communicated by management, including material weaknesses or significant deficiencies in internal control over financial reporting and uncorrected misstatements aggregated by the accountant that management determined to be immaterial, among other items.

required in Form 10-Q, such as a complete cash flow statement, interim GAAP disclosures related to going concern, material updates to contractual obligations, and Management's Discussion and Analysis, may be meaningful information that investors expect to receive on a quarterly basis.

Further, in a flexible reporting format, we believe it may be difficult to operationalize a consistent standard of auditor involvement with interim financial information, as the amount of information available to the auditor may vary widely from issuer to issuer. In such a situation, the extent of the auditor's procedures may be dictated by the amount of financial statement information the issuer chooses to make available to the auditor and disclose publicly. In the absence of some degree of standard minimum interim financial statement requirements, it may be difficult for the auditor to form a conclusion with respect to the completeness or consistency of financial information based on the auditor's understanding of the entity.

Today's disclosure regime provides for comparable frequency of interim periods across all domestic issuers, which we believe is an important element to retain in any future interim reporting framework. If only certain domestic issuers were required to file quarterly reports, or if all domestic issuers were required to file semiannual reports but some voluntarily filed quarterly reports, investors may struggle with the lack of comparability. For example, in the absence of quarterly information provided by a registrant, analysts may estimate quarterly financial results or reduce their coverage of companies that do not provide quarterly reports.

For these reasons, we believe some degree of prescriptive interim disclosure requirements and comparable frequency of interim reporting periods should be retained.

Potential alternative or complementary actions

In reflecting on the questions included in the Request for Comment, we identified potential alternative or complementary actions described below for the Commission's consideration.

Promotion of balanced forward-looking guidance

Public commenters have expressed concern that when management places an undue focus on achieving positive short-term results, their actions may be detrimental to the creation of long-term value. However, research¹¹ does not indicate that a reduction in the frequency of interim reporting would effectively curb such short-termism by management. Further, a reduction in reporting frequency may not appease investors, who in this data-driven world demand a quick turn of information regarding their investments. Rather than reducing the frequency of interim reporting, some

¹¹ Robert C. Pozen, Suresh Nallareddy, Shiva Rajgopal, *Impact of Reporting Frequency on UK Public Companies*, (March 2017). Available at <https://www.cfainstitute.org/en/research/foundation/2017/impact-of-reporting-frequency-on-uk-public-companies> "In short, contrary to the rationale behind the 2013 amendments to the EU Transparency Directive, moving from quarterly to semiannual reporting is not an effective remedy for undue corporate emphasis on short-termism."

investors¹² have encouraged companies to stop publishing quarterly earnings-per-share guidance.

The SEC might consider issuing interpretive guidance to encourage companies that voluntarily provide short-term earnings guidance to balance that guidance with information regarding the registrant's long-term strategy for creating value. Such an approach may benefit a wider group of investors. For example, according to McKinsey estimates,¹³ 75 percent of the U.S. market is held by buy-and-hold investors who are focused on the long-term value of the companies in which they invest. As companies increasingly focus on articulating their long-term strategy to create value and provide periodic progress updates to investors, the focus on short-term financial results may decline.

Coordination with other SEC rulemaking activity

We encourage the Commission to consider any prospective changes to the quarterly reporting requirements alongside other potential changes to the SEC's current requirements. For example, the Commission may soon consider rulemaking activity to increase the accelerated filer threshold, which would reduce the number of companies subject to the auditor attestation of internal control over financial reporting required under Section 404(b) of the Sarbanes-Oxley Act of 2002. This auditor attestation requirement is an important element of the rigor and oversight provided by the SEC's current requirements. In a scenario where a registrant no longer requires an audit of internal control over financial reporting and the safeguards around quarterly financial reporting are reduced, the cumulative effect may be an untenable reduction in investor protection.

Disclosure effectiveness

We support the Commission's efforts in recent years to champion disclosure effectiveness. Based on our experience, however, companies nonetheless remain reluctant to remove disclosures from Form 10-Q, particularly once the filing has been reviewed by the SEC staff. In addition, companies may repeat disclosures from Form 10-K in Form 10-Q, rather than viewing Form 10-Q as an update to Form 10-K. These tendencies result in lengthy quarterly reports, which may include immaterial or unnecessary information that both increases the cost to the preparer and diminishes

¹² Jamie Dimon and Warren E. Buffett, *Short-termism is harming the economy: Public companies should reduce or eliminate the practice of estimating quarterly earnings*. Wall Street Journal (June 2018). Available at: <https://www.wsj.com/articles/short-termism-is-harming-the-economy-1528336801>. Also, Matt Turner, *Here is the letter the world's largest investor, BlackRock CEO Larry Fink, just sent CEOs everywhere*, Business Insider (February 2016). Available at <https://www.businessinsider.com/blackrock-ceo-larry-fink-letter-to-sp-500-ceos-2016-2>.

¹³ Rebecca Darr and Timm Koller, *How to build an alliance against corporate short-termism*. McKinsey & Company (January 2017). Available at <https://www.mckinsey.com/business-functions/strategy-and-corporate-finance/our-insights/how-to-build-an-alliance-against-corporate-short-termism>.

the utility of the interim report to investors. We encourage the Commission to explore avenues such as interpretive guidance or other instructional materials to continue to encourage preparers to view Form 10-Q as an update to Form 10-K. Such interpretive guidance could also encourage registrants to consider the existing flexibility provided by General Instructions D.1 and D.2 of Form 10-Q.

In addition, we encourage the SEC to participate in the FASB's [Disclosure Framework Project on Interim Reporting](#) to streamline and rationalize interim accounting and disclosure guidance. For example, preparers sometimes struggle to locate the applicable interim guidance across disparate sources, such as Regulation S-X, ASC 270, or other Codification topics¹⁴ that include separate interim requirements.

Disclosure modernization

Given current and future changes in technology and corresponding changes in how users consume financial information, we encourage the SEC to continue to focus on the modernization of the current reporting format. For example, in the future, financial statement users may demand a shift from today's form-based, textual disclosures to more condensed, easily digested reporting. In turn, the corresponding professional standards applicable to independent accountants will need to evolve and allow flexibility in order for the investing public to obtain a level of independent assurance over these emerging forms of external reporting. We encourage the SEC to work closely with the PCAOB in this respect in order to continue to enhance overall audit quality and in turn enhance investor confidence.

We would be pleased to discuss our comments with you. If you have any questions, please contact Bert Fox, National Managing Partner of Professional Standards, at [REDACTED] or [REDACTED].

Sincerely,

/s/ Grant Thornton LLP

¹⁴ For example, ASC 740-270-50-1 and ASC 205-40-50-14 provide certain interim disclosure requirements regarding income taxes and going concern, respectively.