



Government Finance Officers Association
660 North Capitol Street, Suite 410
Washington, D.C. 20001 202.393.8467

July 1, 2021

The Honorable Gary Gensler, Chair
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

Re: Public Input Welcomed on Climate Change Disclosures

Dear Chair Gensler:

In response to your request for comment, we would like to update you on the progress that has been made in the municipal finance industry regarding ESG disclosure and share our thoughts in response to some of your questions. We greatly appreciate the SEC's and investment communities' interest on this important topic.

State and local governments are on the frontline of providing essential infrastructure in our communities and addressing challenges posed by ESG risks to protect the health, safety and welfare of our citizens. In response to the recent interest expressed by analysts and investors regarding their desire for information around ESG risks, the issuer community within the municipal finance industry has responded by developing a "Best Practice" for disclosure and providing additional information to the marketplace. The ESG Disclosure Best Practice adopted by the Government Finance Officers Association this past March focuses on E-environmental risk factors. The ESG Best Practice calls for issuers to identify the primary environmental risks and plans developed, strategies deployed, actions taken and infrastructure built to address the environmental risks identified and to provide this information in its bond offering documents. A copy of the GFOA ESG Disclosure Best Practice¹ is attached for your information. Additionally, GFOA subcommittees are currently working on best practices for disclosure that specifically address S-social and G-governance which are expected to be released later this year. The Best Practice has been well received by the issuer community and is being used in our extensive educational franchise. We are confident it will result in more and better disclosure of the environmental risks and the mitigation and adaptation strategies used by governments across our nation.

We believe the approach we have taken in educating issuers on the importance of environmental disclosure is the most effective and efficient way to get meaningful and relevant information to investors, analysts and the muni market. Voluntary industry initiatives rather than a proscriptive regulatory solutions are the most efficient and effective way to enhance ESG information available

¹ GFOA Best Practice: ESG Disclosures <https://www.gfoa.org/materials/esg-disclosure>

to the market. Collaboration and communication among industry participants ensures that the information provided will meet the needs of analysts and investors. In fact, we have highlighted this approach by hosting a group of municipal market industry participants, dubbed the *Disclosure Industry Workgroup* that meets regularly to discuss current topics in municipal market disclosure and publishes coordinated recommendations. Please see the publication “General Continuing Disclosure Considerations for Municipal Securities Issuers”² for an example of our work. GFOA is firmly dedicated to promoting a collaborative industry approach to disclosure wherever possible, and in the interest of all stakeholders.

We are keenly aware that many analysts are clamoring for uniform metrics to evaluate ESG risks and this is reflected in the tenor of your questions in the request for comment. This approach is simply not feasible in the municipal market because of the diversity of issuers and differences among sectors and credit structures within the muni space. The municipal market is comprised of a multitude of different types of issuers, e.g. cities, counties, states, school districts, special districts, conduit issuers, non-profits etc.; and credit sectors, e.g. general government, housing, healthcare, higher education, charter schools, transportation, airports, mass transit etc.; and debt instruments, e.g. general obligation, tax-backed, revenue bonds, special assessments, tax increments, securitizations, moral obligations, certificates of participation etc. Accordingly, the notion of developing a uniform set of metrics to measure or evaluate risks is so impractical as to be virtually impossible to develop or implement.

The strength of the muni market is in the unique attributes of the issuers, the infrastructure financed which provides essential public services and the dependability of the revenues typically used to secure the bonds. This is entirely inconsistent with the notion of uniformity and homogeneity. The municipal market is extraordinarily flexible in accommodating the financing needs of governmental and non-profit issuers through idiosyncratic conventions that facilitate prudent debt management practices and result in generally highly rated, low defaulting debt instruments specifically tailored towards the needs of state and local governments. Imposing additional regulatory burdens related to mandated ESG requirements and uniform metrics will not serve to improve investor protections or meaningful information to this important market which is unique in the world

In considering how to make meaningful forward progress on the ESG disclosure in the municipal market, we were confronted with these challenges and decided the most effective course of action would be to allow for the flexibility for each issuer to define for themselves the most relevant and important risks that they are confronting regarding ESG factors. This approach provides the flexibility to be adaptive to each issuers’ unique circumstances and challenges depending on size, geographic location, credit etc. Also, analysts and investors have not developed consensus on what data and which metrics are important to their analysis. Accordingly there are varying approaches to evaluating ESG risks and therefore information they want varies according to what they determine to be important to their individual analysis to evaluating credits.

² General Continuing Disclosure Considerations for Municipal Securities Issuers Including Those Related to COVID-19 Financial Matters: <https://www.gfoa.org/gfoa-led-disclosure-industry-working-group-publishes>

Similarly, ESG is still a relatively a new concept. Although it is being widely embraced, it is often misunderstood or conflated with other similar initiatives. For example, “Green Bonds” and “Impact Investing” are often confused with and discussed as being relevant to ESG disclosure but that is simply incorrect. Our ESG initiatives are about improved disclosure while the former relate more closely to marketing techniques for investment managers e.g. mutual funds and separate managed accounts. Therefore, GFOA decided to deal with “E” first as the most tangible and relevant factor to address. “G”, while generally reasonably well understood, is already contained in information that is standard disclosure in the muni market. There is not consensus on what factors and metrics are important to identify and measure relative to “S” but we are hopeful our ongoing workgroup on the topic will help us improve disclosure in this area as well.

We believe a thoughtful, efficient and effective approach is a principles based guidance that provides sufficient flexibility to be adaptable by issuers in the market depending on its own unique circumstances. Specific requirements and narrow guidelines may actually serve to limit the amount of information an issuer ultimately provides in terms of climate risks. Understanding that the risks that face our governments across the nation vary significantly, we do not believe that quantitative measures and/or uniform reporting standards can adequately convey the variety of environmental challenges that could face a particular community. Although these kinds of measures may appear helpful as comparators, the ease of use may actually serve as a disservice in terms of information or data needed for an adequate understanding of complex climate change issues.

The SEC’s statement on the Importance of Disclosure for our Municipal Markets regarding COVID-19³ (the “COVID-19 Statement”) providing guidance for disclosure in the municipal market is a great example of the right regulatory approach to enhancing information available in the municipal market. The COVID-19 Statement encouraging voluntary disclosures had the most meaningful and timely impact to enhance disclosure than any previous regulatory actions. Providing principles based guidance affords sufficient flexibility for issuers to formulate disclosures specifically tailored to their circumstances. In particular, the guidance on the effectiveness of cautionary language to reduce legal risks, forward-looking information not being second-guessed and generally encouraging voluntary disclosures was particularly helpful. The guidance was embraced by the issuer community and resulted in thousands of voluntary filings on issuer websites and the municipal industry’s EMMA platform operated by the MSRB. A similar approach to encouraging issuers to provide information related to ESG risks and mitigation strategies in their bond offering documents coupled with assurances regarding protection from securities liability and enforcement actions could be a significant advancement for ESG disclosures in the municipal market.

As governments and stewards of taxpayer dollars, we have a long outlook and understand the importance of developing policies and disclosing risks that may result from our changing climate. We have a duty to the citizens we serve to address ESG issues and are on the frontlines when it comes to providing essential public services and infrastructure in our communities. Providing

³ <https://www.sec.gov/news/public-statement/statement-clayton-olsen-2020-05-04>

information to investors regarding our efforts is a natural next step and one that our membership embraces.

We look forward to continued dialogue on ESG matters as we too are committed to ensuring investors have the information they need to continue to invest in the municipal market providing low cost financing for our country's infrastructure making these United States more competitive and resilient, adapting to the ever-changing world around us.

Sincerely,

A handwritten signature in cursive script that reads "Emily S. Brock".

Emily S. Brock

Director of the Federal Liaison Center

CC: Allison Herren Lee, Commissioner
Hester Peirce, Commissioner
Elad Roisman, Commissioner
Caroline Crenshaw, Commissioner
Rebecca Olsen, Director, Office of Municipal Securities