

United States Senate  
WASHINGTON, DC 20510-4606

June 16, 2022

Gary Gensler  
Chairman  
U.S. Securities and Exchange Commission  
100 F Street NE  
Washington, D.C. 20549

Dear Chairman Gensler,

We are writing to urge the Securities and Exchange Commission (SEC) to adopt the recommendations included in the Working Group on Human Capital Accounting Disclosure's petition to the Commission on June 7, 2022.<sup>1</sup> As the Commission considers improvements to Regulation S-K and human capital disclosure, the working group's recommendations would go a long way in ensuring shareholders can properly evaluate public companies' human capital practices and investments in their workers. Strengthening human capital disclosure is needed to reflect the modern economy, where public firms are increasingly deriving their value from intangible assets.

We applaud the SEC for working on improvements to human capital disclosures as part of its regulatory agenda.<sup>2</sup> Since 2018, Senator Warner has urged the Commission to focus on the treatment of human capital and noted the significant discrepancy between the treatment of physical investments and spending on human capital and research and development (R&D).<sup>3</sup> A physical investment can be listed on a balance sheet and is often capitalized, whereas human capital and R&D investments are expensed. R&D is disclosed on its own expenditure line – reflective of its importance for firms' valuation, competitiveness, and long-term performance – so that investors can assess company expenditures on R&D separately from other firm costs.

Human capital does not receive the same treatment as even R&D in this respect, placing spending on workers at a further disadvantage. Unlike R&D, human capital spending is included as part of a company's administrative expenses and not as a stand-alone item. As a result, investors are not given the information to differentiate between a firm with poor human capital management and one that is making a concerted effort to invest in its workforce to increase worker capability and performance. The strengthened human capital disclosure must be focused on the discrepancy laid out above.

To do so, we respectfully urge the SEC to adopt the Working Group's recommendations to improve human capital disclosures. Those recommendations include:

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<sup>1</sup> "Working Group on Human Capital Accounting Disclosure Petition for Rulemaking," June 7, 2022, <https://www.sec.gov/rules/petitions/2022/petn4-787.pdf>.

<sup>2</sup> "SEC Announces Annual Regulatory Agenda," June 11, 2021, <https://www.sec.gov/news/press-release/2021-99>.

<sup>3</sup> Senator Mark R. Warner's letter to Chairman Jay Clayton, July 19, 2018, <https://www.scribd.com/document/384237385/2018-07-19-Letter-to-the-SEC-2018-Regulation-S-K>

1. Requiring managers to disclose, in the Management's Discussion & Analysis section of Form 10-K, what portion of investments in workers should be considered as an investment in the firm's future growth to allow investors to distinguish between labor expenses and value-adding investments, like training or upskilling;
2. Treating workforce costs similar to investments in R&D by ensuring workforce costs are disclosed; and
3. Disaggregating labor costs to allow investors to clearly understand employees' job function, expected value creation, and contributions to their company.

These quantifiable and comparable disclosures would significantly improve investors' ability to understand firms' human capital practices. While there are tradeoffs and costs associated with mandating additional disclosures, firms already collect most of this information for tax reporting. In addition, few could argue that these disclosures would be unimportant for investors, particularly at a time when public companies' value is increasingly determined by intangible assets like its workforce.

We look forward to continued engagement with the SEC on this critical issue, and appreciate your consideration of these recommendations as the Commission moves forward with updating Regulation S-K to strengthen human capital disclosures. Thank you for your attention to this important matter.

Sincerely,



Mark R. Warner  
United States Senator



Sherrod Brown  
United States Senator