

Via Email

April 1, 2021

Secretary
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090

Re: File Number SR-NASDAQ-2020-082¹

Dear Madam Secretary:

I am writing on behalf of the Council of Institutional Investors (CII) to express our general support for the Nasdaq Stock Market LLC (Nasdaq or Exchange) “Notice of Filing of Amendments No. 1 and Order Instituting Proceedings To Determine Whether To Approve or Disapprove Proposed Rule Changes, as Modified by Amendments No. 1, To Adopt Listing Rules Related to Board Diversity and To Offer Certain Listed Companies Access to a Complimentary Board Recruiting Solution To Help Advance Diversity on Company Boards”(Amendments).² We applaud Nasdaq’s efforts to enhance diversity through the Amendment’s expectations for listed companies.

CII is a nonprofit, nonpartisan association of U.S. public, corporate and union employee benefit funds, other employee benefit plans, state and local entities charged with investing public assets, and foundations and endowments with combined assets under management of approximately \$4 trillion. Our member funds include major long-term shareowners with a duty to protect the retirement savings of millions of workers and their families, including public pension funds with more than 15 million participants – true “Main Street” investors through their pension funds. Our associate members include non-U.S. asset owners with about \$4 trillion in assets, and a range of asset managers with more than \$35 trillion in assets under management.³

¹ Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Amendments No. 1 and Order Instituting Proceedings To Determine Whether To Approve or Disapprove Proposed Rule Changes, as Modified by Amendments No. 1, To Adopt Listing Rules Related to Board Diversity and To Offer Certain Listed Companies Access to a Complimentary Board Recruiting Solution To Help Advance Diversity on Company Boards, Exchange Act Release No. 91,286, 85 Fed. Reg. 14,484 (Mar. 10, 2020), <https://www.federalregister.gov/documents/2021/03/16/2021-05343/self-regulatory-organizations-the-nasdaq-stock-market-llc-notice-of-filing-of-amendments-no-1-and>.

² *Id.*

³ For more information about the Council of Institutional Investors (CII), including its board and members, please visit CII’s website at <http://www.cii.org>.

Background

On December 1, 2020, Nasdaq filed with the Securities and Exchange Commission (Commission) a proposed rule change to adopt listing rules related to board diversity (Diversity Proposal).⁴ The Diversity Proposal had two requirements for each of Nasdaq's listed companies, subject to certain exceptions: (1) Provide statistical information regarding diversity among the members of the company's board of directors under proposed Rule 5606; and (2) have, or explain why it does not have, at least two 'Diverse' directors on its board under proposed [R]ule 5605(f)(2).⁵

By letter of December 30, 2020, CII analyzed the proposed requirements in the context of CII's membership approved policies⁶ and expressed "general support" for the Diversity Proposal (December Letter).⁷

On January 19, 2021, pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934,⁸ "the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change."⁹

On February 26, 2021, Nasdaq filed the Amendments, which replaced and superseded the Diversity Proposal as originally filed.¹⁰

⁴ Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Proposed Rule Change To Adopt Listing Rules Related to Board Diversity, Exchange Act Release No. 90,574, 85 Fed. Reg. 80,472 (Dec. 11, 2020), <https://www.federalregister.gov/documents/2020/12/11/2020-27091/self-regulatory-organizations-the-nasdaq-stock-market-llc-notice-of-filing-of-proposed-rule-change>.

⁵ *See id.* at 80,473 ("Nasdaq is proposing to require each of its listed companies, subject to certain exceptions, to: (i) Provide statistical information regarding diversity among the members of the company's board of directors under proposed Rule 5606; and (ii) have, or explain why it does not have, at least two 'Diverse' directors on its board under proposed rule 5605(f)(2).").

⁶ Council of Institutional Investors, Corporate Governance Policies § 2.8b Board Diversity (updated Sept. 22, 2020), https://www.cii.org/files/policies/09_22_20_corp_gov_policies.pdf.

⁶ Council of Institutional, Policies on Other Issues, Statement on Company Disclosure (adopted Mar. 10, 2020), https://www.cii.org/policies_other_issues#Company_disclosure.

⁷ *See* Letter from Jeffrey P. Mahoney, General Counsel, Council of Institutional Investors to Secretary, Securities and Exchange Commission 1-7 (Dec. 30, 2020), [https://www.cii.org/Files/December%2030%202020%20Letter%20to%20SEC%20on%20diversity%20proposal%20\(final\)-ABcomments%20LN.v2.pdf](https://www.cii.org/Files/December%2030%202020%20Letter%20to%20SEC%20on%20diversity%20proposal%20(final)-ABcomments%20LN.v2.pdf).

⁸ Registration, responsibilities, and oversight of self-regulatory organizations, 15 U.S. Code § 78s(b)(2) (1934), available at https://www.law.cornell.edu/uscode/text/15/78s#b_2.

⁹ 86 Fed. Reg. at 14,484.

¹⁰ *See id.* ("On February 26, 2021, the Exchange filed Amendment No. 1 to the proposed rule change, which replaced and superseded the proposed rule change as originally filed").

Amendments

The Amendments revised the Diversity Proposal to:

(1) Add a defined term for “Two or More Races or Ethnicities” to proposed Rule 5605(f)(1); (2) modify the application of proposed Rule 5605(f) to Foreign Issuers and clarify the scope of Exempt Companies; (3) provide a lower diversity objective for a company with five or fewer members on its board; (4) modify the disclosures required by proposed Rule 5606; (5) modify the process by which a company may provide public disclosure if it does not meet the applicable board diversity objectives of proposed Rule 5605(f)(2) and similarly conform the process for providing the public disclosures under proposed Rule 5606; (6) modify the phase-in periods for companies subject to proposed Rules 5605(f) and 5606; (7) provide a grace period for a company that no longer meets the board diversity objectives of proposed Rule 5605(f)(2) due to a vacancy on its board and clarify the cure period for a company that does not satisfy proposed Rule 5605(f); (8) modify the effective dates and transition periods applicable to proposed Rules 5605(f) and 5606; (9) make conforming and clarifying changes throughout the description of the proposed rule change and the proposed rule text; and (10) provide additional justification and support for the proposed rule change.¹¹

CII Policies

CII membership approved policies relevant to the subject matter of the Amendments include the following:

2.8b Board Diversity: The Council supports a diverse board. The Council believes a diverse board has benefits that can enhance corporate financial performance, particularly in today’s global market place. Nominating committee charters, or equivalent, ought to reflect that boards should be diverse, including such considerations as background, experience, age, race, gender, ethnicity, and culture.¹²

Statement on Company Disclosure

In evaluating proposals to expand company disclosure, CII considers the following factors:

- Materiality to investment and voting decisions
- Depth, consistency and reliability of empirical evidence supporting the connection between the disclosure and long-term shareowner value
- Anticipated benefit to investors, net of the cost of collection and reporting

¹¹ *Id.* at 14,484-85 n.6.

¹² § 2.8b Board Diversity.

- Prospect of substantially improving transparency, comparability, reliability and accuracy¹³

Application of Policies to Amendments

This letter summarizes and supplements the detailed analysis of the application of CII policies to the Diversity Proposal included in the December Letter.¹⁴ We do not believe the Amendments change the results of that analysis.

Board Diversity

CII's policy on board diversity reflects the view that corporate governance best practices include the expectation that corporate boards will reflect the diversity of their communities, customers, and employees. And that diverse boards can have a significant positive effect on financial performance.¹⁵ We, however, "believe diverse boards can be achieved without quotas which may result in 'check-the-box' diversity."¹⁶

We supported the Diversity Proposal and we similarly support the Amendments because we believe they provide a transparent framework for listed companies to present their board composition, with the flexibility to explain why the requirements cannot be met.¹⁷ "While Nasdaq's proposed definition of diversity is narrower than suggested by our policy, we believe that the Amendments would improve transparency and comparability of disclosure across

¹³ Statement on Company Disclosure.

¹⁴ See Letter from Jeffrey P. Mahoney, General Counsel, Council of Institutional Investors to Secretary, Securities and Exchange Commission at 3-7 ("**Application of Policies**").

¹⁵ § 2.8b Board Diversity.

¹⁶ Letter from Jeffrey P. Mahoney, General Counsel, Council of Institutional Investors to Secretary, Securities and Exchange Commission at 3.

¹⁷ See *id.* ("We support the Proposal's comply-or-explain model that provides a transparent framework for listed companies to present their board composition, with the flexibility to explain why the Nasdaq proposed standards cannot be met."); see also Letter from Kerry E. Berchem, Akin Gump Strauss Hauer & Feld LLP to Vanessa Countryman, Secretary, Securities and Exchange Commission 5 (Jan. 4, 2021), <https://www.sec.gov/comments/sr-nasdaq-2020-081/srnasdaq2020081-8204351-227498.pdf> ("Notably, the proposed rule is not quota based, and it provides a board with the option to simply expand its size so as to add new members and not replace existing directors."); Letter from William J. Stromberg, President & CEO & David Oestreicher, General Counsel & Corporate Secretary, T. Rowe Price to Vanessa Countryman, Secretary, Securities and Exchange Commission 2 (Dec. 29, 2020), <https://www.sec.gov/comments/sr-nasdaq-2020-081/srnasdaq2020081-8204319-227487.pdf> ("The proposal does not constitute a quota; it is an aspirational target with a manageable phase-in period within a comply-or-explain framework"); Letter from Mr. Jay Huish, Executive Director & Mr. William J. Coaker Jr., Chief Investment Officer, San Francisco Employees' Retirement System to Ms. Vanessa Countryman, Secretary, Securities and Exchange Commission 2 (Dec. 17, 2020), <https://www.sec.gov/comments/sr-nasdaq-2020-081/srnasdaq2020081-8159450-226878.pdf> ("We commend Nasdaq for providing companies with the opportunity to increase board diversity through this disclosure based, business-driven approach rather than implementing a strict quota.").

companies.”¹⁸ And, we also “believe investors can use the resulting transparency and comparability to make better-informed investment and voting decisions.”¹⁹

Company Disclosure

We believe the Amendments, like the Diversity Proposal, sufficiently encompass all of the elements of CII’s membership approved Statement on Company Disclosure.²⁰

We generally agree with Nasdaq that the disclosures required by the Amendments “would protect investors that view information related to board diversity as material to their investment and voting decisions, and enhance investor confidence by assisting investors in making more informed decisions.”²¹ We also generally agree with Nasdaq and other market participants that there is “an extensive body of empirical research demonstrat[ing] that diverse boards are positively associated with improved corporate governance and company performance.”²²

¹⁸ Letter from Jeffrey P. Mahoney, General Counsel, Council of Institutional Investors to Secretary, Securities and Exchange Commission at 3.

¹⁹ *Id.*

²⁰ *See id.* (“We conclude that the Proposal includes elements of all four factors”).

²¹ 86 Fed. Reg. at 14,491; *see* By the Numbers: How Diversity Data Can Measure Commitment to Diversity, Equity, and Inclusion: Hearing Before the Subcomm. on Diversity & Inclusion of the H. Comm. on Fin. Serv., 117th Cong. (Mar. 18, 2021) (testimony of Anne Simpson, Managing Investment Director, Board Governance and Sustainability, California Public Employees’ Retirement System at 5), <https://financialservices.house.gov/uploadedfiles/hhrg-117-ba13-bio-simpsona-20210318.pdf> (“A corporation’s diversity metrics are material because they influence investment decisions; they are also in the public’s strong interest.”); Letter from Scott M. Stringer, New York City Comptroller to Vanessa Countryman, Secretary, Securities and Exchange Commission 1 (Jan. 4, 2021), <https://comptroller.nyc.gov/wp-content/uploads/2021/01/NYC-Comptroller-Stringer-Comment-on-Exchange-Act-Release-No.-34-90574-1.4.pdf> (“The Proposed Rules will provide investors with vital information to inform investment and proxy voting decisions, as well as improve shareowner value by fostering increased board racial and gender diversity without imposing mandates or quotas.”); Letter from Dev Stahlkopf, Corporate Vice President, General Counsel and Secretary, Microsoft Corporation to Vanessa Countryman, Secretary, Securities and Exchange Commission (Jan. 24, 2021), <https://www.sec.gov/comments/sr-nasdaq-2020-081/srnasdaq2020081-8204293-227454.pdf> (“Based on our regular conversations with investors and their requests for diversity data, we understand they are increasingly focused on board diversity and many view it as material to their voting decisions.”); Letter from Aaron Meder, CEO, LGIM America to Ms. Vanessa Countryman, Secretary, Securities and Exchange Commission (Dec. 23, 2020), <https://www.sec.gov/comments/sr-nasdaq-2020-081/srnasdaq2020081-8177972-227059.pdf> (“As prudent fiduciaries, we consider and engage with companies on a range of factors when making investment decisions on behalf of our clients [and] [a]mong those are considerations of a company’s diversity practices.”); *cf.* Letter from Jeffrey P. Mahoney, General Counsel, Council of Institutional Investors to The Honorable Sherrod Brown, Committee on Banking, Housing & Urban Affairs et al. 7 (Mar. 18, 2021), https://www.cii.org/files/issues_and_advocacy/correspondence/2021/2021%20Investor%20Advocate%20Letter.pdf (explaining why CII believes diversity disclosures provide material information to investors); Office of the Investor Advocate, U.S. Securities and Exchange Commission, Report on Activities, Fiscal Year 2020 at 11 (Dec. 29, 2020), <https://www.sec.gov/files/sec-investor-advocate-report-on-activities-2020.pdf> (“To make fully informed investment decisions, investors generally would benefit from greater insight into the diversity characteristics of a company’s current board, as well as its policies designed to promote diversity in board composition going forward.”).

²² 86 Fed. Reg. at 14,490; *see* Gennaro Bernile et al., Board Diversity, Firm Risk, and Corporate Policies 1 (Mar. 6, 2017), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2733394 (“Using a multi-dimensional measure, we find that greater board diversity leads to lower volatility and better performance”); David A. Carter et

al., Corporate Governance, Board Diversity, and Firm Value, 38 Fin. Rev. 33 (Feb. 2003), *available at* <https://onlinelibrary.wiley.com/doi/abs/10.1111/1540-6288.00034> (“This study examines the relationship between board diversity and firm value for *Fortune* 1000 firms [and] . . . find[s] [a] significant positive relationships between the fraction of women or minorities on the board and firm value.”); *see also* By the Numbers: How Diversity Data Can Measure Commitment to Diversity, Equity, and Inclusion: Hearing Before the Subcomm. on Diversity & Inclusion of the H. Comm. on Fin. Serv., 117th Cong. (Mar. 18, 2021) (testimony of the Honorable Thomas P. DiNapoli, New York State Comptroller, Office of the New York State Comptroller at 1), <https://financialservices.house.gov/uploadedfiles/hhrg-117-ba13-wstate-dinapolit-20210318.pdf> (“companies that foster diversity are more likely to outperform their less diverse peers, and companies that develop a culture of inclusion, equity, and belonging are better positioned to drive long-term value for shareholders”); Testimony of Anne Simpson, Managing Investment Director, Board Governance and Sustainability, California Public Employees’ Retirement System at 4 (“We believe, and research increasingly demonstrates, that companies with a diverse board, inclusive of gender and race/ethnicity, are better positioned to execute good governance, effective risk management, and optimal decision-making, as well as enhanced customer alignment, employee engagement, and transparency.”); Letter from Kewsong Lee, Chief Executive Officer, The Carlyle Group to Vanessa Countryman, Secretary, Securities and Exchange Commission 1 (Mar. 16, 2021), <https://www.sec.gov/comments/sr-nasdaq-2020-081/srnasdaq2020081-8507649-230066.pdf> (“After controlling for industry, fund, and vintage year, companies with diverse boards generate earnings growth five times faster on average, with each diverse board member associated with a 5% increase in annualized earnings growth.”); Letter from the Board of Directors of Brighthouse Financial, Inc. to Vanessa Countryman, Secretary, Securities and Exchange Commission 1 (Jan. 4, 2021) (<https://www.sec.gov/comments/sr-nasdaq-2020-081/srnasdaq2020081-8204358-227507.pdf> (“We believe that having a diverse Board has made us better able to effectively oversee the Company’s management and its strategy to deliver long-term value for its stockholders.”); Letter from Mary Pryshlak, Head of Investment Research, WELLINGTON MANAGEMENT COMPANY LLP to Vanessa Countryman, Secretary, U.S. Securities and Exchange Commission (Dec. 30, 2020), <https://www.sec.gov/comments/sr-nasdaq-2020-081/srnasdaq2020081-8198432-227352.pdf> (“We share Nasdaq’s belief, based on compelling research, that board diversity is strongly associated with positive corporate performance.”); Letter from William J. Stromberg, President & CEO & David Oestreicher, General Counsel & Corporate Secretary, T. Rowe Price to Vanessa Countryman, Secretary, Securities and Exchange Commission at 2 (“we have found that insufficient board diversity increases the risk that a company will become less competitive over time, which will impact its performance”); Letter from Aaron Meder, CEO, LGIM America to Ms. Vanessa Countryman, Secretary, Securities and Exchange Commission (“Simply put, more diverse organizations make better strategic decisions, show superior growth and innovation, and exhibit lower risk – all significant measures for investors.”); THE INVESTMENT CASE FOR BOARD DIVERSITY: A Review of the Academic and Practitioner Research on the Value of Gender and Racial/Ethnic Board Diversity for Investors, Off. of the Ill. St. Treasurer 2 (Oct. 2020), [https://illinoistreasurergovprod.blob.core.usgovcloudapi.net/twocms/media/doc/il%20treasurer%20white%20paper%20-%20the%20investment%20case%20for%20board%20diversity%20\(oct%202020\).pdf](https://illinoistreasurergovprod.blob.core.usgovcloudapi.net/twocms/media/doc/il%20treasurer%20white%20paper%20-%20the%20investment%20case%20for%20board%20diversity%20(oct%202020).pdf) (“In summary, this paper concludes that the gender and racial/ethnic composition of corporate boards does indeed have a material and relevant impact on company performance and investors.”); Sundiatu Dixon-Fyle et al., Diversity Wins: How Inclusion Matters, McKinsey & Co. (May 19, 2020), <https://www.mckinsey.com/featured-insights/diversity-and-inclusion/diversity-wins-how-inclusion-matters> (“In the case of ethnic and cultural diversity, our business-case findings are equally compelling: in 2019, top-quartile companies outperformed . . . by 36 percent in profitability, slightly up from 33 percent in 2017 and 35 percent in 2014”); Vanguard 2020 Investment Stewardship Annual Report 2 (2020), <https://about.vanguard.com/investment-stewardship/perspectives-and-commentary/2020-investment-stewardship-annual-report.pdf> (“Diversity, equity, and inclusion drive long-term value for our investors.”); Governance Insights Center, Turning Crisis into Opportunity, PwC’s 2020 Annual Corporate Director’s Survey 11 (2020), <https://www.pwc.com/us/en/services/governance-insights-center/assets/pwc-2020-annual-corporate-directors-survey.pdf> (“(72%) . . . agree that board diversity enhances company performance”); Dieter Holger, The Business Case for More Diversity, Wall St. J. (Oct. 26, 2019) (one file with CII) (“Turns out the 20 most diverse companies in the research not only have better operating results on average than the lowest-scoring firms, but their shares generally outperform those of the least-diverse firms, the research shows”); FCLTGlobal, Predicting Long-term Success for Corporations and Investors Worldwide 8 (Sept. 2019),

In addition, we generally agree with Nasdaq “that [there] would be a de minimis time and economic burden on listed companies to collect and disclose the diversity statistical data [required under the Amendments] . . . and that any burden placed on companies to gather and disclose this information would be counterbalanced by the benefits that the information would provide to a company’s investors.”²³ Finally, we generally agree with Nasdaq that the Amendments required disclosures have the potential for reducing the existing “lack of transparency [that] creates barriers to investment analysis, due diligence, and academic study,

<https://www.fcltglobal.org/resource/predicting-long-term-success-for-corporations-and-investors-worldwide/#:~:text=Predicting%20Long%20Term%20Success%20for%20Corporations%20and%20Investors%20Worldwide,-The%20research%20is&text=Through%20our%20research%2C%20FCLTGlobal%20aims,term%20behaviors%20a%20cross%20capital%20markets> (“having a diverse board—including a mix of genders and ages—is connected to strong long-term returns”); FCLTGlobal, Data Shows More Diverse Boards Create More Value (May 28, 2019), <https://www.fcltglobal.org/resource/data-shows-that-diverse-boards-create-more-value/> (“When looking at MSCI ACWI firms between 2010 and 2017 through a lens of both age and gender diversity, we found that the most diverse boards added 3.3% to return on invested capital (ROIC) as compared to their least diverse peers.”); Vivian Hunt et al., Delivering through Diversity, McKinsey & Co. 13 (Jan. 2018), https://www.mckinsey.com/~media/mckinsey/business%20functions/organization/our%20insights/delivering%20thorough%20diversity/delivering-through-diversity_full-report.ashx (“We found that companies with the most ethnically/culturally diverse boards worldwide are 43% more likely to experience higher profits.”); Rocio Lorenzo et al., How Diverse Leadership Teams Boost Innovation, BCG (2018), https://image-src.bcg.com/Images/BCG-How-Diverse-Leadership-Teams-Boost-Innovation-Jan-2018_tcm9-207935.pdf (“The evidence is clear companies that take the initiative and actively increase the diversity of their management teams—across all dimensions of diversity and with the right enabling factors in place—perform better.”); Vivian Hunt et al., Why Diversity Matters, McKinsey & Co. (Jan. 1. 2015), <https://www.mckinsey.com/business-functions/organization/our-insights/why-diversity-matters> (“Our latest research finds that companies in the top quartile for gender or racial and ethnic diversity are more likely to have financial returns above their national industry medians.”); cf. Letter from Jeffrey P. Mahoney, General Counsel, Council of Institutional Investors to The Honorable Sherrod Brown, Committee on Banking, Housing & Urban Affairs et al. at 7 (explaining why CII believes requiring diversity disclosures can lead to improved corporate performance).

²³ 86 Fed. Reg. at 14,484 n.103; see Letter from Kerry E. Berchem, Akin Gump Strauss Hauer & Feld LLP to Vanessa Countryman, Secretary, Securities and Exchange Commission at 5 (“We believe that the Nasdaq Diversity Rule . . . is neither burdensome to comply with or adopt and provides sufficient flexibility.”); Letter from Gary A. LaBranche, FASAE, CAE President & CEO National Investor Relations Institute to Ms. Vanessa Countryman, Secretary, U.S. Securities and Exchange Commission 3 (Dec. 30, 2020), https://www.niri.org/NIRI/media/NIRI/Advocacy/NIRI_Nasdaq_Board_Diversity_Letter-final.pdf (“NIRI generally favors principles-based disclosure rules that allow for flexibility to account for industry differences and seek to reduce compliance burdens for smaller companies [and] [w]e are pleased to see that Nasdaq has taken this approach with its diversity disclosure proposal.”); Letter from Aaron Meder, CEO, LGIM America to Ms. Vanessa Countryman, Secretary, Securities and Exchange Commission (“Specialty diversity data is expensive [and] [o]nly the large investors can afford to pay for this information”); Letter from Lydia Kuykendal, Mercy Investment Services, Inc. to Vanessa Countryman, Secretary, Securities and Exchange Commission (Dec. 22, 2020), <https://www.sec.gov/comments/sr-nasdaq-2020-081/srnasdaq2020081-8177986-227065.pdf> (“We do not believe Nasdaq’s requirements will be overly burdensome or coercive.”); cf. Letter from Jeffrey P. Mahoney, General Counsel, Council of Institutional Investors to The Honorable Sherrod Brown, Committee on Banking, Housing & Urban Affairs et al. at 8 (explaining why CII believes requiring diversity disclosures is a cost-effective approach).

and is impacting investors who are increasingly basing public advocacy, proxy voting, and direct shareholder-company engagement decisions on board diversity considerations.”²⁴

For all of the above reasons, including those detailed in our December Letter, we believe the Amendments should be approved.

²⁴ 86 Fed. Reg. at 14,490; *see* Testimony of the Honorable Thomas P. DiNapoli, New York State Comptroller, Office of the New York State Comptroller at 1 (“investors must have timely access to accurate DEI information disclosed in a standardized manner to enhance the consistency and comparability of the information for investors to use”); Testimony of Anne Simpson, Managing Investment Director, Board Governance and Sustainability, California Public Employees’ Retirement System at 8 (“There is a need for comparability and consistency of disclosures, which help manage expectations and evaluate management”); Letter from Scott M. Stringer, New York City Comptroller to Vanessa Countryman, Secretary, Securities and Exchange Commission at 2 (“By using the same EEO-1 categories as is applicable for their employees, we note that the Proposed Rules will reinforce the importance of self-identification of diversity within the boardroom and help bring transparency and comparability of this type of data into the marketplace.”); Letter from Lisa Hayles, Investment Manager, Trillium Asset Management to Vanessa Countryman, Secretary, Securities and Exchange Commission 2 (Jan. 4, 2021), <https://www.sec.gov/comments/sr-nasdaq-2020-081/srnasdaq2020081-8204346-227505.pdf> (“these recommendations support investors calls for greater transparency and ease of comparability”); Letter from Roger W. Ferguson, Jr., President and CEO, TIAA & Jose Minaya, President and CEO, TIAA Nuveen, a TIAA Company to Vanessa A. Countryman, Secretary, U.S. Securities and Exchange Commission 2 (Dec. 31, 2020), <https://www.sec.gov/comments/sr-nasdaq-2020-081/srnasdaq2020081-8198333-227346.pdf> (“Many investors are left to consult board data that has been ‘assessed’ by third parties for commercial purposes rather than collected directly from company reporting, which raises concerns about accuracy, objectivity and consistency.”); Letter from Mary Pryshlak, Head of Investment Research, WELLINGTON MANAGEMENT COMPANY LLP to Vanessa Countryman, Secretary, U.S. Securities and Exchange Commission (“Despite the clear benefits of diversity to corporate performance, there is insufficient transparency into the diversity of corporate boards.”); Letter from William J. Stromberg, President & CEO & David Oestreicher, General Counsel & Corporate Secretary, T. Rowe Price to Vanessa Countryman, Secretary, Securities and Exchange Commission at 2 (“In addition, we support the proposal because it would improve our ability, as an asset manager, to obtain and analyze board diversity data in a standardized format.”); Letter from Aaron Meder, CEO, LGIM America to Ms. Vanessa Countryman, Secretary, Securities and Exchange Commission (“Assessed data by data providers creates problems for companies because they lose control of the profile of directors of their companies as subjective assessments by data providers are made.”); Letter from Hershel Harper, Chief Investment Officer, UAW Retiree Medical Benefits Trust, to Vanessa Countryman, Secretary Securities and Exchange Commission 6 (Dec. 22, 2020), <https://www.sec.gov/comments/sr-nasdaq-2020-081/srnasdaq2020081-8177985-227064.pdf> (“In sum, the reduction in information asymmetry occasioned by the Proposed Rules would increase efficiency and improve the functioning of the capital markets.”); Letter from Mr. Jay Huish, Executive Director & Mr. William J. Coaker Jr., Chief Investment Officer, San Francisco Employees' Retirement System to Ms. Vanessa Countryman, Secretary, Securities and Exchange Commission at 2 (“There is currently a lack of standardized, comparable, data on directors' diversity, so the imposed rule would be a positive step towards solving this challenge.”).

Thank you for allowing CII the opportunity to comment on the Amendments. As always, we welcome the opportunity to discuss our perspectives on board diversity and other corporate governance issues at your convenience.

Sincerely,

A handwritten signature in cursive script that reads "Jeff Mahoney". The signature is written in black ink and is positioned above the printed name.

Jeffrey P. Mahoney
General Counsel