May 30, 2023

Ms. Hillary Salo
Technical Director
Financial Accounting Standards Board
801 Main Avenue, PO Box 5116
Norwalk, CT 06856-5116

Re: File Reference No. 2023-ED100

Dear Ms. Salo,

This letter is submitted by Financial Executives International's (FEI) Committee on Corporate Reporting (CCR) and Committee on Taxation (COT) in response to the Financial Accounting Standards Board's (FASB or Board) Proposed Accounting Standards Update, Income Taxes (Topic 740): Improvements to Income Tax Disclosures (Exposure Draft or proposed Update).

FEI is a leading international organization comprised of members who hold positions as Chief Financial Officers, Chief Accounting Officers, Controllers, Treasurers, and Tax Executives at companies in every major industry. CCR and COT are technical committees of FEI. CCR reviews and responds to pronouncements, proposed rules and regulations, pending legislation, and other documents issued by domestic and international regulators and organizations such as the U.S. SEC, PCAOB, FASB, and IASB. COT formulates statements and positions on tax legislation, policies, rules and regulations, and communicates these to the executive and legislative branches of the government. CCR and COT member companies collectively represent approximately $12 trillion in market capitalization.

This letter represents the views of CCR and COT and not necessarily the views of FEI or its members individually.

Executive Summary

We commend the Board's responsiveness to stakeholder requests for enhanced transparency and decision usefulness of income tax disclosures. In our letter, we provide feedback on why we believe some of the amendments in this proposed Update, including certain amendments from the 2019 revised proposed Accounting Standards Update, Income Taxes (Topic 740): Disclosure Framework—Changes to the Disclosure Requirements for Income Taxes, result in disclosures that are not decision-useful and may lead to further confusion for users, but are generally operable. While we support requirements that public business entities on an annual basis (1) disclose specific standard categories in the rate reconciliation and (2) provide additional information for reconciling items that meet a quantitative threshold, we offer various suggestions to facilitate implementation including a mechanism to combine effects that would otherwise be in separate categories, when doing so would provide information that better represents the nature of items in the effective tax rate for the period. We provide further insight as to our perspective on a qualitative disclosure of reconciling items that result in significant changes in the estimated annual effective tax rate from the effective tax rate of the prior annual reporting period on an interim basis. Our letter also details the potentially significant one-time costs companies will incur to recompile the rate reconciliation tables in order to meet the proposed disclosure requirements. CCR and COT member companies can generally meet the proposed disclosure requirements of income taxes paid (net of refunds received) disaggregated by federal (national), state, and foreign taxes and income taxes paid (net of refunds received) disaggregated by individual jurisdictions over a certain threshold on an annual basis. We provide feedback on concerns around the decision usefulness of the jurisdictional disclosures, along with feedback on the proposed interim requirements. Lastly, we indicate support for retrospective application under the premise that ample implementation time is provided, given the estimated lead time needed to update certain processes and policies to comply with the proposed Update.

Rate Reconciliation

In general, we find the proposed amendments to the rate reconciliation disclosure requirements to be clear and operable. We believe the eight specific categories proposed will promote comparability. The categories are broadly consistent with the categories companies presently use in effective tax rate reconciliations and standardizing the categories will promote disclosure consistency across companies. However, we suggest the Board consider adding a scoping mechanism consistent with ASC 740-10-50-12A(b) whereby only those categories that meet or exceed the absolute value of 5 percentage points of the amount computed by multiplying the income (or loss) from continuing operations before tax by the applicable statutory federal (national) income tax rate are required to be disclosed and individual categories that are less than the 5 percent threshold be grouped into an "other" category in the rate reconciliation. Application of a 5 percent threshold at a category level could help mitigate the disclosure of potentially immaterial information.

Furthermore, we suggest the Board consider an option to disclose an additional category for "Significant Transactions/Business Events" that would allow companies to aggregate the tax effects, including those that could be classified in another category, of a single business event or several interrelated transactions, that are significant or unusual on the rate reconciliation. With this option, companies could elect whether to include this category in the rate reconciliation or provide qualitative disclosures to the extent other lines are distorted by impacts of significant or unusual events or transactions. We believe this additional category would be beneficial to both 1) investors by providing more meaningful information of the aggregate impact of unusual, significant events impacting the current year tax rate and 2) preparers by being more aligned to how information is currently collected by businesses. By disaggregating the effects of a single event or several interrelated transactions across multiple categories, it may obscure investors' understanding of the nature and full impact of the transaction as well as the fact that these events are considered unusual if they are embedded with normal recurring tax attributes.

We are supportive of the proposed requirement to further disaggregate certain reconciling items that are equal to or greater than 5 percentage points of the amount computed by multiplying the income (or loss) from continuing operations before tax by the applicable statutory federal (national) income tax rate and commend the Board for aligning the requirements with the existing thresholds in SEC Regulation S-X Income Tax Expenses.[1] Many multinational companies already apply a 5 percent threshold, and we believe this threshold will highlight material drivers of the rate reconciliation versus a large number of immaterial items.

However, we have concerns regarding the proposed requirement to disclose changes in unrecognized tax benefits on a jurisdictional basis. While we understand the ask to disclose an entity's exposure to potential changes in jurisdictional tax legislation and the ensuing risks and opportunities, the jurisdictional

[1] See SEC Regulation S-X 210.4-08(h)(2).

disaggregation of tax reserves would pose a financial risk to companies. This proposed disclosure would further exacerbate the risk that the amount set aside as a contingency would be inadequate to settle the matter with the respective tax authority. Instead, we believe preparers should have the discretion to disclose material changes in the unrecognized tax benefits in all jurisdictions on a combined basis with the appropriate qualitative disclosures.

In addition, we appreciate the Board's acknowledgment that judgment may be necessary when determining how to categorize certain income tax effects that have characteristics of multiple categories for both U.S.-domiciled entities and entities domiciled in a foreign jurisdiction.[2] As such, we suggest the Board consider formally referencing this language in the guidance, explicitly allowing companies to exercise judgment on whether to present reconciling items on the net or gross basis depending on the nature of offsetting effects and their interdependency. As part of this suggestion, we recommend a requirement to provide a qualitative disclosure on the presentation method applied, as netting items associated with each other may paint a clearer picture for some companies, while showing items separately on a gross basis may provide better information for others. We believe the additional context on presentation method would provide more transparency and be decision-useful to investors. Prescriptive guidance on how to present reconciling items across categories could lead to disclosures that do not reflect the economics of the impacts.

Specifically, we note Foreign Tax Effects, Effect of Cross Border Tax Laws, and Tax Credits are categories where application of judgment will be needed when determining how to categorize their income tax effects for presentation purposes. By allowing entities to aggregate items, with corresponding qualitative disclosures, in a manner that is consistent with how a company internally aggregates the income tax effects of these items will result in more beneficial information to investors. Many multinational companies currently incorporate the effect of foreign earnings in an effective tax rate reconciliation, which may include: (1) foreign tax effects (effect of foreign tax on foreign earnings), (2) U.S. tax on foreign earnings (e.g., Subpart F and Global Intangible Low-Taxed Income (GILTI)), and (3) U.S. foreign tax credits directly generated by specific taxes (e.g., foreign tax credits that offset GILTI). Judgment-based presentation as to which categories some of the items would be allocated will vary based on the nature and timing of when offsets are identified (e.g., Subpart F/GILTI and U.S. foreign tax credits), which may vary based on the entity. Without specific reference to allowing judgment in the categorization of reconciling items may result in broad disclosures that are difficult for users to understand. We stand ready to engage in further outreach with the Board to provide additional details and context on the interplay between these foreign elements. We believe when items in multiple categories are highly interrelated and have offsetting impacts, presentation on a gross basis may be misleading, in some cases, both in terms of the actual drivers of the effective tax rate and the risk of changes to the effective tax rate in future periods.

Further, we recommend the Board clarify required disclosures under the Enactment of New Tax Laws category should be limited to only remeasurement of deferred taxes and prior year adjustments to prior year taxes, to the extent retroactive changes in tax law are enacted. Impacts from the enactment of new tax laws are generally not recurring items, and we believe current year tax effects for the enactment of new tax laws will be disclosed through other individual reconciling categories (e.g., foreign tax effects).

We agree with the proposed amendments that would require public business entities to provide further disaggregated quantitative disclosure of the rate reconciliation on an annual basis; however, we do not support the proposed requirement to disclose a qualitative description of any reconciling items that result in

[2] See BC17 and BC18 in the Exposure Draft.

significant changes in the estimated annual effective tax rate from the effective tax rate of the prior annual reporting period on an interim basis. For interim disclosure purposes, drivers of changes in the current period's effective tax rate and differences in tax expense between the current period and prior period are already disclosed in a company's Management Discussion and Analysis (MD&A). When connecting with investors and users of our financial statements, many have indicated there is sufficient detail in MD&A around the impacts of significant drivers on an entity's effective tax rate.

Additionally, the inclusion of this disclosure requirement may be misleading to investors as the terminology and purpose of the "estimated annual effective tax rate" is a technical accounting term and may not be familiar to the broader investor community and, therefore, may be misinterpreted as a forecast or forward-looking metric. Currently, an "estimated annual effective tax rate" is not disclosed, and under existing guidance in ASC 740,[3] certain items are always excluded from the annual effective tax rate and reported in the period in which they occur. The externally reported effective tax rate is the compilation of the estimated annual effective tax rate and the tax rate on discrete tax adjustments reported in the period. Further, as the estimated annual effective tax rate is based on ordinary income, this creates reconciliation issues for preparers as the effective tax rate of the prior annual reporting period is based on income from continuing operations. We believe requiring qualitative descriptions of reconciling items to an estimated annual effective tax rate, which is not otherwise disclosed, will add confusion and not clarity.

We believe the Board's decision to require public business entities to provide a qualitative description of the state and local jurisdictions that contribute to the majority of the effect of the state and local income tax category is generally reasonable, as for many companies a few top states generally comprise the majority of state tax liabilities. In practice, many companies compute state tax provisions by applying a blended state tax rate, so a qualitative rather than a quantitative description of state and local jurisdictions would be more useful to readers of financial statements.

Furthermore, we agree with the requirement that public business entities provide an explanation, if not otherwise evident in other disclosures or MD&A, of individual reconciling items in the rate reconciliation, such as the nature, effect, and significant year-over-year changes of the reconciling items. Consistent with current tax disclosure requirements, we expect companies to consider and disclose qualitative factors when determining whether an event that affects the reconciliation item is significant. For example, disclosing a regulatory tax rate change that had a pervasive impact to all business entities may not be as valuable to a user as disclosing an event that is specific to the business entity. We support the current proposal as it allows for variety in application based on the unique circumstances of each entity's situation and allows entities the judgment to determine when and if an accompanying explanation is needed. In addition, we are supportive of the Board's decision to not provide incremental guidance for the rate reconciliation disclosure in situations where an entity operates at or around break even or an entity is domiciled in a jurisdiction with no or minimal statutory tax rate but has significant business activities in other jurisdictions with higher statutory tax rates, as the disclosures may be duplicative to others already required. If a company's domiciled jurisdiction has a low statutory tax rate but significant business activities within jurisdictions in higher statutory tax rates, this would likely be disclosed as part of the proposed rate reconciliation requirements for jurisdictional breakout of foreign tax effects using the 5 percent threshold.[4] We recognize and appreciate the Board's acknowledgement

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[3] See ASC 740-270-30-10 to -13.

[4] See ASC 740-10-50-12A in the Exposure Draft.

that entities may consider materiality, use a normalized pretax income (or loss) amount, or a higher federal or national tax rate for purposes of the rate reconciliation to provide more meaningful or relevant information.[5]

We anticipate companies will incur potentially significant one-time costs to recompile the rate reconciliation tables. For many companies in scope of this proposed Update, the information in the classifications required to be disclosed is not currently readily available to management and would require manual effort to collect and classify. Therefore, the implementation of this standard will require coordination across various state and international tax teams, implementation of new procedures and controls over the updated processes required to compile incremental rate reconciliation disclosures, and additional audit fees for the expanded disclosures in the notes. For certain companies, additional technology solutions or system upgrades may be required to gather this data in a timely manner. From a recurring cost perspective, incremental additional costs are expected to be incurred as personnel time will be required to monitor potential items requiring disaggregation in case they meet certain thresholds, as well as continued incremental audit fees and compliance costs for the expanded disclosures.

Income Taxes Paid

Overall, we find the proposed amendments to the income taxes paid disclosure requirements to be clear and operable, subject to a few exceptions as described below. We can generally comply with the requirement to disclose income taxes paid disaggregated by federal (national), state, and foreign taxes and income taxes paid disaggregated by jurisdiction on an annual basis. While we believe it will be operable to disclose annual income taxes paid (net of refunds received) for individual jurisdictions where payments are equal to or greater than 5 percent of total income taxes paid (net of refunds received), we question the decision usefulness of the disclosure of a vast number of jurisdictions, which may not be comparable across companies due to variability in tax attributes and differences in timing of tax payments. Cash taxes paid are subject to significant variability between periods due to the utilization of tax attributes (e.g., net operating losses and credit carryforwards), changes in deferred taxes (timing differences), audit settlements, and government measures (e.g., disaster relief) which may defer tax payments. In any given period, the amount paid could combine tax payments for prior, current, and future periods. Current processes and systems do not enable automated reporting of cash taxes paid and refunds received.

If the Board moves forward with requiring disclosure of taxes paid on an annual basis, we believe disclosing income taxes paid as the amount net of refunds received, rather than as the gross amount, is more representative of the economic reality. Differentiating between gross payments and refunds would not give users of the financial statements additional clarifying insights that would lead to conclusions about the entity's filing profile or risk status. Disclosing income taxes paid net of refunds is more indicative of a jurisdiction's cash flow position in a given year and is in line with existing net cash paid (received) disclosures.

We suggest the Board consider further outreach with investors regarding how decision-useful the disclosure of taxes paid by jurisdiction will be considering the aforementioned challenges. We reviewed the proposed standard with some member companies' respective investor relations teams to understand if these additional disclosures would assist in meeting stakeholders' requests. As related to the requirement to disclose taxes paid by jurisdiction, feedback was provided that information on taxes is not requested at a jurisdictional level and that the inclusion of such information could be misleading to users of the financial statements. Such disaggregated information may lead investors to extrapolate data and perceive risks without the context of

[5] See BC21 in the Exposure Draft.

management and tax planning strategies. This may lead to a perception of risk or opportunity that is not indicative of the actual underlying business circumstances.

Moreover, we do not support the proposed amendments to require the disclosure of income taxes paid disaggregated by federal (national), state, and foreign taxes on an interim basis. Given the difference in timing associated with extension and estimated payments and the periodic settlement of open tax years with local tax authorities, we do not believe an interim disclosure would be an accurate representation of cash taxes paid related to the current interim period's activity and, therefore, would be misleading to investors, especially if used to forecast or extrapolate future cash taxes paid. Additionally, we believe an annual disclosure would provide a better picture of the company's income taxes paid due to seasonality of certain industries, where additional judgment may be necessary to differentiate non-income based or income-based tax (i.e., a company is expected to be profitable and subject to income-based tax for the whole year but is not profitable and pays a capital-based tax in the first quarter). We also appreciate and support the Board's decision to not require the disclosure of payments by individual jurisdictions on an interim basis.[6] Taxes at a jurisdictional level may not be paid ratably, such as in the United States where the first tax payment of the calendar year is remitted in the second fiscal quarter, and an interim disclosure may not be decision-useful without the context of the full year payments.

The incremental data that will be required for the additional disclosures related to annual taxes paid is available for most companies, but we still expect to incur some one-time and recurring costs to build processes and policies to comply with financial reporting disclosure requirements. One-time costs would include updates to information technology systems, data mapping, accounts payable and provision processes, development of related controls, and employee time commitments. For large multinationals, tax payments are generally made by local controllers, and payment information is not always gathered and centralized quarterly. If taxes paid are required to be disaggregated and disclosed by jurisdiction to whom the taxes are paid, this will require an evaluation and redesign of internal processes and controls to ensure the level of detail required is readily available and able to be aggregated according to disclosure requirements and timelines. There would be incremental costs involved to establish appropriate data collection systems, implement new processes, and assess materiality which could change from period to period. Although most of the costs will be incurred up front, we anticipate some recurring costs, particularly for companies whose data gathering process is still largely manual, as well as additional recurring costs of compliance including incremental audit fees.

Transition and Effective Date

We support requiring the proposed Update be applied on a retrospective basis and agree it will provide decision-useful information that will allow investors and other users of financial statements to receive more comparable and consistent income tax information. As this is a disclosure only change, there would be no cumulative adjustment or impact to opening equity balance, making retrospective application not overly burdensome and resulting in better comparability. The proposed amendments will require updates to registrants' income tax provision tools, data mapping, and income tax disclosure templates as well as updates to policies and processes, as described in the sections above. As such, we believe the earliest most companies will be able to adopt the proposed amendments is for reporting periods beginning after December 15, 2024, with early adoption permitted.

[6] See BC30 in the Exposure Draft.

fei committee on corporate reporting

Conclusion

We appreciate this opportunity to provide feedback on the proposed Update related to improvements to income tax disclosures. We thank the Board for its consideration of our comments and welcome further discussion with the Board or staff at your convenience.

Sincerely,

Rudolf Bless

Rudolf Bless
Chair, Committee on Corporate Reporting
Financial Executives International