Sustainability Accounting Standards Board
1045 Sansome Street
Suite 450
San Francisco, CA 94111

February 12, 2021

Re: Recommendations to develop metrics on effective grievance mechanisms to assess financial materiality as a part of the Human Capital framework.

To the Sustainability Accounting Standards Board:

As a legal non-profit organization that advocates for direct lines of communication between financial institutions, businesses, and the communities affected by their activities, Accountability Counsel thanks you for the opportunity to provide feedback on the Human Capital preliminary framework. With the shared understanding that many labor and supply chain concerns can present financially material risks and opportunities and are thus worth a closer look, we write to propose a clear and simple way to capture dynamic materiality considerations for cross-cutting and industry-specific issues: **metrics are needed related to effective grievance redress mechanisms to ascertain, prevent, mitigate, and remediate material risks**.

I. Effective grievance mechanisms are tools for assessing financial materiality and mitigating impacts with financial consequences.

As SASB has signaled in the September 2020 joint statement of intent to develop a comprehensive corporate reporting framework, the line of financial materiality has blurred as private and public actors have coalesced around the need to manage and report on environmental, social, and governance (ESG) issues. Beyond considerations concerning a given portfolio, environmental and social due diligence is financially material to an organization's enterprise value -- that is to say its ability to stay relevant, competitive, and responsive to shareholder and stakeholder demands for greater ESG due diligence. With this in mind, all thematic areas of the Human Capital preliminary framework can be improved by standardizing tools for direct stakeholder feedback to allow organizations to ascertain and address material risks to their enterprise value, portfolios, and projects.

Stakeholder feedback tools, often referred to as grievance redress mechanisms (GRMs), are not only recognized by the UN Guiding Principles on Business and Human Rights (UNGPs), the OECD Guidelines for Multinational Enterprises (OECD Guidelines), and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (ILO Declaration) as foundational to responsible business conduct, but they also can provide the necessary institutional insight to inform wiser decision-making and more robust risk management practices across portfolios.

In the context of the Human Capital framework, effective GRMs should be viewed as essential due diligence tools to proactively safeguard against human trafficking, unsafe or unsanitary working conditions, forced and compulsory labor, child labor, and other forms of modern slavery throughout supply chains, as is required by various legal regimes. In addition, GRMs can provide insight into potentially problematic workplace culture, including specific and systemic concerns of discrimination or harassment. All such issues carry legal and reputational risks that could rise to the level of financial materiality.

Lessons from the independent accountability mechanisms (IAMs) of international finance institutions illustrate precisely how effective GRMs are crucial to mitigating financial and reputational risks and correcting adverse environmental and social impacts.

> Case Study 1: India, Assam Tea Plantations[1]
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> In 2009, the International Finance Corporation (IFC) took an equity investment position in Amalgamated Plantations Private Limited (APPL), a company that would acquire and manage tea plantations owned by Tata Tea Limited in northeast India. The project aimed to improve pre-existing labor conditions on the plantation and even make shareholding more available to plantation workers. In reality, however, plantation workers experienced inhumane labor conditions, inadequate compensation, and pressure to spend wages to buy company shares often without proper information about the risks of such investments. The IFC's IAM conducted compliance investigation and monitoring that revealed serious shortcomings with the IFC's assessment and management of environmental and social risks. The IFC responded by committing to facilitate a dialogue between the complainants and APPL management, and performing a sector wide study to improve management and oversight within its agricultural projects portfolios.
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> Case Study 2: Liberia, Biomass Removal Project[2]
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> From 2008 to 2011, the now defunct US Overseas Private Investment Corporation (OPIC) approved three loans totaling USD $216.7 million to Buchanan Renewables for a biomass project in Liberia. Buchanan Renewables intended to rejuvenate smallholder rubber farms and develop much needed energy infrastructure in Liberia by converting old rubber trees into biofuel to be used in a Buchanan Renewables-constructed power plant. Instead, inadequate due diligence, lack of community consultation, and poor project execution manifested in serious harm. The power plant

[1] Case study available at https://www.accountabilitycounsel.org/client-case/india-assam-tea-plantations.
[2] Case study available at https://www.accountabilitycounsel.org/client-case/liberia-buchanan-renewable-energy.

was never constructed, and the wood chips from the rubber trees were either exported to Europe or the chemically-treated wood chips were dumped back onto family farms, contaminating water and soil. Moreover, the project was designed in a way that prevented previously self-sustaining farmers and charcoal producers from providing for their own welfare once the project began. Smallholder farmers who had subsisted previously on income from their rubber trees were struggling to satisfy basic needs. Charcoal producers lost access to rubber trees they needed to maintain their livelihoods, and Buchanan Renewables employees demanded bribes - including sex from women - in exchange for access to the wood the company had promised to give them for free. Additionally, Buchanan Renewables workers suffered from rampant labor rights violations, including intimidation, dangerous working conditions, and sexual abuse.

Communities implored OPIC's institutional-level IAM to investigate the project. The mechanism independently reviewed the project, and its resulting report confirmed the harm caused by the project and revealed institutional gaps in tracking the impact of the investment, identifying vulnerable groups, and safeguarding those groups.

Effective GRMs can likewise operate as a conduit for financially material data in virtually every other component of SASB's Conceptual Framework, and particularly those related to human rights and community relations issues under the Social Capital dimension, and ecological impact under the Environment dimension. The case of communities aggrieved by a hydroelectric facility sited in Mexico is an apt example to demonstrate exactly why that is.

Case Study 3: Mexico, Oaxaca Hydroelectric[3]

According to a US-based private equity firm that provided substantial funding for the project, the intended impact of the project was to produce and export energy to areas north of Oaxaca; however, communities near the construction site had legitimate concerns that the hydroelectric facility would harm their environment, livelihoods, health, and physical safety.

Affected communities first attempted to raise concerns about the project's potential impacts on the environment and the wellbeing of nearby residents to governmental authorities and project contractors. When they received no meaningful response, they filed a complaint through the IAM of the US Overseas Private Investment Corporation, a co-financier of the project. The complaint resulted in a professionally-mediated dialogue process that included participation from the communities, the Mexican operating company, the private equity firm, and the IAM. Through the dialogue

[3] Case study available at https://www.accountabilitycounsel.org/client-case/mexico-oaxaca-hydroelectric.

> process, investors realized that the risks of harm outweighed the projected benefits of the project and halted project construction to avoid the most serious impacts of concern. Had an accountability mechanism not existed, the investors might not have been made aware of the true risks of their investments to avoid the most serious impacts.

II. <u>Recommendation to develop metrics on effective grievance mechanisms</u>

Effective GRMs are a critical tool for holistically addressing environmental and social risks, mitigating the fallout of unintended adverse impacts, and bolstering corporate sustainability. We therefore urge that the SASB Standards adopt the expectations of corporate due diligence set forth by the UNGPs, OECD Guidelines, and ILO Declaration by creating specific metrics on the following disclosures:

(1) All approaches to identifying and addressing grievances, including how mechanisms are operated and governed, and who administers them;

(2) All commitments to remedying adverse impacts caused or enabled by their operations;

(3) Stakeholder engagement and feedback in the design and operation of effective GRMs;

(4) The effectiveness of GRMs, as defined by the eight effectiveness criteria outlined by Principle 31 of the UNGPs, *i.e.*, legitimacy, accessibility, predictability, equitability, transparency, rights compatibility, a source for continuous learning, and created and evaluated through dialogue and engagement;

(5) Quantitative information such as (a) the number and types of grievances filed during the reporting period, (b) the number of repeated or recurring grievances, (c) the percentage of grievances addressed and resolved through remediation, and (d) the percentage of grievances addressed and resolved through a compliance review; and

(6) Qualitative information such as (a) the issues raised by grievances, (b) the projects of concern, and (c) the time dedicated to resolving issues.

As an added benefit, establishing a requirement to report on the existence and practice of effective GRMs would help build upon SASB's evidence-based approach to evaluating the financial materiality of not only matters of Human Capital but also broader environmental and social risks for investment-impacted communities. To the extent that disclosures are transparent enough to elucidate recurring issues and themes that arise in different sectors, SASB can utilize the data to further develop its standards that reflect growing trends and systemic issues relevant to sustainable corporate governance.

IV. Conclusion

Thank you for considering our recommendation that SASB encourage reporting on the existence and effectiveness of GRMs, as GRMS are relevant to both financial materiality and sustainable corporate governance. As it happens, SASB would find itself in good company by developing metrics reflective of the expectation for effective GRMs per the UNGPs, OECD Guidelines, and the ILO Declaration: many other standards regimes such as the Global Reporting Initiative Universal Standards,[4] the UNDP SDG Impact Standards for Private Equity, Bond Issuers, and Enterprises,[5] and the World Economic Forum Stakeholder Capitalism Metrics,[6] are either in the process of incorporating or have already incorporated similar metrics into their respective frameworks.

We would be happy serve you as a resource, and we encourage you to visit our research database, Accountability Console,[7] which provides all publicly available data from every complaint filed to independent accountability mechanisms at major development finance mechanisms and compares policies across these grievance mechanisms, to further assess the utility of GRMs in managing environmental and social impacts and improving financial performance.

Sincerely,

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[4] Draft GRI Universal Standards, Disclosure Requirement RBC-4, available at https://www.globalreporting.org/standards/media/2605/universal-exposure-draft.pdf.
[5] UNDP SDG Impact Standards, Standard 2.1, available at https://sdgimpact.undp.org/practice-standards.html.
[6] WEF Stakeholder Capitalism Metrics, core metric on "*Material Issues Impacting Stakeholder,*" and expanded metric on "*Human Rights Review, Grievance Impact, and Modern Slavery*," available at http://www3.weforum.org/docs/WEF_IBC_Measuring_Stakeholder_Capitalism_Report_2020.pdf.
[7] Available at www.accountabilityconsole.com.