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March 20, 2019

Ms. Vanessa Countryman  
Acting Secretary  
U.S. Securities & Exchange Commission  
100 F Street N.E.  
Washington, DC 20549

**Re: File Reference No. S7-26-18; Request for Comment on Earnings Releases and Quarterly Reports**

Dear Ms. Countryman:

Deloitte & Touche LLP is pleased to respond to the Securities and Exchange Commission's *Request for Comment on Earnings Releases and Quarterly Reports* (the "Request for Comment").

The SEC disclosure regime is the bedrock on which our capital markets are built. By helping to ensure that investors receive regular, timely, and reliable information, the SEC regime has helped make the US markets the strongest and most trusted in the world. We therefore believe it is important for the SEC to continue to require frequent high-quality reporting, at least quarterly, by companies to their investors.

Because it is so vital to our capital markets, we also believe it is important that the Commission periodically review elements of that regime to ensure that it continues to efficiently support timely, material disclosure by companies to the benefit of the investors. The scope of the questions on which the Commission is seeking input—encompassing the nature, timing, format, and frequency of interim reporting requirements for public companies—is appropriately broad, given the changes in the markets since the core of those requirements was adopted almost a half-century ago.

While we believe that the SEC's reporting requirements remain fundamentally sound, as noted in our response to the SEC's 2016 concept release on *Business and Financial Disclosure Required by Regulation S-K* (the "2016 letter"),<sup>1</sup> we have observed increasing market reaction to disclosures made outside the periodic reporting regime. In some cases, this may be because investors assign importance to information that is either not required or not allowed by SEC rules; in other cases, this may be because investors find other information more valuable, more timely or easier to understand. We commend the Commission's efforts to understand better the reason for the practice of issuing earnings releases separate from the Form 10-Q, and whether that presents any risks to the system that the Commission should seek to address.

It is also appropriate for the Commission to consider how its requirements may drive market behavior in other ways, including whether the current frequency of periodic reporting might

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<sup>1</sup> See [Deloitte & Touche LLP's letter dated July 15, 2016](#).

contribute to an undue focus on short term results, at the expense of longer-term value creation. While we believe that companies' voluntary provision of earnings guidance (especially when that takes the form of quarterly earnings per share targets) is a more likely driver of short term focus than is the SEC's quarterly reporting requirement, receiving input on that issue from a variety of stakeholders will assist the SEC in identifying and addressing any unintended consequences of its current reporting requirements.

Set out below are some of the specific areas that we encourage the Commission to consider if it decides, based on input it receives on the *Request for Comment*, that it should pursue changes to its interim reporting requirements.

### **Involvement of the independent auditor**

Rule 10-01(d) of Regulation S-X requires that interim financial information included in quarterly reports on Form 10-Q be reviewed by an independent public accountant.<sup>2</sup> Public Company Accounting Oversight Board (PCAOB) AS 4105, *Reviews of Interim Information*, governs those reviews. In contrast, companies are not required to issue earnings releases and the content of such releases is not prescribed (although, if issued, they generally must be included on a Form 8-K). There is no requirement for auditor review of earnings releases, and auditor involvement therefore generally is limited to reading the release in the context of the review of the interim financial information to be included in Form 10-Q.

As it considers the issues raised in the *Request for Comment*, the SEC should keep in mind the important differences in the safeguards that exist for voluntary and required disclosures, and that not all users understand these differences. In addition to auditor involvement, other relevant safeguards for required information included in the Form 10-Q include the discipline and oversight that come with the SEC and US GAAP requirements, as well as the focus on the effectiveness of companies' financial processes, related internal controls, and corporate governance.

Prior to the SEC mandating quarterly reviews, certain large professional accounting firms had already begun to require a review of the interim financial information in Form 10-Q for the companies that they audited.<sup>3</sup> The reasons that those firms and the SEC originally mandated such reviews are still valid today. These include the belief that the reviews improve the quality of financial reporting by facilitating early identification and resolution of material accounting and reporting issues, reducing the likelihood of year-end adjustments, and enhancing the reliability of financial information reported throughout the year.<sup>4</sup>

Auditor involvement in interim periods also promotes timely discussion with management and the audit committee about key financial reporting issues, such as the implementation of new or revised accounting standards and the accounting treatment of complex acquisitions and transactions. The auditor's involvement in interim periods thus supports the annual audit, separate from its direct association with Form 10-Q.

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<sup>2</sup> Specifically, Regulation S-X, Rule 10-01(d), requires interim financial information included in quarterly reports on Form 10-Q to be reviewed by an independent public accountant in accordance with the PCAOB's AS 4105, *Reviews of Interim Information*. AS 4105 also requires the auditor to perform a review of the fourth quarter interim financial information, even though a quarterly report on Form 10-Q is not required for that period.

<sup>3</sup> See, e.g., [SEC Final Rule: Audit Committee Disclosure](#) (Release No. 34-42266; File No. S7-22-99) ("we understand that the five largest U.S. accounting firms and other firms have policies to require that their clients have reviews of quarterly financial statements as a condition to acceptance of the audit").

<sup>4</sup> *SEC Final Rule: Audit Committee Disclosure*.

Should the SEC decide to substantially change the content or frequency of its interim reporting requirements, but continue to require auditor involvement, we suggest the SEC coordinate with the PCAOB to consider whether any related revisions may be needed to the relevant auditing standards. Those include not only AS 4105, which currently contemplates a review of interim financial information that complies with Rule 10-01 and generally accepted accounting principles in the United States (U.S. GAAP), but also standards addressing assurance provided in connection with company transactions and offerings.<sup>5</sup> We believe that auditor involvement throughout the year is important, but we are committed to adapting to meet the evolving needs of investors and other users.

### **Special considerations of the “Supplemental Approach”**

If the SEC were to pursue the “Supplemental Approach” described in the *Request for Comment*, under which a company’s Form 10-Q and Form 8-K earnings release together would fulfill its interim reporting requirements, it should consider the potential effect that dividing required disclosures could have on investor understanding of the scope and timing of the independent auditor’s review. Depending on how the “Supplemental Approach” was implemented, it also could have an effect on the actions necessary to address subsequent events that may occur and need to be recorded between the earnings release and issuance of the Form 10-Q.

Other potential issues with the “Supplemental Approach” that the Commission should consider include (1) what information would be subject to management certifications required by the Sarbanes-Oxley Act of 2002; (2) the potential effect on companies’ ability to incorporate information by reference into registration statements; and (3) the potential effect of a bifurcated disclosure regime on the comparability of disclosure made by different companies.<sup>6</sup>

### **Effectiveness of interim reporting**

If the SEC decides to pursue changes to the content of interim reports, we encourage it to coordinate with others that have a direct effect on that content, to help ensure that all components of the system are working together towards the same goal. Specifically, coordination between the SEC and the Financial Accounting Standards Board (the “FASB”) could help ensure that U.S. GAAP requirements related to interim disclosures are aligned with the principles articulated in Rule 10-01(a)(5), which encourage both the presumption of familiarity with prior reports and a focus on significant changes. We note that the FASB is currently considering similar issues through its *Disclosure Framework Project on Interim Reporting*.<sup>7</sup>

The Commission also could consider, based on its own observations or input it receives on the *Request for Comment*, why some companies provide disclosure on Form 10-Q that appears to go far beyond that required by SEC rules and U.S. GAAP, and whether that practice could in some cases obscure the most significant information for that period. If it finds the latter, the SEC could consider whether additional guidance might help address those practices, or whether changes to its rules and regulations might facilitate the same goal (e.g., by supporting focus on material changes or allowing more cross-referencing to prior filings for certain historical information).

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<sup>5</sup> See, e.g., PCAOB AS 6101, *Letters for Underwriters and Certain Other Requesting Parties*, which addresses when an auditor may provide negative assurance on interim financial information and subsequent changes in specified financial statement items.

<sup>6</sup> We recognize that comparability is not the only goal of disclosure, and we believe company disclosure is generally most effective when it is tailored by the company. We do, however, believe that comparability is one of five important disclosure characteristics that the SEC should consider in making any changes to its public company reporting regime. The others are context, focus, flexibility, and credibility. See further discussion of these issues in our 2016 Letter.

<sup>7</sup> See FASB Project Update: [Disclosure Framework: Disclosures—Interim Reporting](#).

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We appreciate the opportunity to provide our perspectives as the Commission considers its interim reporting requirements for public companies. We would be happy to discuss further any of the points in our letter. Particularly, we stand ready to contribute expertise and perspectives on the appropriate degree of auditor involvement with particular disclosures, as well as more generally how the role of the independent auditor can adapt and change to meet the evolving needs of investors.

If you have any questions or would like to discuss our views further, please contact Dave Sullivan at [REDACTED].

Sincerely,

A handwritten signature in black ink that reads "Deloitte & Touche LLP". The signature is written in a cursive, flowing style.

Deloitte & Touche LLP

cc: Jay Clayton, Chair  
Robert Jackson, Jr., Commissioner  
Hester Peirce, Commissioner  
Elad Roisman, Commissioner  
William Hinman, Director, Division of Corporation Finance  
Wesley Bricker, Chief Accountant  
Kyle Moffatt, Chief Accountant, Division of Corporation Finance