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The Sustainability Accounting Standards Board
Filed Electronically via Comments@SASB.org

Re: SASB Conceptual Framework Exposure Draft

To Whom It May Concern:

The U.S. Chamber of Commerce ("Chamber") is the world's largest business federation, representing more than 3 million businesses and organizations of every size, sector, and region. The Chamber created the Center for Capital Markets Competitiveness ("CCMC") to promote a modern and effective regulatory structure for capital markets to fully function in a 21st century economy.

To achieve this objective it is an important priority of the CCMC to foster transparency in public companies' public disclosures, in order to provide investors with useful information for making decisions about their investments or potential investments. The CCMC welcomes this opportunity to comment on the Sustainability Accounting Standards Board's (the "SASB") Conceptual Framework Exposure Draft (the "Proposed Framework").

The CCMC notes the SASB's view that the Proposed Framework is "complementary with the work of the International Integrated Reporting Council ("IIRC") and the development of an Integrated Reporting Framework ("IRF")."[1] Further, the SASB views the two frameworks as "fully aligned on many of the core concepts of integrated reporting, including materiality, boundary, accounting for capitals, and principles-based approach."[2] The CCMC provided comments on the IIRC Consultation Draft of the International <IR> Framework and we have included our letter as an attachment. We believe those comments will be instructive to the SASB as it continues to develop its Proposed Framework. In addition, we have

[1] *See* paragraph 7.5 in the Proposed Framework.

[2] *Id.*

provided comments and observations specific to the SASB's Proposed Framework, below.

At the outset, CCMC believes the SASB's Conceptual Framework compares favorably to that of IIRC and others in its characterization of the target audience of public company reporting. We agree with the SASB's recognition that the primary beneficiary and target audience of companies' reports is the long-term "reasonable investor", which excludes "specialty focused" shareholders, which pursue non-economic motives through their share ownership.[3] In this regard, we believe the SASB should further clarify language throughout the Proposed Framework which suggests that disclosures should be tailored to interests other than the reasonable shareholder. For example, Paragraph 2.1 refers to the interests of "shareholders and the public," and, while we believe these interests are in line with one another in many cases, such language could give the impression that the Conceptual Framework requires disclosures tailored to interests other than the reasonable investor.

The vision of the SASB for disclosing material information on environmental, social, and governance ("ESG") factors appears inconsistent with the vision of the IIRC. On one hand, the IIRC envisions that extant financial reporting, such as financial statements prepared in accordance with U.S. Generally Accepted Accounting Principles ("US GAAP") and other disclosures required by the Securities and Exchange Commission ("SEC") in Form 10-K including Management Discussion and Analysis ("MD&A"), would be one component of an integrated report. On the other hand, the SASB's Proposed Framework envisions ESG disclosures, as promulgated by the SASB, would be additional disclosures included within MD&A in annual SEC filings on Form 10-K. These two visions are quite different and difficult to reconcile as, among other issues discussed below and in the attached letter, each applies a contradictory standard of materiality. Importantly, the SASB is proposing to establish disclosure requirements for the SEC on ESG factors.

The existence of multiple overlapping and sometimes contradictory reporting standards is a very significant concern for public companies and their shareholders which already suffer from "information overload." Public companies already produce volumes of regulatory mandated information, much of which is of little use to

[3] *See* paragraph 1.9 in the Proposed Framework.

shareholders whose primary interest is in maximizing long-term shareholder value. And if companies must produce this information, shareholders must sift through it to locate what they deem to be truly investment decision useful information. This burden is highest on retail shareholders, and is a significant contributing factor to their low voting turnouts. If this issue is not appropriately addressed, the effect will be a continued piling on of additional disclosure requirements, which will exacerbate the existing "information overload" problem and ultimately will likely undermine the efforts of the SASB and others to expand the availability of non-financial information.

Furthermore, notwithstanding its purported deference to U.S. standards and case law, the SASB's Proposed Framework appears to significantly change the definition of materiality for public companies subject to the securities acts. First, the SASB intends to broaden the definition of materiality to include non-financial ESG information. Second, the SASB proposes to determine materiality at the industry-level based on a comprehensive assessment of evidence of materiality using a three-prong approach—evidence of interest, evidence of financial impact, and forward looking adjustment, using the SASB's specific industry definitions.[4] Third, the SASB is proposing to make its own determination of materiality, including by assessing evidence of interest with an unspecified broad range of stakeholders (other than investors and companies but including non-market participants) through a systematic review of sustainability issues raised by them.[5]

While non-financial reporting metrics can be important data points for investors it should be noted that the bounds of materiality and the scope of disclosure required of public companies can only be determined through formal action by the SEC or through legislative action by Congress. Therefore, in some circumstances, non-financial reporting could become a compliance issue for some companies (see section 4 of the attached letter regarding the "buried facts" doctrine).

The CCMC shares the SASB's interest in overhauling the outdated public company reporting regime, in an effort to improve investors' access to information that they, the investors, believe is useful to their investment decisions. We believe it is critical that the concerns and considerations discussed above and in the attached letter

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[4] *See* paragraph 3.57 in the Proposed Framework.

[5] *See* paragraph 3.59 in the Proposed Framework.

be addressed for the Proposed Framework to adequately address companies' and shareholders' legitimate investment information needs without adding further unnecessary complication to the public company reporting regime, making public company disclosures a forum for narrow interests, and potentially subjecting companies to liability.

We thank the SASB for this opportunity to provide comments on the Proposed Framework and would be happy to discuss our comments further with the appropriate staff.

Sincerely,

Tom Quaadman