

November 17, 2023

Via Electronic Mail: director@fasb.org

Hillary H. Salo
Technical Director
Financial Accounting Standards Board
801 Main Avenue
P.O. Box 5116
Norwalk, CT 06856-5116

**Re: Proposed Accounting Standards Update, *Income Taxes (Topic 740):
Improvements to Income Tax Disclosures*; File Reference No. 2023-
ED100**

Dear Ms. Salo,

We—the undersigned organizations representing both issuers and investors, lenders, creditors, and other allocators of capital (collectively, “**financial statement users**”)—welcome the opportunity to further comment on the proposed Accounting Standards Update (the “**Update**”) from the Financial Accounting Standards Board (the “**Board**”), “Income Taxes (Topic 740): Improvements to Income Tax Disclosures.” We continue to be concerned that the proposed Update would produce financial statement disclosures that are misleading to financial statement users. We are also concerned that the process by which the Board ultimately voted to direct the staff to draft a final Update for vote by written ballot fell short of the Guiding Principles and Due Process considerations set forth in the Board’s Rules of Procedure.¹

First, the Board and its staff took an inappropriately narrow view of the cost-benefit relationships at issue in the proposed Update. In the staff’s estimation, the relevant costs to be considered were exclusively composed of compliance costs—the incremental one-time and ongoing costs incurred to collect and provide more granular information.² However, solely considering compliance costs is not appropriate for a proposed standard with far-reaching economic effects.³ The proposed Update and, in particular, jurisdictionally disaggregated

¹ *Rules of Procedure, Amended and Restated through Aug. 10, 2021* (Financial Accounting Standards Board, Aug. 2021) (“**Rules of Procedure**”), https://www.fasb.org/Page/ShowPdf?path=FASB_Rules_of_Procedures-Aug-2021.pdf&title=Rules%20of%20Procedure-August%2010,%202021.

² *Board Meeting Handout, Targeted Improvements to Income Tax Disclosures* (Financial Accounting Standards Board, Aug. 30, 2023) (“**Board Meeting Handout**”), <https://fasb.org/page/showpdf?path=TAXDISC-BMHO-20230830.pdf&title=May%2017,%202023%20Board%20Meeting%20Handout>.

³ See Marc Siegel, Board Member, Financial Accounting Standards Board, Address at the Financial Executives International Corporate Financial Reporting Insights Conference: The FASB’s Cost-Benefit Analysis (Nov. 17, 2014) (“In that process, first, we think about whether the benefits of a standard—which are improvements in the relevance and neutrality of reported financial information—justifies the costs it imposes on financial statement

disclosures raise both confidentiality and investor sentiment concerns that are increasingly the subject of international attention.

The standard-setting bodies, intergovernmental organizations, and national treasuries that have considered the propriety of such disclosures for various purposes include, among others, the Organisation for Economic Co-operation and Development,⁴ the Global Reporting Initiative,⁵ the European Union,⁶ the International Accounting Standards Board,⁷ and, at present, the Australian Treasury.⁸ In each instance, these bodies have determined that jurisdictionally disaggregated disclosures should be held in strict confidence or that providing such disclosures should be voluntary. At the very minimum, these bodies have decided that preparers of financial statements should have the option temporarily to forgo reporting commercially sensitive information or have access to other safeguarding procedures. Most recently, the Australian Treasury deferred the compliance date of its multinational tax transparency proposal to further consult on the appropriate level of disaggregated reporting in response to confidentiality concerns raised by stakeholders.

Each of these bodies' decisions rests not on incremental compliance costs but on the broad economic impacts resulting from reduced investment and higher costs of capital. The Board and its staff do not appear to have considered the direct and indirect economic impacts of the proposed

preparers to implement the new standard and on users to consider and respond to the new information. *Second, if negative economic consequences of a new standard are asserted, we pause. We then assess whether those are intended consequences of neutral financial information—a leveling of the accounting playing field so to speak. Alternatively, they could be the result of unintentionally biased financial information. If it's the latter, the Board will look at the issue again.*) (emphasis added).

The undersigned organizations in this and each of their original letters, as well as many other respondents, showed negative economic consequences resulting from unintentionally biased financial information required to be disclosed under the proposed Update. Accordingly, the Board should not proceed to a final Update unless and until it thoroughly considers the data presented by respondents.

⁴ OECD (2015), Transfer Pricing Documentation and Country-by-Country Reporting, Action 13 - 2015 Final Report, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264241480-en> (“**BEPS Action 13**”).

⁵ *GRI Tax Standard (GRI 207)* (Global Sustainability Standards Board, 2019), <https://www.globalreporting.org/standards/media/2482/gri-207-tax-2019.pdf>.

⁶ Directive (EU) 2021/2101 of the European Parliament and of the Council of 24 November 2021 amending Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches (“**Public Country-by-Country Reporting Directive**”); Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (“**Capital Requirements Directive IV**”).

⁷ Gustavo Olinda, *International Tax Reform—Pillar Two Model Rules | Disclosures* (International Accounting Standards Board, Staff Paper (Agenda Reference: 12B), April 2023), <https://www.ifrs.org/content/dam/ifrs/meetings/2023/april/iasb-supplementary/ap12b-pillar-two-disclosures.pdf>.

⁸ *Summary of Consultation Process Outcomes, Summary of key issues – other elements, Multinational tax transparency – public country-by-country reporting (tax changes)* (Department of the Treasury, Commonwealth of Australia, June 2023), <https://treasury.gov.au/sites/default/files/2023-06/410898-mne-sum-oc.pdf>.

Update, instead relying on the assumption that “more is better” with respect to such disclosures.⁹ These impacts are clearly and compellingly presented in the National Foreign Trade Council’s and Phylleos’s report examining the potential economic impacts of implementing the proposed Update.¹⁰ The report found that,

[t]he repercussions of these changes extend beyond individual firms, affecting the entire economy.... In the first year after implementing the new rules, the economy’s real gross domestic product (RGDP) is simulated to be approximately 0.047% lower than it would have otherwise been...[which] is equivalent to a little over \$12 billion...and flows mainly from (i) slower growing capital stock resulting from lower levels of investment and (ii) the productivity implication of higher overhead costs in production.

This most recent report is far from alone; it is expressly built upon the works of Bilicka et al. (2022),¹¹ Müller et al. (2021),¹² Müller et al. (2020),¹³ Spengel et al. (2020),¹⁴ Flagmeier and Gawehn (2020),¹⁵ and Oats and Tuck (2019).¹⁶ Further, there is a wealth of empirical analyses on

⁹ See Hao, Jinji, Disclosure Regulation, Cost of Capital, and Firm Values (Jan. 20, 2023). *Journal of Accounting & Economics (JAE)*, Forthcoming (finding that under certain conditions increasing mandatory disclosure may worsen the overall information environment).

¹⁰ *Economic analysis and simulation modeling of changes to the FASB’s Improvements to Income Tax Disclosures* (National Foreign Trade Council & Phylleos, Sep. 2023), <https://www.nftc.org/wp-content/uploads/2023/09/Phylleos-Inc-NFTC-FASB-report-Final.pdf>.

¹¹ Bilicka, Katarzyna Anna and Casi-Eberhard, Elisa and Seregni, Carol and Stage, Barbara, *Tax Strategy Disclosure: A Greenwashing Mandate* (2021). ZEW - Centre for European Economic Research Discussion Paper No. 21-047 (finding that treated firms significantly increase the volume, but not the quality, of tax strategy disclosure in the annual reports).

¹² Müller, Raphael and Spengel, Christoph and Weck, Stefan, *How Do Investors Value the Publication of Tax Information? Evidence From the European Public Country-By-Country Reporting* (2021). ZEW - Centre for European Economic Research Discussion Paper No. 21-077, TRR 266 Accounting for Transparency Working Paper Series No. 79 (finding that investors evaluate reputational risks arising from public scrutiny and competitive disadvantages to outweigh potential benefits of an extended information environment).

¹³ Müller, Raphael and Spengel, Christoph and Vay, Heiko, *On the Determinants and Effects of Corporate Tax Transparency: Review of an Emerging Literature* (2020). ZEW - Centre for European Economic Research Discussion Paper No. 20-063.

¹⁴ Stiftung Familienunternehmen (ed.): *The EU Proposal for Country-by-Country Reporting on the Internet – Costs, Benefits and Consequences*, 2nd edition, prepared by ZEW – Leibniz Centre for European Economic Research, Munich 2020 (finding that potential implicit costs of public, jurisdictionally disaggregated reporting, including unwarranted damage to a company’s reputation, compromised tax confidentiality, and a higher risk of double taxation, exceed the posited overall benefits).

¹⁵ Flagmeier, Vanessa and Gawehn, Vanessa, *Do investors care about tax disclosure?* (2020). Arqus Discussion Papers in Quantitative Tax Research 254, arqus - Arbeitskreis Quantitative Steuerlehre (finding weak significant evidence that investors perceive the introduction of jurisdictionally disaggregated disclosures as beneficial).

¹⁶ Oats, Lynne and Tuck, Penelope, *Corporate tax avoidance: is tax transparency the solution?* (2019). *Accounting and Business Research*, 49:5, 565-583 (finding that, by failing to consider the limits of transparency initiatives, there

investor sentiment and the risks of misinterpretation of jurisdictionally disaggregated disclosures based on the experiences of other countries, like Australia,¹⁷ that the Board and its staff have failed to consider in their cost-benefit analysis. Accordingly, we urge the Board to withdraw the proposed Update and reconsider whether it is in fact net beneficial to issuers and financial statement users.

Second, we were disappointed by the staff's recounting of stakeholder feedback, which recounting we believe contains some inaccuracies that cast doubt on the purported support for the proposed Update. An analysis of the comment file reveals that more than half of respondents provided comments that were critical of the proposed amendments to the rate reconciliation, at least in part. Those respondents made recommendations ranging from presentation of one or more specific categories on an aggregate, rather than jurisdictionally disaggregated, basis, the purely voluntary disclosure of one or more specific categories, or the elimination of one or more specific categories, to the withdrawal and reconsideration of the proposed amendments to the rate reconciliation entirely.¹⁸ Many more respondents recommended that the Board explore a quantitative threshold to be applied to the specific categories in 740-10-50-12A(a), similar to the quantitative threshold for reconciling items, to limit disclosures that are commercially sensitive, immaterial, or that are otherwise not decision-useful. We found it highly unusual that the staff, in reference to respondents' views of the proposed amendments to the rate reconciliation, found that "two-thirds of respondents...generally agreed with the proposal" or that "[m]ost respondents generally agreed with the proposed specific categories and did not identify a need for significant changes to the proposed disclosure by specific categories."¹⁹ These findings are demonstrably false and call into question the "comprehensive and independent process that encourages broad participation" and "objectively considers all stakeholder views."²⁰

Taken together, the limited cost-benefit analysis and distortion of stakeholder feedback fall short of the Board's Guiding Principles of "carefully weigh[ing] the views of stakeholders" and "issu[ing] standards only when the expected benefits justify the perceived costs."²¹ While we appreciate that the Board's "goal is financial information useful in making decisions about providing resources to an entity," and therefore, "the needs of those users are a primary

is a risk of dysfunctional consequences, *e.g.*, additional costs in providing and processing additional information, the prospect of increased disputes as new information generates new misinterpretations, and uncertainty in determining the final tax position).

¹⁷ Dierynck, Bart and Jacob, Martin and Müller, Maximilian A. and Peters, Christian P. H. and van Pelt, Victor, Public Tax Disclosures and Investor Perceptions (2022). TRR 266 Accounting for Transparency Working Paper Series No. 94 (finding that investors use disclosures as a heuristic for a firm's tax aggressiveness and are reluctant to acquire complementary, more detailed tax information); Hoopes, Jeffrey L. and Robinson, Leslie and Slemrod, Joel B., Public Tax-Return Disclosure (2017). Tuck School of Business Working Paper No. 2888385 (finding that investors react negatively to anticipated and actual disclosure of tax information, most likely due to anticipated policy backlash rather than consumer backlash or the revelation of negative information about cash flows).

¹⁸ See Appendix.

¹⁹ Board Meeting Handout, at 15-17.

²⁰ Rules of Procedure, at 4.

²¹ *Id.*

consideration in developing accounting standards,”²² the perspective of issuers should not be discounted in the Board’s deliberations. Not only did many investors share similar views of the costs and decision-usefulness of the proposed amendments as issuers, but many issuers also consulted with their investors in drafting their comments on the proposed Update. Moreover, issuers are frequently substantial equity investors, lenders, and creditors (hence, financial statement users) in their own right. We again urge the Board to reconsider its direction to the staff to draft a final Update for vote by written ballot and, instead, continue its stakeholder outreach with a more diverse set of interested parties, including investors, issuers, and other practitioners.

* * *

We appreciate the opportunity to further provide comments to the Board on the proposed Update, and we would be pleased to meet with the Board or its staff to discuss our comments. If the Board or its staff has questions or comments, please do not hesitate to contact the undersigned organizations.

Respectfully submitted,

Business Roundtable
Managed Funds Association
National Association of Manufacturers
National Foreign Trade Council
U.S. Chamber of Commerce

cc: Richard R. Jones, Chair, Financial Accounting Standards Board
James L. Kroeker, Vice Chairman, Financial Accounting Standards Board
Christine Ann Botosan, Board Member, Financial Accounting Standards Board
Frederick L. Cannon, Board Member, Financial Accounting Standards Board
Susan M. Cosper, Board Member, Financial Accounting Standards Board
Marsha L. Hunt, Board Member, Financial Accounting Standards Board
Joyce T. Joseph, Board Member, Financial Accounting Standards Board

Lucy Cheng, Supervising Project Manager, Financial Accounting Standards Board
Jenifer Wyss, Supervising Project Manager, Financial Accounting Standards Board
Jennifer Kimmel, Practice Fellow, Financial Accounting Standards Board
Emerson Porter, Postgraduate Technical Assistant, Financial Accounting Standards Board
Elizabeth Shields, Postgraduate Technical Assistant, Financial Accounting Standards Board
Joshua Spiller, Postgraduate Technical Assistant, Financial Accounting Standards Board

²² *Id.* at 2.

Appendix

1. Letter from Louis W. Sanford, CPA, CGMA, to Financial Accounting Standards Board (March 20, 2023) (noting that “such detailed rate reconciliation is...overly complex...and in far too much detail to provide truly useful information,” “will not add to improving investor decision making,” and “5% for a jurisdiction threshold is far too low.”).

2. Letter from Florida Institution of Certified Public Accountants to Financial Accounting Standards Board (May 10, 2023) (noting that “investors and users of public company financial statements would have limited value of the proposed disclosures, specifically of information disaggregated by jurisdiction.”).

3. Letter from Ivins, Phillips & Barker to Financial Accounting Standards Board (May 25, 2023) (recommending withdrawal and noting that “the proposed ASU’s disclosure requirements would not provide decision-useful information to users of financial statements.”).

4. Letter from Installed Building Products, Inc. to Financial Accounting Standards Board (May 25, 2023) (noting that the authors “do not believe that a specific disclosure requirement for categories should be required,” “[e]nhanced disclosure of proposed categories may only add extra disclosures which may not be useful to investors,” and the incremental “benefit to the investors would likely be limited,” relative to current financial statement disclosures).

5. Letter from Alvarez & Marsal Taxand, LLC to Financial Accounting Standards Board (May 25, 2023) (recommending that reconciling items within the changes in unrecognized tax benefits and foreign tax effects categories “could be combined into one line item on a worldwide basis, rather than including on a jurisdictional basis as proposed.”).

6. Letter from Greif, Inc. to Financial Accounting Standards Board (May 26, 2023) (noting that the authors “have never received an investor or analyst request for the type of disaggregated information required by the proposed standard”, the authors’ “experience in working with [their] investor community is that the type of disaggregated tax information required by the proposed standard is generally not desired by or useful to investors or analysts, and those who do desire such information may ascribe incorrect weighting or draw inaccurate conclusions when making capital allocation decisions...”).

7. Letter from National Association of Manufacturers to Financial Accounting Standards Board (May 29, 2023) (signatory).

8. Letter from Mastercard to Financial Accounting Standards Board (May 29, 2023) (noting that the authors “do not believe that the proposed amendments to the rate reconciliation disclosure would result in more transparent and decision-useful information” but rather “would cause registrants to be subject to significantly greater disclosure requirements than what is currently expected to apply to companies subject to the International Accounting Standards,” and “the additional information...may be commercially sensitive” and “put US registrants at a competitive disadvantage.”).

9. Letter from Securities Industry and Financial Markets Association to Financial Accounting Standards Board (May 30, 2023) (noting that “[t]he prescribed categories and granular

disaggregation in the effective tax rate reconciliation would present users with incremental disclosures that are not decision-useful in most cases.”).

10. Letter from Business Roundtable to Financial Accounting Standards Board (May 30, 2023) (signatory).

12. Letter from Financial Executive International to Financial Accounting Standards Board (May 30, 2023) (recommending that “preparers should have the discretion to disclose material changes in the unrecognized tax benefits in all jurisdictions on a combined basis” and noting that “the jurisdictional disaggregation of tax reserves would pose a financial risk to companies”).

13. Letter from Pennsylvania Institute of Certified Public Accountants to Financial Accounting Standards Board (May 30, 2023) (questioning the necessity of incorporating a threshold for separate disclosure of reconciling items).

14. Letter from Lark Research (Stephen P. Percoco) to Financial Accounting Standards Board (May 30, 2023) (noting that the author “will probably make little use of the detailed disclosures of income tax expense by country...”).

15. Letter from PNC Financial Services Group, Inc. to Financial Accounting Standards Board (May 30, 2023) (noting that “the proposed amendments...may be misleading in isolation, and could cause more confusion amongst investors, financial statement users, and various taxing authorities” and “would not provide decision-useful information for investors...”).

16. Letter from BOK Financial Corporation to Financial Accounting Standards Board (May 30, 2023) (recommending that “FASB should address the goals of this Exposure Draft through segment reporting rather than creating additional complexity” and “reject the additional disclosure requirements for disaggregation of the rate reconciliation...because they do not accomplish the goal of providing greater information for financial statement users...”).

17. Letter from American Express Company to Financial Accounting Standards Board (May 30, 2023) (noting that “the jurisdictional disaggregation of [unrecognized tax benefits] changes would pose a financial risk to companies without a commensurate benefit for the users of the financial statements.”).

18. Letter from Managed Funds Association to Financial Accounting Standards Board (May 30, 2023) (signatory).

19. Letter from American Bankers Association to Financial Accounting Standards Board (May 30, 2023) (noting that “the proposed expansion of the disclosures will not significantly improve the financial statement user’s assessment of the prospects for future cash flows and, in fact, may often lead to confusion and incorrect conclusions...”).

20. Letter from American Council of Life Insurers to Financial Accounting Standards Board (May 30, 2023) (noting that “the prescriptive nature of certain required elements of the proposed amendments – such as the 5 percent disclosure thresholds disaggregated to jurisdictional levels – would result in disclosures that are not decision-useful...”).

21. Letter from PricewaterhouseCoopers LLP to Financial Accounting Standards Board (May 30, 2023) (recommending “disclosure of changes in unrecognized tax benefits related to domestic and foreign tax effects as a single aggregate category rather than disaggregating on a jurisdiction basis”).

22. Letter from Tax Executives Institute to Financial Accounting Standards Board (May 30, 2023) (recommending “eliminati[on] [of] the rate reconciliation categories for valuation allowance and changes in unrecognized tax benefits” and noting that the changes in unrecognized tax benefits category “jeopardizes confidential information...”).

23. Letter from UnitedHealth Group Incorporated to Financial Accounting Standards Board (May 30, 2023) (noting that the additive “proposed changes in the Proposed Update do not appear to meaningfully improve or simplify disclosures and therefore should not be implemented” because “the proposed requirements would likely obfuscate investor usefulness, may create confusion for users of financial statements, and will be difficult and costly for companies...”).

24. Letter from Silicon Valley Tax Directors Group to Financial Accounting Standards Board (May 30, 2023) (recommending that “the changes in unrecognized tax benefits (UTBs) category be eliminated” and noting the “potential adverse consequences that could result if the changes in UTBs were a separate category.”).

25. Letter from U.S. Chamber of Commerce to Financial Accounting Standards Board (May 30, 2023) (signatory) (finding that the Update’s income tax disclosure requirements contravene multiple tenets of FASB’s *Conceptual Framework for Financial Reporting* and urging FASB to withdraw and reconsider the Update).

26. Letter from National Foreign Trade Council to Financial Accounting Standards Board (May 30, 2023) (signatory).

27. Letter from the Institute of Management Accountants to Financial Accounting Standards Board (May 30, 2023) (recommending “unrecognized tax benefits to continue to be disclosed in total in the rate reconciliation, as opposed to being disaggregated by jurisdiction...”).

28. Letter from National Retail Federation to Financial Accounting Standards Board (May 31, 2023) (noting that “the proposed requirement to disclose individual jurisdictions, and further line items within those jurisdictions, in the rate reconciliation...does not provide investors with decision-useful information” and “providing this information could result in disclosing management strategy and damaging competitive advantage.”).

29. Letter from Bank of America Corporation to Financial Accounting Standards Board (May 31, 2023) (recommending that “any uncertain tax positions should be disclosed in aggregate and not be required to be disaggregated by jurisdiction” and noting that “this level of disaggregated disclosure would do harm to investors...”).

30. Letter from Wells Fargo & Company to Financial Accounting Standards Board (June 8, 2023) (noting that the authors’ “views on the Proposed ASU are consistent with the letters from...industry groups” in which the authors participated, “including the American Bankers Association (ABA), the Securities Industry and Financial Markets Association (SIFMA), and the

Financial Executives International's (FEI) Committee on Corporate Reporting (CCR) and Committee on Taxation (COT).”).

31. Letter from 15 Members of Congress to Financial Accounting Standards Board (July 24, 2023) (recommending withdrawal and noting that “[t]he proposed changes to incorporate certain jurisdiction-level disclosures in the tax rate reconciliation...do not live up to the Financial Accounting Standard Board’s (FASB) core mission to provide material information that facilitates decision-making...”).