The Communications Workers of America
501 3rd Street NW
Washington, DC 20001

The Securities and Exchange Commission
100 F St, NE
Washington, DC 20549
Date

September 10, 2021

Re: Human Capital Management Disclosure

Dear Chair Gensler:

The Communications Workers of America support increased mandatory reporting related to public companies' human capital management practices. CWA represents hundreds of thousands of working people in telecommunications, customer service, media, airlines, health care, public service, banking, education, and manufacturing. CWA members are both employees and investors. As investors, our members would benefit from broad disclosure related to human capital management including employee-related costs, status, and diversity to make informed investment decisions. Measuring and disclosing these metrics will empower investors like our members to make better judgements about the potential value of investments beyond traditional elements of financial capital and tangible assets.

Our comment letter is based on our experience in the banking and news industries. It describes how timely and comparable human capital management disclosure protects investors, maintains efficient markets, and facilitates capital formation.

I. Human Capital Management Should Be A Required Component of Periodic Reports

Future human capital management disclosures should be required components of annual (10k) and quarterly reports (10q), and new registration filings (S-1). This will ensure that disclosures meet completeness and accuracy thresholds for financial information and give investors comparable, periodic insight into human capital management trends within firms and among peers.

II. Human Capital Management Practices Link Corporate Strategy with Financial Risks.

Human capital management requirements should give investors insight into the factors that generate value or create risk and grant them the ability to judge how those factors align behind corporate strategy.

Wells Fargo Human Capital Management Created Financial Risk

The Wells Fargo unauthorized accounts fraud scandal shows how human capital management practices translate to financial risk and reveal flaws in corporate strategy. Wells Fargo's performance-based human resource management system created hidden and undisclosed financial risks for over a decade until the illegal and inhumane practices eventually came to light causing unprecedented reputational harm and costing investors, including CWA members, huge losses in shareholder value.

Wells Fargo's human capital management policies emphasized the importance of cross-selling multiple products and services to customers. This was a core component of Wells Fargo's strategy because it was thought to reduce customer churn and increase profits. Wall Street valued this strategy because for a while it generated stable returns and analysts frequently cited the strategy as a fundamental reason for the company's out-performance leading up to the financial crisis of 2008.[1]

The central feature of the bank's human capital management policy was its incentive compensation structures tied to unattainable sales goals and unreasonable pressure to meet these goals, fostering a culture that perpetuated improper and illegal conduct. Management intimidated and badgered employees to meet unattainable sales goals year after year, including by monitoring employees daily or hourly and reporting their sales performance to their supervisors, subjecting employees to hazing-like abuse, and threatening to terminate and terminating employees for failure to meet the goals. In fact, from 2002 through 2016 thousands of employees were terminated for not meeting the unattainable sales goals and thousands more quit to avoid termination. Further, the bank's internal controls were designed to identify and discipline employees for not meeting sales goals, instead of catching improper conduct, except in the most extreme cases. Management consistently turned a blind eye to improper or illegal conduct because the bank's human capital management strategy boosted its reputation on Wall Street based on these unfounded growth metrics.[2] The misconduct harmed millions of bank customers through opening millions of accounts in customers' names without their knowledge, signing unwitting account holders up for credit cards and bill payment programs, creating fake personal identification numbers, forging signatures and even secretly transferring customers' money.

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[1] Richard P. Rumelt, "Good Strategy, Bad Strategy," Currency Publishing 2011.
[2] U.S. Office of the Comptroller of the Currency, "Notice Of Charges For Orders Of Prohibition And Orders To Cease And Desist And Notice Of Assessments Of A Civil Money Penalty," January 23, 2020. [Accessed on 8/25/2021]

The scandal was ultimately only brought to light when thousands of affected employees who had suffered mental and physical harm from the intense stress caused by the toxic environment at the bank spoke out.

Beyond the irreparable reputational damage, investors were further harmed when Wells Fargo was forced to pay over $3 billion in penalties and agree to a $1.95 trillion regulatory asset cap that cost shareholders at least $4 billion in lost profits. Independent auditors hired by the board specifically criticized the human resources function for having "had a great deal of information recorded in its systems, [but] it had not developed the means to consolidate information on sales practices issues and to report on them."[3] Meanwhile, bank employees continue to complain that the toxic culture has not been fixed.[4] Finally, Wells Fargo is not an outlier, its human capital management practices are commonplace in the banking industry.[5] Investors would clearly benefit from more robust disclosures.

In the same way that Wells Fargo's human capital management system destroyed value, systems that sustainably align performance with corporate strategy create value.[6] For example, the Human Capital Management Institute's 2020 study of the North American banking sector found that banks with higher productivity, measured as ROI per $1 spent on workforce, saw bigger increases in market capitalization.[7]

Corporate Consolidation in News Compels Human Capital Management Disclosures

The most recent trend in the news industry has been the apparent conversion of large public chains – Tribune Publishing and McClatchy Company – into private ownership by hedge funds and private equity. Concurrently, a counter trend has also been taking place at high valuations – the merger of digital companies into Special Purpose Acquisition Companies (SPACs). Buzzfeed has announced plans to merge with 890 Fifth Avenue Partners, which is expected to close in 4Q2021, in a deal worth $1.5 billion. Forbes is merging into Magnum Opus Acquisition, a deal that is expected to close late 4Q2021 or early 1Q2022, for $630 million. Vice has been negotiating merger terms with various SPACs. The key concern for investors in news companies is their ability to reach audiences to sustain both circulation and advertising revenue. The inherent human capital nature of this industry makes these companies harder to value

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[3] Bryan Tayan, "The Wells Fargo Cross-Selling Scandal," Harvard Law School Forum on Corporate Governance, February 6, 2019.

[4] Emily Flitter and Stacey Cowley, "Wells Fargo says its culture has changed, some employees disagree," New York Times, March 9, 2019. And Michael Sainato, "Wells Fargo employees say little has changed since fake accounts scandal," The Guardian, January 4, 2019.

[5] Jonnell Marte and Renae Merle, "It goes way beyond Wells Fargo: concerns grow over tactics in the banking industry," The Washington Post, September 16, 2016 and The San Diego Tribune Editorial Board, "Bank scams: It's not just Wells Fargo," September 22, 2016.

[6] Mark A. Huselid and Brian E. Becker, "The Strategic Impact of High Performance Work Systems," Accessed August 23, 2021.

[7] "2020: Workforce Productivity in the North America Banking Sector," Human Capital Management Institute, Accessed August 23, 2021.

leading to high-value transactions with firms that obtain human capital management information during acquisition due diligence, but unavailable to public market investors.

III. Decision-Useful Human Capital Management Disclosures Includes Information About Workforce and Structure.

Future disclosures should focus on two specific and measurable areas: workforce cost and structure. Factors in these categories are material to corporate financial performance because they link resource use for human capital development with strategic priorities and the risk of loss from low-quality human resource policies.

Cost – investment, turnover, and health, safety, and wellbeing.

- Training - Investment in training has been compared to capital investment that produces long-term benefits to companies.[8] Currently, investors are not able to evaluate how training results in competitive advantage because it is not publicly disclosed. Nor are investors able to assess companies' rigor in their regulatory compliance training, which for select industries such as the banking industry as we've noted, is critical to protect investors' interests. For example, banking customer service representatives routinely complain their regulatory compliance training is given short shrift, forcing them to squeeze it in between taking incoming calls.

- Turnover - Firms should disclose turnover rate and data associated with the costs of employee churn. The Center for American Progress estimates that it costs one-fifth of a departing employee's salary to replace that person in a company's workforce. The high cost of turnover makes it material as a comparably high expense would indicate a struggling firm.[9] Disclosing information about turnover would let investors know whether companies are productively allocating resources to training and retention or poorly to replacing lost employees. Again, using the Wells Fargo example, human resources was aware of its unusually high turnover rate of 35% - much higher than its peers - which was a result of its unattainable sales goals and pressures; but this information was not disclosed until the OCC released the results of its post-mortem investigation on January 23, 2020.[10] Earlier disclosures would have provided investors with timely insight to problems with its business model.

- Compensation – Compensation is a core feature of any human capital management system and should be disclosed to investors. This information is decision-useful for disaggregation and analysis of cost of goods sold and selling, general, and

[8] Aaron Bernstein, Larry Beeferman, "The Materiality of Human Capital to Corporate Financial Performance," IRRC Institute, April 2015.
[9] Heather Boushey and Sarah Jane Glynn, "There Are Significant Business Costs to Replacing Employees," The Center for American Progress, November 16, 2012.
[10] U.S. Office of the Comptroller of the Currency, "Notice Of Charges For Orders Of Prohibition And Orders To Cease And Desist And Notice Of Assessments Of A Civil Money Penalty," January 23, 2020.

administrative expenses. Both metrics are key to understanding firm efficiency and comparisons between firms can show which companies are better able to attract and retain talent through livable and sustainable wages. We recommend disclosing wage bands by worker status (full time, part-time, temporary, independent contractors) and business line.

Structure – number of employees by status (full time, part-time, contractor), union representation, diversity, equity, and inclusion.

- Employees by status – Related to cost, disclosing the structure of the workforce would allow investors to determine how each component of the workforce contributes labor hours to overall productivity. This includes the number of full-time, part-time, temporary, independent contractors (1099), and employees of contractors in core business lines.

- Union representation – Public companies should uniformly disclose information about their relationships with labor unions, including collective bargaining agreements, bargaining units, and expenses for labor relations consultants.

- Diversity, Equity, and Inclusion - Workforce diversity is correlated with firm productivity and financial performance.[11] Incorporating information that public companies already report to the Equal Employment Opportunity Commission on form EEO-1 with integrated compensation data would allow investors to evaluate and compare how bias in employment translates to financial underperformance.[12] Compensation is the main way that firms motivate employees. Deviations from equal compensation by race and gender would indicate whether firms undervalue talent and risk high turnover. Departures from pay equity would demonstrate to investors that firms have not been diligent about supporting employees to express their talents.[13]

- Location - Disclosure should also tell investors the location of major employment centers. Using the example of the news industry, knowing what operations in the production process have been either centralized or sourced out tells investors how timely news can get to local communities. This responsiveness to local news may be linked with a paper's ability to sustain subscriptions and generate advertising revenue. For instance, timely news reporting is hindered when design and copy editing is sent overseas or the printing press is three hours away.[14] Providing the location of printing

[11] Report: "Diversity wins: How inclusion matters," McKinsey & Co, May 19, 2020.
[12] "2019 and 2020 EEO-1 Component 1 Data Collection Instruction Booklet," Equal Employment Opportunity Commision, accessed August 31, 2021.
[13] Mark A. Huselid, "The Impact of Human Resource Management Practices on Turnover, Productivity, And Corporate Financial Performance," Academy of Management Journal, Vol. 38. No. 3, 1995.
[14] Dallas NewsGuild, "Management made a decision to save the company money by outsourcing our jobs. Here's what it cost us," April 7, 2021; Rick Edmonds, "Production of print newspapers is migrating — up the interstate — with ever earlier deadlines as a result," Poynter Institute, March 24, 2021; Stan Ketterer, John McGuire, and Ray Murray, "The price of outsourcing: A content analysis of the effects of early deadlines on the sports section in The Oklahoman," *Newspaper Research Journal*, April 2019.

plants of individual news publications would help investors understand the future possibilities of growth within the company.

Conclusion

Human capital is a fundamental asset that deserves rigorous measurement and disclosure. Updating reporting requirements to include human capital management would improve investors' ability to value new issuances and connect investment in human resources with competitive advantage. With this insight, investors could direct capital to companies likely to outperform their competitors based on a fulsome analysis of a company's investment in tangible and intangible assets.

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