

10 June 2021

Via Electronic Mail

Vanessa A. Countryman, Secretary
Gary Gensler, Chairman
Securities and Exchange Commission
100 F Street, NE
Washington DC 20549-1090

Re: Public Statement: Public Input Welcomed on Climate Change Disclosures

Dear Secretary Countryman and Chairman Gensler,

Accountability Counsel, a legal non-profit organization that amplifies the voices of communities around the world to protect their human rights and environment, applauds the consideration of mandatory environmental, social, and governance (ESG) disclosures. As advocates for people harmed by internationally financed projects, Accountability Counsel employs community-driven and policy-level strategies to access justice. Our work includes advocating for investors to imbed accountability best practices into their operations and investment decisions to make ESG commitments meaningful to communities impacted by investments.

In addition to endorsing the respective comment letters from the Principles for Responsible Investment (PRI), and Americans for Financial Reform Education Fund (AFREF) and Public Citizen, we now write to specifically address the eighth question for consideration, *How, if at all, should registrants disclose their internal governance and oversight of climate-related issues?*, and a part of the fifteenth, *How should the Commission craft climate-related disclosure requirements that would complement a broader ESG disclosure standard?* The answer to both questions is: **registrants should disclose the existence of grievance redress mechanisms, as well as qualitative information about them.**

I. Because effective grievance mechanisms are communication channels between communities impacted by investments and investors, they are critical governance tools for assessing and addressing intended and unintended environmental and social impacts.

Community 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),¹ the OECD Guidelines for Multinational Enterprises (OECD Guidelines),² and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (ILO

¹ *United Nations Guiding Principles of Business and Human Rights*, Principle 31, available at https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf.

² *OECD Guidelines for Multinational Enterprises*, Section IV. Human Rights, commentary note 45, available at <https://www.oecd.org/daf/inv/mne/48004323.pdf>.

Declaration)³ 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. A GRM provides a channel for communities negatively impacted by investments to raise concerns and have them addressed, either by a compliance review or dispute resolution process. Our work alongside communities harmed by international financial flows has shown how transformative GRMs can be. For example, investors in a hydropower project in Mexico⁴ heard through a GRM of risks to the health and safety of community members and their freshwater resources and ultimately determined the project was untenable. In Myanmar,⁵ investors intending to preserve land as a conservation area heard from communities through a GRM that their plans risked increasing development in the area and destabilizing a fragile peace agreement, causing the investors to pause to reconsider the project's design. By hearing from communities through GRMs, investors better understood their net impact.

Requiring registrants to disclose the existence and quality of their GRMs not only promotes more accurate climate-related reporting but also complements broader ESG reporting as well. Increasingly, impact measurement and management standards have set expectations for disclosing whether an institution has a GRM in place for holding itself accountable to environmental and social commitments and, if so, how the GRM is designed, is used, and responds to community concerns. For example:

- **Global Reporting Initiative's draft Universal Standards,**⁶ Disclosure Requirement RBC-4, Grievance Mechanisms and other remediation processes: "The organization shall ... (b) describe its approach to identify and address grievances, including ... the grievance mechanisms that the organization has established or participates ... (c) describe how the stakeholders who are the intended users of the grievance mechanisms ... are involved in the design, review, operation, and improvement of these mechanisms and processes; (d) describe how the organization tracks the effectiveness of the grievance mechanisms and other remediation processes." (Also see RBC-5, requiring organizations to describe mechanisms available for individuals to raise concerns about the organizations responsible business conduct).

³ ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, para. 66, available at https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/---multi/documents/publication/wcms_094386.pdf.

⁴ Case study available at <https://www.accountabilitycounsel.org/client-case/mexico-oaxaca-hydroelectric>.

⁵ Case study available at <https://www.accountabilitycounsel.org/client-case/myanmar-ridge-to-reef-conservation-project/>.

⁶ Draft GRI Universal Standards, Disclosure Requirement RBC-4, available at <https://www.globalreporting.org/standards/media/2605/universal-exposure-draft.pdf>

- **UNDP SDG Impact Standards for Private Equity Funds, Bond Issuers, and Enterprises**,⁷ Standard 2.1, Management Approach: Requiring the institution to assure that it has effective mechanisms and processes to deliver on its strategy, as indicated by, among other things, the institution “establishing or participating in effective grievance and reparation mechanisms for affected Stakeholders (including for the avoidance of doubt, whistleblowing safeguards).”
- **World Economic Forum/International Business Council Stakeholder Capital Metrics**:⁸ Many metrics speak to the importance of hearing from stakeholders in addition to shareholders. For example, a core metric covering Material Issues Impacting Stakeholders requires companies to identify issues that are important, relevant, or concerning to critical stakeholders. An expanded metric on Human Rights Review, Grievance Impact, and Modern Slavery calls for disclosures on the number and type of grievances reported with associated impacts related to salient human rights issues and detail the types of impacts. Another expanded metric related to Significant Indirect Economic Impacts sets an expectation for disclosures on positive and negative impacts from the perspective of stakeholder priorities, thus providing vital information to assess a company’s net impact on community livelihoods and local economies and labor markets.

II. We recommend that disclosures include reporting on the existence and effectiveness of grievance redress mechanisms.

By serving as a communication channel for communities impacted by investments, effective GRMs are critical for holistically addressing environmental and social risks, mitigating the fallout of unintended adverse impacts, and bolstering corporate sustainability. We therefore urge that ESG disclosure standards likewise adopt the expectations set forth by the UNGPs, OECD Guidelines, and ILO Declaration by including specific metrics on the following disclosures:

- (1) A description of all approaches to identifying and addressing grievances, including how grievance redress mechanisms are operated and governed, and who administers them;
- (2) The effectiveness of grievance redress mechanisms, 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;

⁷ UNDP SDG Impact Standards, Standard 2.1, *available at* <https://sdgimpact.undp.org/practice-standards.html>.

⁸ 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.

- (3) 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
- (4) Qualitative information such as (a) the issues raised by grievances, (b) the projects of concern, and (c) the resources dedicated to resolving issues.

III. Conclusion

Thank you for considering our recommendation that SEC mandate reporting on the existence and effectiveness of GRMs available to external stakeholders. We would be happy serve as a resource, and we encourage you to visit our research database, [Accountability Console](#),⁹ which provides all publicly available data from every complaint filed to independent accountability mechanisms at major development finance institutions 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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⁹ Available at www.accountabilityconsole.com.