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March 27, 2019

VIA E-MAIL: [rule-comments@sec.gov](mailto:rule-comments@sec.gov)

Ms. Vanessa Countryman  
Acting Secretary  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-1090

Re: Request for Comments on Earnings Releases and Quarterly Reports - File No. S7-26-18 (the "Release")

Dear Ms. Countryman:

We are writing to respond to the Commission's request for comment on the nature, timing, format and frequency of periodic reporting, and the relationship between the earnings release and required periodic reports on Form 10-Q. The Release identifies a number of important issues about periodic reporting practices, and we are grateful for the opportunity to comment.

Among the topics addressed in the Release, we believe there are two categories of issues on which the Commission should not pursue regulatory changes.

First, we do not see a need for specific regulation of earnings release and guidance practices, beyond the existing requirements of Form 8-K Item 2.02. These practices are a complex example of private ordering, arising from the interaction of several factors, including investor expectations, research analyst practices, issuer investor relations objectives, and market access for insiders and issuers. This takes place against the regulatory background of Regulation FD compliance, liability considerations, Securities Act disclosure requirements and insider trading law. Whether or not these practices promote "short-termism," there would be risks and little benefit in the Commission seeking to regulate them.

Second, we do not think the Commission should revisit the frequency of interim reporting or the auditor's review of interim financial statements. On each point, the balance of interests struck by the Commission's rules decades ago is now built into the disclosure system, capital markets processes, investor expectations and public company governance, and the complexity and risks of making any substantial change outweigh the possible benefit.

We believe the Commission should focus its regulatory energies on reducing the burdens of Form 10-Q where that can be done without weakening investor protections. This would make it easier for issuers to reduce the delay between publishing the earnings release and filing the Form 10-Q, and to align the content of the earnings release and the report. In particular, we suggest that the Commission give further consideration to the following possible steps:

- XBRL Timing. Based on conversations with issuer clients, we understand that the preparation of XBRL files is an important factor in the timetable for filing Form 10-Q, particularly given the current phase-in of the Inline XBRL requirements. If Commission rules were to permit the submission of the XBRL file a specified number of days after the filing of the report, issuers would be able to file the report earlier, and more issuers would be able to close the timing gap between the earnings release and the Form 10-Q.
- Notes to Financial Statements. The notes to interim financial statements represent a significant burden for issuers, and some of the information is of little or no benefit to investors, particularly where there is no material change from the annual financial statements. Examples include disclosures on derivative positions, on fair value measurements, and on changes in accounting standards that are expected to have minimal impact on the issuer. We recognize that these requirements arise in part from U.S. GAAP standards rather than Commission rules, so reducing this burden could require coordination with the FASB.
- Other Financial Reporting Matters. The Commission should consider whether there are other aspects of financial disclosures required in Form 10-Q that present substantial burdens for issuers, where the benefit to investors is limited or can be achieved by other means. Examples might include the requirement to report on both the current quarter and the year to date, and the requirement to include a cash flow statement. Changes of this kind in periodic reporting requirements would need, in order to be fully effective, to be accompanied by changes in requirements under the 1933 Act for disclosures in connection with offerings of securities.
- Disclosure by Other Means. The burden of preparing periodic reports could be reduced by permitting some kinds of information to be disclosed by other means, including posting on a corporate website. This could be well suited for information that is not specific to the subject period and not subject to rapid change – such as basic information about an issuer, its operations and its management. In such a “company profile” system, an issuer would then update such information as necessary, and its periodic reports would focus only on information that is new and specific to the period.

Ms. Vanessa Countryman, p. 3

We thank you for the opportunity to submit this comment letter. Please do not hesitate to contact Nicolas Grabar, Sandra L. Flow or Andrea Basham (212-225-2000) if you would like to discuss these matters further.

Very truly yours,

Cleary Gottlieb Steen & Hamilton LLP