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

Re: The Enhancement and Standardization of Climate-Related Disclosures for Investors (Release Nos. 33-11042; 34-94478; File No. S7-10-22) (the "Release")

Dear Chair Gensler and Commissioners Peirce, Lee, and Crenshaw:

CFA Institute,[1] in consultation with its Corporate Disclosure Policy Council (CDPC),[2] welcomes the opportunity to comment on the US Securities and Exchange Commission's (SEC's or Commission's) Proposed Rule *The Enhancement and Standardization of Climate-Related Disclosures for Investors*[3] (the Proposal, Proposed Rule, or Proposed Update).[4] We use the term Proposal, Proposed Rule, or Proposed Update to refer the text of the Release broadly. We use the term Actual Proposed Rule herein to mean the actual rule that is being proposed to be included in the Code of Federal Regulations (CFR), the text of which resides in Section VIII (Statutory Authority) of the Release.

CFA Institute has a long history of promoting fair and transparent global capital markets and advocating for strong investor protections. An integral part of our efforts toward meeting those goals is ensuring that corporate financial reporting and disclosures—and the related independent audits—provided to investors and other end users are reliable and of high quality. Our policy position is informed by our global membership who invest both locally and globally and in consultation with the CDPC.

1 With offices in Charlottesville, VA; New York; Washington, DC; Brussels; Hong Kong SAR; Mumbai; Beijing; Shanghai; Abu Dhabi; and London, CFA Institute is a global, not-for-profit professional association of more than 181,000 members, as well as 160 member societies around the world. Members include investment analysts, advisers, portfolio managers, and other investment professionals. CFA Institute administers the Chartered Financial Analyst® (CFA®) Program.

2 The objective of the CDPC is to foster the integrity of financial markets through its efforts to address issues affecting the quality of financial reporting and disclosure worldwide. The CDPC is composed of investment professionals with extensive expertise and experience in the global capital markets, some of whom are also CFA Institute member volunteers. In this capacity, the CDPC provides the practitioners' perspective in the promotion of high-quality financial reporting and disclosures that meet the needs of investors.

3 See also the Federal Register version 2022-06342.pdf (govinfo.gov).

4 The Proposal is supplemented and augmented by the SEC's 2010 Guidance (Press Release: SEC Issues Interpretive Guidance on Disclosure Related to Business or Legal Developments Regarding Climate Change, 27 January 2010) (https://www.sec.gov/news/press/2010/2010-15.htm)

We laud the SEC for its speed and thoroughness in developing this extensive Proposal. We believe the ***SEC's efforts*** in this regard ***have advanced the conversation and resulting understanding of climate-related disclosures, in the United States and other markets***. This also includes climate-related disclosures impact on securities analysis and investment decision making—among all of the stakeholders who invest in, participate as public companies, and support registrants in accessing US capital markets. The ***SEC's proposed inclusion of climate-related disclosures in the forepart***[5] to documents filed with the Commission ***as well as within the financial statements*** has had a substantial ***focusing effect given the size and prominence of the US capital markets***. Further, with a comment period prior to proposals currently out for comment internationally and in Europe, the ***SEC's efforts***—because of the attention paid to its rulemaking and because of the expansive nature of the Proposal—***will enhance the richness of the responses to other consultations***. The ***SEC has unequivocally improved understanding regarding the integration of climate-related disclosures in the investment decision-making process***, and irrespective of the final outcome of this Proposed Rule, this is a worthwhile outcome for those who have participated in the process.

PERSPECTIVE THAT INFORMS OUR RESPONSE

Securities Analysis and Selection

We have responded to the SEC's Proposed Rule from the perspective to which we respond to all corporate disclosure consultations—that of an analyst or buy-side long-equity investor with a long-term value discovery perspective. The US Securities Acts of 1933 and 1934 (the Acts) facilitated the creation of financial analysis as a profession and the modern-day investment management profession. CFA Institute and the CFA Program's history is rooted in the provision of information for investment decision-making stemming from these Acts. This Proposal may be equally transformative as it relates to the provision of climate-related information for investment decision making.

In 2020, CFA Institute responded to Accountancy Europe's publication/consultation *Interconnected Standard Setting for Corporate Reporting*. In that letter, we set forth a number of important foundational principles with respect to our views on sustainability and environmental, social, and governance (ESG) disclosures. Specifically, we addressed (i.e., as can be seen by the subsections of the letter) the following:

- Long-Term Value Creation and Integrated Reporting
- Non-financial Information: May Need Clarification or Rebranding
- Reporting Is Communication: Know Your Audience (Investors) and Communication Objective (Financial Value Creation)
- Location of Information Matters
- Funding
- Materiality
- Where to Start: Investors

Overall, in that commentary, we noted that our objective is to ***focus on information that is value relevant for investment decision making*** and that considers the ***audience for the information***,

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[5] Forepart refers to all the information contained before the financial statements in filings with the Commission.

the ***objective of the communication,*** as well as the ***location of the information***. Our response here is crafted with these foundational principles and the aforementioned history in mind, which is rooted in security analysis and selection and the discovery of long-term value.

We recognize that some investors seek to invest not only based upon long-term value creation but also based upon their values. While many times these objectives operate in concert, this is not always the case. CFA Institute members have a fiduciary responsibility to their clients. As such, we need and seek information that is sufficiently disciplined that allows us to discern value-relevant information and to make a distinction, when important, between values-relevant information such that we have the ability to advise investors when there may be a trade-off between value and values in their investment decision-making. As such, our views here are not developed from a public policy or civil society objective, but rather with the desire for investors to have the information they need to make value relevant investment decisions.

Investors Seek Climate-Related Risk Information: Why Doesn't the SEC Have Statutory Authority to Require Information on a Financially Value Relevant Risk?

Much has been made of whether the SEC has the statutory authority to require the climate-related risk information in the Release. In our previous comment letter in response to the SEC's 2021 Request for Public Input on Climate Change Disclosures, we noted the following:

> *As a part of our 2020 report, Climate Change Analysis in the Investment Process[6], we specifically asked about incorporation of climate change. About **76% of C-level investment executives we surveyed said that climate change was an important or very important issue**, yet the same survey finds that **only about 40% of our members are integrating climate change analysis into the investment process**. The **biggest reason they give for not performing such integration is a "lack of measurement tools"**. This answer far outpaces any other reason given.*
>
> *Governments, companies and investors are increasingly making commitments to a lower carbon world, with net-zero 2050 type commitments. Such a transition to a lower carbon economy will have a significant impact on the global economy, with the United States economy being no exception. **Investors are increasingly called upon by their clients to manage climate related portfolio risks and opportunities**. To be able to incorporate climate change into their financial analysis and investment decision-making process – and in order to efficiently allocate capital – **investors need, accurate, timely and comparable data on climate change from the issuer community**. It is **important for the Commission to require climate disclosures that will provide investors with the information they need to make informed investment decisions**.*
>
> *We believe the SEC has an important role to play in enabling investors to adapt to this transition, helping to set the rules of the road of disclosure. Too stringent a carbon disclosure regime, and economic activity could be unnecessarily stifled, while too lax a standard would not achieve the greenhouse gas reduction goals needed to avoid the more catastrophic impacts of climate change.*

The previous comment letter refers to numerous surveys—which we will not repeat here but can be referenced through the links therein—that highlight the increasing desire, since we began surveying in 2015, for investors to incorporate environmental factors into their analysis. The 2020 climate specific survey included within the *Climate Change Analysis in the Investment Process* report highlighted more specifically the desire, but lack of information, to incorporate climate-related risks into the investment decision-making process

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6 https://www.cfainstitute.org/-/media/documents/article/industry-research/climate-change-analyis.ashx

as well as the request from investors for climate-related information for securities analysis and investment decision-making. As we noted two years ago in our 2020 climate report:

> *This is a **bit of a chicken and egg problem**: **Investors want better data** on climate change from issuers, but **issuers can legitimately say that investor demand for such data has not reached a critical mass**, and regulators (with some exceptions) are not requiring these disclosures.*

Over the last two years even issuers can now legitimately say investor demand for this information has reached critical mass. Investors now, rightly, are seeking the SEC's assistance—as the primary securities regulatory authority charged with their investor protection—in obtaining more standardized, consistent, relevant, and reliable information.

In very simple terms, investors must ask: Why doesn't the SEC have the authority to require public issuers to provide information that is value relevant related to climate risk? How is climate risk different from any other risks investors must price (e.g., interest rate risk, market risk, cyber risk, pandemic related risks)? We will leave the legal debate around the SEC's statutory authority as a question for the lawyers to debate, but investors have told us that this is a risk they seek to price, and they would like the information to price it.[7] We think the question needs to be reframed as: why doesn't the SEC have the authority to provide investors with information on this financially value relevant risk?

See also the discussion—specifically Myth #4—of Acting Chair Lee's statement, *Living in a Material World: Myths and Misconceptions about "Materiality"*, in the Overarching Considerations (Materiality) section.

As Investing Is Global, We Support Global Convergence of Climate-Related Disclosures

As an organization, CFA Institute has long supported[8] global convergence of accounting and auditing standards given that investing, like our membership, is global, and comparability is the lifeblood of investment analysis. Similarly, we have supported[9] the creation of the International Sustainability Standards Board (ISSB) for these same reasons. We will be responding to the ISSB's *General Sustainability-Related Disclosures* (IFRS S1) and *Climate Related Disclosures* (IFRS S2) consultation and portions of the European Sustainability Reporting Standards (ESRS) being developed by the European Financial Reporting Advisory Group (EFRAG).

We recognize the ISSB recently announced cooperation through formation of a working group, including the SEC and the EFRAG, to increase dialogue and enhance comparability of ongoing jurisdictional initiatives. We support this initiative.

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7 We note that some of the confusion over whether the SEC's Proposed Rule is meant to provide investors with financially value relevant information for investment decision-making may, in some small part, be driven by the SEC's citation in the Release of responses to the 2021 Request for Public Input on Climate Change Disclosures by organizations which represent stakeholder groups other than investors or those who serve the provision of information to investors (e.g., accountants, securities lawyers, etc.). In finalizing this Proposed Rule, we believe the SEC needs to be mindful of the perception this creates.

8 See CFA Institute support for global convergence of accounting standards: "IFRS: International Financial Reporting Standards" (https://www.cfainstitute.org/advocacy/issues/international-finance-reporting-stds#sort=%40pubbrowsedate%20descending).

9 See the CFA Institute Comment Letter to IFRS Foundation with respect to its Consultation Paper on Sustainability Reporting (January 2021) (https://www.cfainstitute.org/-/media/documents/comment-letter/2020-2024/20210210-1.pdf).

We would make several observations—regarding the possibility/probability of global comparability—which will inform our thinking in the coming months as we respond to these consultations:

- The SEC's Proposed Rule has included climate-related disclosures within the financial statements, but the ISSB and EFRAG proposals do not—as these organizations either do not have the authority or mandate for such rulemaking.
- The ISSB is initially focusing on climate, but with (1) an industry-based perspective or lens, which we support, and (2) metrics that will likely be more predictive than what is included in the SEC's Proposed Rule. We discuss this in the following Overarching Considerations section.
- EFRAG is focusing on more than climate-related disclosures and from a civil society objective because it has been empowered through the European Commission's legislative powers. By contrast, the SEC has a securities regulatory mandate and the ISSB has chosen an investor-focused, enterprise-value perspective.

These are important distinctions which informed our views in the aforementioned Accountancy Europe response regarding audience (investors or other stakeholders), objective (value- vs. values-relevant decision making), and location (securities filings or general-purpose reports) of disclosures.

Evolution of Our Perspective: Responses to Other Consultations to Come

Investors and other stakeholders are in the midst of analyzing the aforementioned proposals. The staggered and compressed timing of all these proposals with SEC's Proposed Rule being issued first—and with the shortest consultation period—makes providing our final views on the global comparability of all of the documents something that will not be completed until the close of the ISSB and EFRAG consultations at the end of the July and early August, respectively. We will continue to refine our thinking on the topic of climate-related disclosures globally through review of these proposals, engagement with investors, and possibly a member survey. We will share our responses to the ISSB and EFRAG with the Commission as we conclude those consultation responses and outreach.

ORGANIZATION OF OUR RESPONSE

Our response to the SEC's Proposed Rule to enhance and standardize climate-related disclosures for investors considered all 200-plus questions. Though we do not provide a question-by-question reply, we considered each in the formulation of our responses. Our detailed responses by section within the Proposed Rule, are provided in the appropriately named section in the **Appendix**.

Several cross-cutting issues and overarching themes emerged as part of our review, and we have incorporated them in the Overarching Considerations section that follows in the body of the letter.

Because of the length of the Proposal, and, correspondingly, our response, we have included a tabular summary of our views in the Summary of Positions section that follows in the body of the letter. **Tables 1–5** are a comprehensive summary of our detailed views.

When referencing between sections in the letter we have not made a distinction between those sections in the body of the letter and the **Appendix** as the only sections in the body of the letter are the Perspective That Informs Our Response, Executive Summary, Summary of Positions and Overarching Considerations. All other sections are included in the **Appendix**.

CFA Institute

EXECUTIVE SUMMARY

Overall, we support the spirit of the Proposed Rule.

Investors want more information on climate-related risks and opportunities for value-relevant investment decision making. We know from 60-plus years of advocating on behalf of investors that what gets disclosed gets monitored, measured, and managed—not only by investors but also by management. This Proposal rightly brings climate-related risks into the sphere of improved information for investment decision making, the perspective from which we respond to the Proposal.

The Summary of Positions section which follows provides a bullet point summary of our views on the 200+ questions in the Proposal that are described in more detail in the Appendix. Several overarching or cross-cutting issues emerged as we reviewed the Proposal, which we address in the Overarching Considerations section. We note there, and below, that we believe additional industry-based disclosures consistent with the SASB, soon to be ISSB, standards are needed to make the disclosures the SEC is proposing, both outside and inside the financial statements, most decision-useful for investors. We also make several recommendations related to the disclosures being proposed by the SEC in the Release which we describe in the Summary of Positions and the Appendix. Given our view on the most important disclosures and the potentially challenging proposed implementation dates, we propose an alternative path forward in the Proposed Path Forward section.

Support Climate-Related Risk Management & GHG Emission Disclosures Outside of Financial Statements

We support most of the disclosure provisions outside the financial statements—including the disclosure of greenhouse gas emissions (GHG) and the disclosure of climate-related risks, the governance and management of such risks and their impact on the strategy, business, and outlook of the organization—and their inclusion in a separate section.

- ***Disclosures of Climate-Related Risks, Their Management and Governance, and Impact on Strategy of the Business Likely Mostly Qualitative: Enforcement will Be Important***—Though the climate-related risk disclosures outside the financial statements are more specific than those for other risks (i.e., we would seek similar improvements for many other risks as well), if history repeats itself, the disclosures proposed will likely be highly qualitative and SEC enforcement will be a key ingredient in making these disclosures useful to investors over time. The new definitions included with the Proposed Rule are likely to create significant interpretive issues given their inclusion in disclosures inside as well as outside of the financial statements. We are supportive of the SEC's new requirement that registrants describe how they assessed the materiality, considering time horizons, of climate-risk and believe this could be useful in other disclosure contexts as well (e.g., Scope 3 GHG emission materiality decisions).

  We agree with the need to make location disclosures, with several suggested improvements, regarding a registrant's physical assets, but these location disclosures and other disclosures raise a question regarding the relative prioritization and ability to make improvements in climate-related disclosures while not making improvements in other areas of financial reporting (e.g., income taxes, segment reporting, cash flows).

We note the SEC's option to allow registrants to also discuss climate-related opportunities. Though we expect such disclosures will be minimal, we believe the SEC should require, not simply allow, such disclosures if such opportunities are described in other publications and venues by the registrant.

- ***Support Disclosure of Scope 1, 2 and 3 Emissions (Recognize Challenges in Gathering Scope 3 Emissions, But Likely the Most Material)***—The disclosure of GHG emissions is important as a barometer of progress (financially and non-financially) in reducing emissions and addressing climate risks, and we support the inclusion of this non-financial metric in the forepart, not the financial statements, of registrants' SEC filings.

  All climate-related risk and GHG emission disclosures (i.e., consistent with our long-held views on the topic of filed versus furnished information) should be included in documents filed, as opposed to furnished, with the SEC. Our view is that at implementation, current period disclosures are sufficient as comparative period information can be built going forward. Disaggregation of GHG emissions by scope, type of GHG, location, geography, segment, and upstream and downstream category—preferably visually—are essential to understanding the risks by industry, region, and supply chain. We are concerned, as we describe later in this summary, that the Actual Proposed Rule lacks sufficient specificity—because it is based off of, but does not directly reference, the GHG Protocol—regarding the emission methodology, assumptions, and certain definitions (e.g., organizational vs. operational boundaries).

  We support disclosure of all three scopes of emissions and GHG intensity metrics—recognizing the many challenges, and high degree of estimation, associated with gathering Scope 3 emissions and with the understanding that assessing the materiality of Scope 3 emissions requires they be collected. Our support is informed by investors advising us that Scope 3 emissions will likely be the most significant emission category (See **Exhibit A-2** in the **Appendix**). As such, excluding them will not appropriately convey the transition risk faced by a registrant. For similar reasons, we do not support voluntary disclosure of Scope 3 emissions. We not only support, but recommend, the SEC require disclosure of Scope 3 emissions *as a range* as this will highlight the measurement uncertainty. The safe harbor protections over Scope 3 emissions are essential (i.e., even in an initial public offering context). Our view is that the relevance, and likely significance, of Scope 3 emissions supersedes them being perfectly reliable. We are supportive of a disclosure transition for Scope 3 emissions that considers the industry and size of registrant, with the most significant emitters providing information first.

  Without some mechanism to require disclosing Scope 3 emissions, the challenges in their estimation and collection will not improve over time (i.e., this will always be a stated hurdle to disclosure). Our view is also informed by an understanding that Scope 3 emission disclosures will have on private and public companies globally (i.e., they will need to gather and report their Scope 1 and 2 emissions) that does business with a US registrant. We believe these disclosures will be a matter of course in jurisdictions globally and believe many large private companies may already be required to make such disclosures.

For many registrants, there is a high probability that a materiality threshold will be reached when considering Scope 3 emissions—if materiality is assessed, at least in part, as Scope 3 emissions as a percentage of total emissions. Thus, the SEC should require a description by registrants of how they made such materiality assessments (i.e., like for climate-related risks) given the need to make such assessments absent any required disclosures on the cost of reducing emissions (i.e., and therefore the impact of reducing them on the enterprise value).

- ***Support Disclosure of Emission Reduction Commitments and Targets and Goals as They Facilitate More Meaningful Analysis of Transition Plans and Impacts***—We strongly support the requirement for registrants to make disclosures of any GHG emission reduction commitments; targets or goals; or transition plans. Such commitments or objectives are clarifying to investors in (1) understanding transition risks as well as management's intent and strategy in reducing GHG emissions, (2) the cost of doing so, and (3) making the impacts of progress toward achieving these milestones more measurable. While the disclosures may make establishing commitments, targets, or goals less frequent, they are likely not true commitments if that is the effect.

- ***Attestation of GHG Emissions: Support Same Professional Standards and Reporting Requirements for All Attestation Providers***—While our investor members have told us they desire assurance over sustainability disclosures, they also have told us in previous surveys that the verification can be done by professional services firms with ESG expertise as well as more traditional professional services firms providing assurance. They were nearly split on whether verification should be done at the same level as an audit. We have not specifically asked our investor members whether the Scope 1 and Scope 2 emissions should be attested to—or to what level (limited or reasonable) of assurance. This is a particularly challenging question when contextualizing the location of the disclosures. Specifically, when you remind investors that GHG emissions will be subject to attestation while other non-financial information (i.e., really any information not derived from financial statements) included in an SEC filing has no similar assurance, they may not support such different treatment. The question naturally arises: are GHG emission disclosures relatively more important than other disclosures in the same location?

  Whether a public company auditor or other attestation provider, we believe the standards for appointment, independence, execution, and inspection of any attestation engagement on Scope 1 and Scope 2 emissions (i.e., we do not support attestation over Scope 3 emissions) should be the same irrespective of the organization providing assurance. We believe they should be of the same standard, quality, and expectation of those providing attestation and subject to PCAOB requirements. Differing levels of standards and requirements will only add confusion for investors. It is our view that all attestation providers must also meet a financial wherewithal test.

  We understand the need for a delay in providing attestation, and the staggering of assurance levels, after making initial disclosures, given our focus on relevance over reliability.

Attestation by management and audits of internal controls over financial reporting appears premature.

- ***Cost of Reducing GHG Emissions: Sophisticated Investors Will Need to Estimate***—While an important barometer, GHG emissions will be a non-financial metric providing those who seek impact-related metrics something they desire with possibly a higher degree of precision and comparability. That said, there is no requirement in the Proposed Rule that enables investors—particularly if there is no transition goal or target—to quantify the impact to enterprise value of the registrant reducing the disclosed GHG emissions and the timing of those cash flows. While we may have a more precise barometer (i.e., GHG emissions) investors will likely have to make their own estimates of the cost of reducing such emissions—which may be imprecise, and which is work likely only ably done by sophisticated investors.

- ***Use of Other Frameworks and Standards May Require Additional Consideration***—In the Overarching Considerations section we address the Proposed Rule's use of the Task Force on Climate-Related Financial Disclosures (TCFD) and GHG Protocol frameworks/standards, but without reference to them in the Actual Proposed Rule. There we highlight for the SEC questions for consideration regarding whether such frameworks/standards have met best practices for independent standard-setting and how they will be maintained going forward given the point in time snapshot of such standards incorporated into the Actual Proposed Rule. We consider also whether there is sufficient specificity in the Actual Proposed Rule related to the compilation and estimation of GHG emissions.

- ***Materiality Decisions Within Proposal Should Be Assessed Against Commissioner Lee's Statement on Materiality Myths and Misconceptions***—Many observers have commented on the various materiality decisions made by the Commission throughout the Proposed Rule noting that in some instances no materiality threshold has been applied in establishing the Proposal's requirements and that materiality assessments made by the SEC—and to be made by management—are uneven. In the Overarching Considerations section, we assess these materiality observations across various aspects of the Proposal. We then consider them in light of Commissioner Lee's 2021 statement on materiality myths and misconceptions and find that opinions held by stakeholders regarding the uneven application of materiality may be rooted in these myths and misconceptions.

Support Climate-Related Disclosures Inside Financial Statements:
Prefer More Decision-Useful Cash-Based Metrics

- ***Support SEC Requirement to Anchor Disclosures in Financial Statements***—We support the SEC's efforts to anchor disclosures outside of the financial statements with those inside the financial statements and we support their inclusion in a separate footnote to the financial statements, noting significant interpretive issues associated with the inclusion of new definitions used to identify, capture, record, and report climate-related events and transactions. Inclusion within financial statements will bring a focusing effect to the definitions and disclosures—given the legal liability attaching to management and auditors for information contained within financial statements. This focusing effect may well yield benefits not only in the US market but globally where there will be no similar disclosure requirement of climate-related impacts within financial statements. The US will be unique in this regard.

- ***Prefer Cash-Based Metrics and Disclosure of Quantitative Impacts of Changes in Estimates and Assumptions***—In light of our view above, here we address a variety of concerns with respect to whether the financial impact metrics are really metrics or simply financial statement elements, and we raise the point that expenditure metrics may be mistakenly considered cash metrics. Both metrics will be on an accrual basis with the financial impact metrics being disclosed by financial statement caption and the expenditure metrics being expressed in the aggregate, which may challenge investors' understanding of the metrics and their relationship to one another. We note that most of the metrics are backward-looking, and investors seek forward-looking information when assessing enterprise value. We do not believe presentation of metrics should be required for historical periods at implementation as comparative periods can be developed going forward. Metrics and disclosures should be provided by segment and geography.

  We suggest an alternative approach proposing disclosure of climate-related cash-flow metrics, akin to a direct cash flow for climate-related cash flows, with an indication of which cash flows have been capitalized and for what expected useful life. We note that the SEC's proposed disclosure related to financial estimates and assumptions are likely only to be qualitative, and investors need quantitative information about climate-relate events, transactions, and risks. As such, we propose material changes in such assumptions and estimates be provided on a quantitative basis by financial statement caption as such information is useful in showing the variability of key estimates and assumptions going forward and their future impact on cash flows.

  Together, the cash-based metrics can be more directly linked, and concisely articulated relative to the climate-related risk disclosures within the forepart – making them more useful on a confirmatory basis – and the quantitative estimates and assumptions information is instructive in understanding the variability of future cash flows.

  We also note we would support the inclusion of such metrics outside the financial statements first with transition to inclusion in the financial statements as definitions, methodologies, best practices, and controls mature. In our proposed path forward, we also highlight that a deferral of their implementation date may make them more useful in assessing management's previous disclosures of climate-related risks in previous periods—enhancing their confirmatory effect.

- ***1% Disaggregation Threshold: Investors Seek Disaggregation of Many Financial Statement Elements***—We note that the 1% disaggregation threshold in the Proposed Rule may actually have the unintended consequence of creating greater disaggregation in the financial statements such that the registrants do not strike the 1% threshold. Further, the disaggregation threshold creates a paradox for investors who would like this level of disaggregation for many other financial statement elements.

- ***SEC Must Balance Climate Reporting and Other Financial Reporting Priorities***—The disaggregation threshold highlights another concern for investors—the need to address many important financial reporting priorities and the relative balance of those priorities with climate reporting priorities. We ask the SEC to consider the implications of the climate reporting priorities relative to other needed financial reporting improvements as we discussion in the Overarching Considerations section.

Industry-Based Forward-Looking Metrics Are a Needed to Link Disclosures Inside and Outside Financial Statements and to Achieve Global Convergence

We note the requirement in the Proposal for a registrant to discuss in the forepart to the financial statements the GHG emissions as well as, and alongside, the financial impact and expenditure metrics being derived from the financial statements. This connection and discussion may be challenging, and likely only qualitative, for registrants to prepare as the GHG emissions are a non-financial metric with no cost associated with reducing them provided to investors, while the financial statement metrics are accrual-based financial metrics and likely are more backward-looking than forward-looking.

We have suggested the aforementioned alternative set of cash-based metrics for inclusion in the financial statements to improve the linkage of the discussion of climate-related risks disclosed outside the financial statements and their financial statement impacts. We have also suggested that industry-based metrics which illustrate drivers of future performance—developed by the SASB and being incorporated into the ISSB standards—be included in the Proposed Rule if they cannot be legally referenced in the Actual Proposed Rule. We believe these industry-based, more forward-looking metrics are an important missing link for investors seeking to discover the financially value-relevant impact of climate-related risks in the financial statements.

We also believe the aforementioned industry-based disclosures are essential to achieving global comparability as they will be disclosures that other companies will make globally, not the metrics included within the financial statements of US public registrants. See Overarching Considerations and **Exhibit 1**.

The Path Forward

In sum, we laud the SEC for its timely consideration of these issues. Its efforts have forced focus on climate-related disclosures and advanced the conversation. We have proposed a path forward including our recommendations and an adjusted timetable in the Proposed Path Forward. Irrespective of the final outcome of the Proposed Rule, the Commission has unequivocally advanced understanding of these issues among all stakeholders and how such disclosures can be useful to investment decision making.

SUMMARY OF POSITIONS

Given the length of the Proposal and the resulting response, we provide the following tables (**Tables 1–5**) summarizing our views on the provisions of the Proposed Rule. The tables correlate to the sections within the body of the letter and **Appendix** where greater explanation of how we have arrived at our positions is provided.

Table 1

OVERARCHING CONSIDERATIONS	
TOPIC	**POSITION AND COMMENTS**
Inclusion of Climate Disclosures in Financial Statements: A Step Beyond the Rest of the Globe	▪ Proposal is a step beyond those of Europe or the international standard setter by requiring disclosures within financial statements. ▪ Linkage of the climate-related risks to the financial statements is essential. ▪ See comments in Disclosures Inside Financial Statements section of **Table 4**.
Information Must Be Decision-Useful and Predictive: A Link Is Needed Between Disclosures Inside and Outside Financial Statements	▪ Investors must evaluate the Proposal from whether the information set is decision-useful to financially value-relevant investment decision making. ▪ The information provided must look forward rather than backward to be most decision useful. ▪ The Proposal requires discussion to link climate-risks, GHG metrics, goals and targets and financial statement metrics. This is challenging given non-financial and qualitative information outside the financial statements and backward-looking accrual-based metrics inside the financial statements. ▪ There are challenges with the proposed financial statement metrics due to their preparation on an accrual basis, their meaningfulness, and their cohesiveness. ▪ We suggest a preference for more cash-based metrics and quantitative disclosure of changes in financial estimates and assumptions to improve decision-usefulness. ▪ Disclosures outside the financial statements will include GHG emissions but not necessarily any quantitative information about how reducing them will affect enterprise value as they are non-financial metrics. Additionally, climate-risk disclosures may be more extensive, but they will likely be qualitative. ▪ Disclosures are more suited for sophisticated investors. ▪ A link is needed between disclosures outside and inside the financial statements. As such, we have two proposals: 1) Revise the financial statement metrics as noted above, and 2) include industry-based future-oriented driver metrics as developed by the SASB, to be incorporated in ISSB. ▪ SASB metrics facilitate the discovery of enterprise value and will provide the information for appropriate contextualization, discussion, and analysis that the SEC is seeking thus linking disclosures inside and outside the financial statements. They will also facilitate the emergence of a global baseline with the ISSB. ▪ See **Exhibit 1** illustration in the Overarching Considerations section.
Reference to, or Lack of Reference to, Relevant Frameworks	▪ Discussion of the Proposal refers to the TCFD with respect to risk, governance, and strategy disclosures and the GHG Protocol with respect to the emission disclosures—as standards that have inspired the disclosures in the Proposed Rule. ▪ The Actual Proposed Rule does not reference these frameworks. ▪ Indirect reference to the aforementioned standards/frameworks raises issues regarding whether they meet third-party standard setting criteria, whether the Actual Proposed Rule is sufficiently detailed, and how the standards will be maintained going forward amid increased scrutiny. ▪ SASB industry-based standards, which are the basis for international ISSB standards, are not indirectly or directly referenced in the standards, which

	results in a lack of industry-based metrics, as noted above, and likely a reduction in global comparability. ▪ SEC's authority to set accounting versus sustainability standards and legacy challenges in incorporating IFRS may be driving the aforementioned challenges. ▪ We do not support the SEC transferring standard-setting for sustainability standards to the FASB, given the slow due process at FASB.
Climate-Related Definitions	▪ Actual Proposed Rule (17 CFR §229.1500) adds new climate-related definitions to the CFR. ▪ Interpretive issues will likely emerge with the introduction of these terms within Regulation S-K and ultimately into the financial statements through Regulation S-X. ▪ Inclusion of terms within SEC filings—most specifically their use within the financial statements—will bring increased scrutiny and a desire for interpretive guidance ▪ Use of definitions to identify, capture, record and report financial statement amounts will drive the need for very specific interpretations, not previously debated with use in sustainability reports. ▪ Clear interpretations are essential for consistency and comparability of disclosures, their preparation, and any assurance of the metrics. ▪ SEC must consider the challenges of the use of such terminology which may emerge and who will be charged with such interpretive guidance. ▪ The SEC's integration of these definitions in the Proposal and ensuing interpretations of terms will provide greater clarity and benefit investors globally.
Materiality	▪ Many perceive that there are varying levels of application, or no application, of the concept of materiality in the SEC's proposed disclosure requirements in the Proposed Rule. We look across the examples and make observations regarding these materiality assessments and the related requirements. ▪ We note the SEC is requiring disclosures or discussion of how materiality has been determined by management with respect to climate-related risks, which would be a new practice. ▪ We consider the materiality of the Proposal's disclosure requirements in light of Commissioner Lee's speech, *Living in a Material World: Myths and Misconceptions about "Materiality",* and the myths and misconceptions she highlights. We find that such myths apply to the objections of those who perceive different or unique interpretations of materiality in the Proposal. We find within her statement authority for the SEC to make such materiality determinations.
Relevance vs. Reliability	• Investors care deeply about reliability, but perfect reliability should not be a deterrent to the provision of more relevant information. Relevant information is better than perfectly reliable information which informs our support for Scope 3 emission disclosures (i.e., expressed as ranges and without verification), our position on deferring transitioning to reasonable assurance on Scope 1 and Scope 2 emissions, and the need to include information outside the financial statements before including it inside the financials.
Safe Harbors	▪ Support application of the safe harbor provisions of the Private Securities Litigation Reform Act (PSLRA) to key provisions of the Proposed Rule, including scenario analysis, internal carbon prices, transition plans, Scope 3 GHG emissions, and targets and goals. These safe harbors would facilitate the provision of relevant information in a timelier manner to investors. ▪ Recommend that the safe harbors for climate-related forward-looking disclosures be extended to initial public offering registration statements as this is when such information may be most decision-useful.

The Private Company Implications from Emission Disclosures	Scope 3 emissions disclosures for public companies will have the impact of requiring emission disclosures from all public and private companies globally that interact with US public companies.
Discussion in Proposal vs. Actual Rule	▪ Examples highlight the need, more necessary than normal, to reconcile the discussion in the Proposal with the Actual Proposed Rule to understand the exact requirements and nuances on the Proposed Rule's important changes. ▪ It is vital for the provisions of the Actual Proposed Rule to be clear and obvious to stakeholders, so they understand and appreciate the consequences of the Proposed Rule.
Climate Disclosures: Balance Financial Reporting Improvements	▪ Having faced challenges to previous progressive (i.e., controversial) accounting changes, this Proposed Rule will likely garner similar characterization. There are many previous examples for which previously controversial accounting is now commonplace (e.g., defined benefit plan liability recognition, stock compensation, fair value). It may take time for this to be commonplace. These challenges are not unknown to investors. ▪ There are many very important financial reporting improvements needed in addition to climate-related disclosures. ▪ The ability to make such improvements may not be driven by the ability to make new standards but rather by the ability of preparers to implement them. ▪ The Proposal demonstrates the SEC has given a greater relative importance to climate-related disclosures than to other risks faced by registrants. ▪ The SEC must balance the precedent setting nature of some of the disclosure elements of this Proposed Rule—and the speed with which they are being proposed to be implemented—with other financial reporting priorities and consider an evolutionary approach to such disclosures that enables a suite of investor information needs to be met. ▪ The SEC must consider a time horizon or road map to implementation of these disclosures that balances the various priorities over time.
PREFERRED PATH FORWARD	
Evolutionary Approach	See **Table 7** in Proposed Path Forward section of the letter.

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Table 2

DISCLOSURES OUTSIDE FINANCIAL STATEMENTS (REGULATION S-K)	
TOPIC	**POSITION AND COMMENTS**
DISCLOSURES OTHER THAN GHG EMISSIONS	
Overall	
Requirements Relative to Existing S-K Requirements	▪ Climate-related risks will have a separate section and include disclosure requirements more extensive than for other risks. Some will likely question relative importance of climate risks as compared to other risk disclosures.
Overview of Climate-Related Reporting Framework	
Based on TCFD	▪ TCFD provides a useful framework for communicating strategy and management of climate-related risks. ▪ Quality—and usefulness—of the disclosures will depend on how they are implemented. Need sufficient company specificity to be decision useful. Enforcement will be important. ▪ TCFD framework is not referenced in the Actual Proposed Rule, but it is "based upon" a snapshot of the TCFD requirements at this time. See Overarching Considerations (Reference to, or Lack of Reference to, Relevant Frameworks and Standards) in **Table 1**. ▪ Snapshot brings with it a number of practical questions regarding the development of the framework (i.e., an independent standard-setting process) and how any evolution will be incorporated in the SEC regulations. ▪ SEC's use of TCFD disclosure framework will make them more consistent and comparable but will result in a higher degree of scrutiny than in the past.
Location: Separate Section	▪ Support the SEC's decision to include climate-related disclosures in a separate section. Supported this approach in previous commentary to SEC.
Disclosure of Climate-Related Risks	
Definitions	▪ See Overarching Considerations (Definitions) in **Table 1** and Disclosures Inside Financial Statements (Definitions, Terminology, and Interpretive Issues) in **Table 4**.
Value Chain Disclosures	▪ Agree with the spirit of making climate-related disclosures within a registrants' value chain. Obtaining such information and verifying its veracity is likely to be challenging. Expands the boundaries of financial reporting.
Physical Risk Disclosures	▪ Support physical risk disclosures. Clarity is needed on several elements of rule. ▪ Need book value or percentage of total assets subject to physical risk—not simply for high-water stress areas. Need book value for flood hazard areas as well. For both, replacement value is likely a more important measure than book value—as well as the impact on financial performance (revenues and expense) of this risk, should it emerge. ▪ Support separating physical and transition risks for purposes of climate-related risk disclosures. May not be easy to parse risks. ▪ Physical risk disclosures will be at a level of disaggregation that investors seek for other information within financial statements.
Transition Risk Disclosures	▪ Support but worry that transition risk disclosures will be qualitative and boilerplate as unlike for physical risks there are no required quantitative disclosures. ▪ Important disclosure is needed regarding changes in legislation or regulations and international accords or agreements that may have differing impacts by geography. Need GHG and transition considerations by geography.
Opportunities	▪ Support discussion of opportunities. ▪ Remain skeptical that many companies will make these disclosures. ▪ Monitoring/enforcement may be necessary to ensure that climate-related opportunities discussed by registrant as part of marketing a company's stock in venues, forums, or publications other than SEC filings is not omitted as a

	disclosure within the company's SEC filings. Consider language that makes the opportunities discussion optional unless included in other public communications.
Other Metrics	▪ See Information Must Be Decision-Useful and Predictive: A Link Is Needed Between Disclosures Inside and Outside Financial Statements within the Overarching Considerations section **Table 1**.
Time Horizons and Materiality Determination	▪ See Overarching Considerations (Materiality) and (Discussion in Proposal vs. Actual Proposed Rule) subsections in **Table 1** regarding materiality application by the SEC and a description of materiality conclusions by the registrant. ▪ SEC should provide guidelines on the definition of short, medium, and long term. ▪ Industries and businesses may have very different business models that necessitate discussion over very different time horizons. ▪ Issuer disclosure of their time horizons (even if guidelines are provided) is important for comparison between years and with competitors. ▪ Support safe harbor provisions.
Disclosures Regarding Climate-Related Impacts on Strategy, Business Model, and Outlook	
Disclosure of Material Impacts	▪ Support, in principle, disclosures of the material impacts of climate-related physical and transition risks describing the actual or potential impacts of these risks on the registrants' strategy, business model, and outlook with an emphasis on doing so with respect to time horizons and giving consideration of how it has impacted strategy, financial planning, and capital allocation. ▪ Concerned that disclosures will remain high-level and qualitative and not quantitative, nor company specific. ▪ Need quantitative and qualitative description of impacts. The only disclosure that might garner a quantitative disclosure is the requirement to disclose research and development expenditures. ▪ Support the spirit of the attempt to link the discussion of climate-related risks to their impact, both current and forward-looking, and to the financial statements, but we believe the non-financial nature of GHG emission metrics—with no required quantification of the cost to reduce them required to be disclosed—combined with mostly backward accrual-based financial statement caption metrics will make such linkage challenging. See Overarching Considerations (Information Must Be Decision-Useful and Predictive: A Link Is Needed Between Disclosures Inside and Outside Financial Statements) in **Table 1**. ▪ Support disclosure regarding how any resources are used to mitigate climate-related risks. ▪ We would not oppose additional disclosures regarding how the registrant leverages climate-related financing instruments.
Carbon Offsets and Renewable Energy Credits	▪ Support disclosure that requires discussion of how carbon offsets or renewable energy credits (REC) have been used in the registrant's climate-related strategy. ▪ See also the Targets and Goals Disclosures portion of **Table 3**.
Internal Carbon Pricing	▪ Support disclosure of internal carbon price, if maintained. ▪ Some companies may simply fail to maintain an internal carbon price to avoid disclosure of potentially negative impacts on enterprise value. ▪ Different methods and prices may result in a lack of comparability and may be too early to require the use of an internal carbon price or a particular carbon-pricing methodology. Carbon markets also may not be sufficiently robust. Investors, however, likely will make their own estimation of price/cost to reduce GHG emissions by obtaining price/cost estimates and applying to GHG emission disclosures.
Scenario Analysis	▪ Lack of a requirement for scenario analysis is disappointing as a registrant simply needs to state they do not perform such scenario analysis to avoid making such disclosure.

	▪ Not clear whether requirement to disclose both quantitative and qualitative information applies only if scenario analysis is disclosed. ▪ Investors have long advocated for better enforcement of sensitivity analysis disclosure requirement for critical estimates because it is decision useful as would be scenario analysis on climate risks. ▪ Lack of scenario analysis provides qualitative evidence that a company's climate-related risk management, governance, and strategy may not be sufficiently robust or effective at assessing the resilience of a company's climate-related risk strategy.
Governance Disclosure	
Board Oversight	Support disclosure requirements. Make observations regarding the following: ▪ quality of compliance, ▪ need for board authorship, ▪ relative importance of these disclosures for climate but no other risks, ▪ false narrative of competitive harm, and ▪ proportionality of needed expertise.
Management Oversight	Support disclosure requirements. Make observations regarding the following: ▪ relative importance of these disclosures for climate but not for other risks; and ▪ the fact that failure to require disclosure of link to compensation is a missing, but important, link to progress.
Risk Management Disclosure	
Processes for Identifying, Assessing, and Managing Climate-Related Disclosures	Support disclosure requirements. Make observations regarding the following: ▪ importance of integration with overall risk management; ▪ risk of boilerplate disclosures unless inclusion of metrics and proper enforcement; ▪ need for regulatory reform disclosures by geography; ▪ relative importance of these disclosures for climate but not for other risks; ▪ precedent-setting nature of requirement to describe materiality conclusions; and ▪ false narrative of competitive harm.

Transition Plan Disclosure	▪ Support the Proposed Rule's requirement that a registrant disclose, if it has adopted, a transition plan as part of its climate-related risk management strategy.
	▪ Support the inclusion of transition plans related to physical and transition risks.
	▪ Agree with the view that disclosures will facilitate investor understanding of whether the company has a plan and whether it may be effective in the short, medium, and long term in achieving such a transition.
	▪ Make observations regarding the need:
	  ▪ to connect transition plan to risk disclosures;
	  ▪ for standardized metrics not simply, those based upon management judgment;
	  ▪ to connect the plan to management compensation; and
	  ▪ to update only annually unless there are significant changes.

Table 3

DISCLOSURES OUTSIDE FINANCIAL STATEMENTS (REGULATION S-K)	
TOPIC	**POSITION AND COMMENTS**
GREENHOUSE GAS EMISSIONS	
GHG Emissions Disclosure Requirements	
GHG Emissions Metrics Disclosure	
Scope 1, 2 and 3 Emission Disclosures	▪ Support Scope 1 and 2 emissions disclosures to better inform investors. ▪ Because investors believe they will be the most significant GHG emissions for many companies, we support Scope 3 emissions disclosures—recognizing the many challenges associated with gathering such information (e.g., supply chain issues, need for non-public company data, estimations, delays in reporting, and materiality application questions). We would be supportive of an industry-based and size of registrant-based transition approach expressed as ranges and with appropriate safe harbors as this value-relevant information is needed for analysis even if the measurement is less than perfectly reliable. Such an approach would likely be agreeable to investors as it would provide for the largest and most significant Scope 3 emitters implementing disclosures first. ▪ GHG emissions may be a non-financial metric—that some perceive as an impact-only metric—but they are a barometer, albeit a blunt instrument, for investors to understand the current transition exposure and how progress can be, or is being, made in reducing emissions—and the cost of reducing such emissions to the enterprise. Amid increasing net-zero commitments and regulatory pressures to reduce GHG emissions, they become more financially relevant. GHG emissions need context (i.e., industry drivers, company strategy, and cost of reduction) to be most meaningful to investors.
Historical Periods and Timing of Reporting	▪ Would not object to the inclusion of current period—only GHG emission metrics, building comparative figures going forward. ▪ Support a reporting period consistent with the registrants' Exchange Act annual report (e.g., 31 December 2022) and a reporting deadline consistent with the registrants' Exchange Act annual report due date (e.g., 60 days after the period end, 1 March 2023). We would not object to a three-month reporting lag or the estimation of the last quarter's emissions.
GHG Definitions	▪ Support definitions of greenhouse gases as CO_2, CH_4, N_2O, NF_3, HFCs, PFCs, and SF_6. ▪ CO_2 equivalent (CO2e) is an appropriate metric to use as it is accepted standard.
Use of GHG Protocol	▪ Support GHG Protocol as the standard used for disclosure, but we have concerns regarding the method of incorporation in the Actual Proposed Rule and use of the standard over the longer term as interpretive issues arise. See the Overarching Considerations (Reference to, or Lack of Reference to, Relevant Frameworks and Standards) section.
Disaggregation of GHG Emission Disclosures	▪ Disaggregated climate data is more useful to investors than aggregated data and should therefore be the standard. Support disaggregation by scope, type of GHG within scope, location, geography, segment, and upstream and downstream category. Support visual display of disaggregation
Scope 3 Emissions: Materiality Assessment	▪ See comments on Scope 3 GHG emission materiality assessment challenges in the Overarching Considerations (Materiality) section.
Scope 3 Emissions: Reduction Commitments	▪ If reduction commitments include Scope 3 GHG emissions, support their disclosure irrespective of materiality. Support their disclosure even if reduction commitment does not explicitly include Scope 3, as likely the most material reduction needed to make commitment meaningful.
Scope 3 Emissions: Voluntary Disclosure	▪ Do not support a voluntary disclosure regime for Scope 3 emissions.
Scope 3 Emissions:	▪ Support disclosure of Scope 3 emission data sources.

Data Sources	
Scope 3 Emissions: Impact on Non-Public Companies	▪ Recognize the implication of Scope 3 GHG emission disclosures on private/non-public companies. See the Overarching Considerations (Private Company Implications) section.
GHG Emission Offsets	▪ Offsets should be disclosed separately, not part of Scope 1, 2, or 3.
GHG Intensity Metrics	▪ Support disclosure of GHG intensity metrics as metric tons of CO2e per unit of revenue and per unit of production. Industry-based guidance and additional measures of intensity may be necessary to be most meaningful.
GHG Emissions Methodology and Related Instructions	
Methodology	▪ Support disclosure of methodology, inputs, and assumptions to climate calculations. ▪ Proposed Rule may lack sufficient specificity. More guidance, or explicit requirements, may be necessary for disclosures to be meaningful. ▪ Enforcement will be important.
Use of Estimates	▪ Support use of estimates due to the new nature of this disclosure and challenges obtaining data. ▪ Should be used sparingly and within reason and not when actual data exist.
Material Changes	▪ Support disclosure of material changes in methodology, inputs, and assumptions used in climate calculations. ▪ Prior periods should be restated when changes are made.
Scope 3 Emissions: Use of Ranges	▪ Support use of ranges in making disclosures of Scope 3 emissions. ▪ SEC should require disclosures as a range as it more accurately conveys the estimated nature of the metric.
Scope 3 Emissions: Disclosure Standards	▪ Industry-based standards on Scope 3 emission disclosures should be followed, recognizing aforementioned challenge of incorporating standards in Actual Proposed Rule.
Organizational vs. Operational Boundaries *Nonconsolidated Entities*	▪ Support definition of organizational boundaries consistent with US GAAP. ▪ Support disclosure of organizational and operational boundaries. ▪ Without further interpretation, however, we believe there will be confusion regarding the definition of operational boundaries and their relationship to organizational boundaries. ▪ Support consistency of boundary definitions over time; changes should result in restatement of comparative periods. ▪ Nonconsolidated entities GHG emission disclosures should be a separate category of disclosure.
Outsourced Activities	▪ Support newly outsourced activities being included in Scope 3 emission disclosures and prior periods being recast to reflect such change.
Overlaps	▪ Support disclosure of overlaps in emission categories.
Third Party Data Sources & Data Gaps	▪ Support disclosure of third-party data sources and gaps in data.
Scope 3 Emissions Disclosure Safe Harbor and Other Accommodations	
Scope 3 Emissions Disclosure Safe Harbor	▪ Support safe harbor for Scope 3 emission disclosures to encourage disclosures and the evolution of best practices.
Other Accommodations	▪ See Other Matters: Registrants Subject to the Climate-Related Disclosures Rules and Affected Forms, as it relates to the exemption of smaller reporting company (SRCs) from the reporting of Scope 3 emissions. ▪ See Other Matters: Compliance Dates, as it relates to delayed compliance date for the reporting of Scope 3 emissions.

Attestation of GHG Emission Disclosures	
Attestation of Scope 1 and Scope 2 Emissions Disclosure	
Investor Views on Assurance of Sustainability Disclosures: Attestation of Scope 1 and 2 Emissions	▪ Investors support independent verification for sustainability disclosures, by auditors or others, with near split on whether level of assurance should be equivalent to an audit. ▪ Further consultation with investors is needed to determine what level of assurance (limited or reasonable) is supported for Scope 1 and 2 emissions when included in an SEC filing. ▪ The proposed level of assurance would be a higher level of assurance than for any other non-financial metric included in forepart to financial statements in SEC filings. Is this the most important metric outside the financial statements? ▪ Investors are concerned about reliability but will not trade relevance for a perfectly reliable metric that is not decision useful.
Attestation of Scope 3 Emissions	▪ Do not support attestation for Scope 3 emissions given the estimation and subjectivity of Scope 3 metrics.
Applicability & Transition	▪ As a general principle we support attestation requirements and transition periods being applied equally to all registrants. ▪ That said, we have seen support – as it relates to climate disclosures – to provide relief from the attestation requirements for entities other than large accelerated and accelerated filers. ▪ Support a transition period from limited to reasonable assurance but proposed timeframe may be optimistic; a longer phase-in period to the "reasonable assurance" level should be considered.
Expanding or Revising Definition of Assurance	▪ Do not support expanding or revising definition of assurance as will only add confusion.
Management Attestation or Audit of Internal Controls	▪ Attestation by management or audit of internal controls is premature.
Inclusion in Financial Statements	▪ Emissions data should not be included in the financial statements.
GHG Emissions Attestation Provider Requirements	
Industry and Attestation Experience	▪ Attestation providers should have expertise in both attestation and GHG emissions.
Independence & Minimum Professional Standards	▪ Support independence requirements for attestation providers that are equivalent to those of the audit profession. ▪ Support requirement for policies and procedures to ensure providers have appropriately qualified personnel equivalent to those of the audit profession.
Financial Wherewithal Requirement	▪ Support adding a "financial wherewithal" requirement to ensure that providers can withstand any litigation that might ensue from their attestation.
GHG Emissions Attestation Engagement and Report Requirements and Additional Disclosure by the Registrant	
Inclusion of Attestation Report	▪ Support inclusion of attestation report in the separate "Climate-Related Disclosure" section within the annual filings with the SEC.
Equivalence in Engagement and Reporting Requirements Between All Attestation Providers	▪ Engagement and reporting requirements should be the same for auditors and other attestation service providers, as varying requirements will be confusing to investors. ▪ Support use of Public Company Accounting Oversight Board (PCAOB) attestation standards and proposed minimum disclosure requirements similar to the requirements of an independent auditor's report, as this is well-understood by the investment community. ▪ Support industry licensing, accreditation, and oversight requirements similar to PCAOB requirements; this may require a change in laws or regulations to give them governing authority.

Disclosure of Voluntary Attestation May Discourage Registrants from Seeking Such Attestation	
Clarification Required: Inclusion of Report & Attestation Provider Qualifications	▪ Clarity is needed on why an attestation report should be summarized rather than included in a filing. Is the presumption the report cannot be included? ▪ Clarification is needed on whether the proposed requirements presume the attestation provider has not met all the aforementioned criteria for providing attestation services.
Feasibility/Permissibility: Registrant to Provide Commentary on Behalf of Attestation Provider	▪ Is summarization of attestation report feasible or permissible given standardized language and disclosures as well as nature of the engagement? ▪ Can registrant, or would registrant want to, comment on independence of attestation provider and oversight regime based upon information furnished by the attestation provider?
Requirements May Deter Voluntary Attestation	▪ Additional requirements for voluntary attestation may place additional burdens or liability on the registrant or provider and therefore may discourage such voluntary attestation.
TARGETS AND GOALS	
Targets and Goals	▪ Support disclosure of ***any*** targets or goals given that what gets disclosed gets measured and monitored. ▪ Disclosure could discourage setting targets or goals, but the disclosures, more importantly, will reduce virtue signaling (false) targets/goals. ▪ No incremental cost to disclose, as this should follow internal reporting on targets and goals and related progress. ▪ Disclosure regarding progress over time are key to establishing accountability and verifiability over time. Progress should be reported quantitively and qualitatively. ▪ Support disclosures associated with the role carbon offset and renewable energy credits are expected to play and have played in achieving targets. ▪ Prefer disclosures in tabular format with progress reporting tabularly over time. ▪ Support safe harbor protections on such disclosures.

Table 4

DISCLOSURES INSIDE FINANCIAL STATEMENTS (REGULATION S-X)	
TOPIC	**POSITION AND COMMENTS**
Overview	
Contextual Information	▪ Greater specificity is required to ensure information is not boilerplate. ▪ Ambiguity of certain definitions, the relationship between metrics and the impact of climate-related risks needs to be reduced.
Basis of Calculation	▪ Definition and interpretive issues are a more significant issue than calculation mechanics.
Segment Disclosures	▪ Support segment disclosures but geographic disclosures are equally necessary given differing global risks.
Periods Presented	▪ Adoption/transition should not require historical periods. Comparative periods can be developed on a go forward basis.
Definitions, Terminology, and Interpretive Issues	▪ Inclusion of S-K terms in financial statements through S-X will draw greater scrutiny to them given need to identify, capture, record, and report based upon definitions. ▪ Financial impact and expenditure metrics are really financial statement elements not metrics per se. ▪ Most terms used do not currently exist in US GAAP Codification and not all terms exist within 2017 TCFD recommendations report. This will increase need for interpretation as this is there first use related to financial statements. ▪ Expenditure metrics are not cash-flow metrics, and this should be clearer. ▪ The term "opportunities" requires greater clarification in context of its use related to historical financial statements. ▪ XBRL taxonomy maintained by Financial Accounting Standards Board (FASB) will need to be updated for terms even though they do not exist in US GAAP Codification. Not clear whether this will be done by FASB or SEC. ▪ Parsing physical and transition risks will be challenging.
Identifying Climate-Related Impacts from Supplier (Upstream) Costs	▪ Metrics will not include the climate-related impacts from third parties as information will not be reported on invoices from suppliers. ▪ Information is outside bounds of the financial statements. ▪ Given these may be the greatest GHG emissions, the largest impacts will not be captured by metrics and will reduce their usefulness.
Critical Audit Matter	▪ Interpretive issues will result in disclosures to be a critical audit matter (CAM).
US GAAP	▪ Recognize the SEC's authority to establish rule. ▪ No inappropriate reference to US GAAP. ▪ Many important items (e.g., terms) will be omitted from US GAAP. ▪ See Overarching Considerations (Refer to, or Lack of Reference to, Relevant Frameworks or Standards) section in **Table 1**. Do not support FASB establishing sustainability reporting standards due to slow due process.
Financial Impact Metrics	
Linkage to Financials	▪ Linkage of climate-related risks to the financial statements is important for investors because linkage anchors management's statements in forepart to the actual results in future periods and improves the quality of reporting inside and outside financial statements.
1% Disaggregation (Materiality) Threshold	▪ Investors support greater disaggregation within financial statements for many different disclosures—not simply climate. ▪ Some suggest investor support is necessary as will set precedent for other disclosures investors seek at a more disaggregated level. ▪ Disagree with view that, if material, information would already be disclosed.

	▪ Precedent-setting materiality threshold that may not be consistent with SAB 99 theory of quantitative and qualitative measures of materiality. ▪ Acting Chair Lee's 2021 statement on materiality myths and misconceptions likely supports the SEC's basis for this threshold.
Relative Priority of Disaggregation of Climate-Related Risks	▪ We question whether climate disaggregation—at a precedent-setting materiality level—is more important or more feasible than greater disaggregation on the income statement (e.g., expenses by function and by nature), improved segment disclosures, and improved cash flows (e.g., direct method).
May Result in Greater Aggregation Overall	▪ So as not to strike the 1% threshold, registrants may further aggregate financial statement captions—an unintended consequence.
Decision-Usefulness of Information	▪ Metrics are really financial statement elements and are accrual based, including cash, accrual, and estimates and judgments elements. ▪ Metrics are historical, not forward-looking, which are confirmatory but not predictive. They are not as confirmatory as cash metrics. ▪ Aforementioned interpretive issues and lack of inclusion of upstream costs will affect usefulness of metrics. ▪ Balance sheet metrics will be cumulative, income statement metrics will be accrual, and statement of cash-flow metrics related to changes in balance sheet accounts to arrive at operating cash flows will not be very useful. ▪ Cash flows from investing and financing activities likely will be the most useful metrics. ▪ Metrics will be impacted by acquisitions and fair value changes. ▪ See suggested alternative approach in section which follows.
Disclosure of Climate-Related Cost of Capital	▪ Do not support at this time given challenges computing such risk premium.
Expenditure Metrics	
Expenditure Metrics	▪ Not cash-based metrics (accrual-based expenses and capitalized expenses). ▪ Aggregated across financial statement captions. ▪ No linkage to financial statement captions or financial impact metrics. ▪ No cohesion to facilitate understanding of both types of metrics and relationship to financial statements. ▪ See suggested alternative approach in section which follows.
Assumptions and Estimates	
Qualitative Description	▪ Information will be highly qualitative. ▪ Enforcement will be key to making this decision-useful information. ▪ Need quantitative effects of changes in assumptions and estimates. ▪ Need information by financial statement caption to understand linkage to financial statements and ensure cohesiveness of disclosures. ▪ See suggested alternative approach in section which follows.
Inclusion of Climate-Related Metrics in Financial Statements	
Inside Financial Statements	▪ Interpretive issues and lack of cohesiveness of proposed metrics may reduce decision-usefulness. ▪ May be challenging to assemble the story told by proposed metrics. ▪ Support inclusion in financial statements not inclusion in schedule or supplement. Could support initial inclusion outside financials in forepart with migration to inside of financial statements. ▪ Need linkage of information inside and outside financial statements. See Overarching Considerations in **Table 1**. ▪ See suggested alternative approach in section which follows.
Separate Climate Statement	▪ Displaying proposed metrics on separate climate statement would not enhance decision-usefulness. ▪ Separate balance sheet, income statement, and direct statement of cash flows of climate-related effects with rollforwards would be supported.
GHG Emissions in Financial Statements	▪ Do not support inclusion of GHG emission (non-financial metrics) in financial statements as they are non-financial.

	▪ Cost of reducing GHG emissions is a missing ingredient in Proposal that leaves estimation of cost of reducing emission impact on enterprise value up to investors to determine.
Auditing Standards	▪ No significant, but some interpretive, changes necessary.
Financial Statements Prepared Under IFRS	▪ It is clear that provisions are applicable to foreign registrants filing on Form 20-F and applying IFRS accounting principles and SEC disclosure requirements. ▪ Audit opinion will need to be modified as requirement is not IFRS. ▪ May want to codify.
Alternative Approach	
Forward-Looking, Decision-Useful and Predictive	▪ Financial statement and expenditure metrics are accrual based and mostly backward-looking. Forward-looking information is more decision-useful and predictive. This is particularly true with climate as transition efforts will occur in the future. ▪ We are proposing an alternative approach for more decision-useful information over time while retaining linkage to financial statements.
Preferred Alternative Disclosures: Cash Metrics	▪ Propose disclosure of climate-related cash flows—a direct method climate-related cash flow—which links climate-related cash flows to income statement captions and highlights investing and financing cash flows. ▪ Propose disclosure of cash flows capitalized and their expected useful life by financial statement caption. ▪ Propose quantitative disclosures of changes in key assumptions and estimates with linkage to financial statement captions. ▪ Support similar definitions and basis of computation as for financial statement and expenditure metrics. ▪ Definitional and interpretive issues would still need to be addressed. ▪ No more expensive than existing proposed metrics. ▪ Demonstrates ability to obtain climate-related cash flows while at the same time demonstrating improvements in income statement disaggregation and cash-flow statement preparation. ▪ Propose including such disclosures outside financial statements to start and transitioning disclosures into financial statements. Evolutionary approach similar to defined benefit pensions and stock-based compensation. ▪ Linkage to climate-related risk impacts outside the financial statements can be more concisely articulated and provide better contextualization. ▪ More decision-useful for investors over time as cash flows will provide confirmatory evidence of previous statements on physical and transition risks. Cash flows can be time series and connected to risks.

Table 5

OTHER MATTERS	
TOPIC	**POSITION AND COMMENTS**
Applicability and Implementation Dates	
Applicability and Implementation Dates	▪ We generally abide by our long-standing principle that if the SEC believes new disclosures are value-relevant information that they should be provided irrespective of registrant size or state of transition to public company status. ▪ As such, we support application of disclosures to nearly all registrants (excluding Form S-8 and Form 11-K, and, with more study, of application to asset-backed issuers) as need for value-relevant information is not based upon size of registrant. ▪ That said, despite our general principle, we support exempting small reporting entities from Scope 3 emission disclosure requirements. ▪ Do not support the allowance of a plethora of alternative reporting regimes for climate-related disclosures, even if they are required in a foreign private issuer's home country, particularly if domestic issuers are held to a higher standard than foreign issuers. Broadly, we recommend that if foreign private issuers are availing themselves of US markets, they should provide US-style climate-related disclosures—and vice versa. Said differently, foreign private issuers should be subject to at least the same level of disclosure as domestic issuers. ▪ As it relates to the use of ISSB standards in SEC filing documents, we note that foreign private issuers may have industry-based disclosures based upon ISSB standards included within their local filings that are decision-useful to investors, as we discuss in the Overarching Considerations section. We believe those disclosures should be allowed to be included in their US filings with the Commission as they are decision-useful information. Support the inclusion of all ISSB information in foreign filer documents filed with the SEC, supplemented by SEC's proposed requirements that may be additional to the requirements in foreign jurisdiction such as, for example, the inclusion of financial impact metrics within the financial statements that are being proposed in the US but not internationally. Those financial impact metrics should be computed using IFRS-based financial statement information. ▪ Application of proposed financial statement disclosures by foreign private issuers will necessitate a change in foreign filers audit opinions as SEC requirements are not IFRS but will be based upon underlying IFRS information. ▪ Support disclosure in periodic filings of material changes.
Structured Data Requirements	
Structured Data	▪ All disclosures should be tagged. ▪ Support Inline XBRL for Regulation S-K and S-X disclosures. ▪ Generally, we do not support custom tags as it belies the point of a standard taxonomy, so we do not support custom tags on disclosures that should be highly standardized, but we recognize that some custom tagging may be necessary given the evolving nature of climate-related disclosures. ▪ Concern about consistency and comparability among climate disclosures given differing standard-setting internationally (ISSB), in the United States (SEC), and in Europe (EC/EFRAG) and the use of similar terms with different meanings. This would be made worse through different third-party taxonomies. Support bilateral or trilateral agreements to ensure consistency. ▪ We do not support a different structured data language. ▪ SEC creation of S-X rules and US GAAP will necessitate consideration of how such terms, not in US GAAP Codification and Taxonomy, are included or made consistent.

Treatment for Purposes of Securities Act and Exchange Act	
Furnished vs. Filed	We support filed over furnished disclosures.
Compliance Date	
Compliance Dates: Likely Optimistic	▪ As a rule, we do not generally support staggered adoption dates given that value-relevant information improvements that enhance decision-usefulness should be made as soon as possible irrespective of size of registrant. ▪ In the case of climate disclosures, however, we support the staggering of compliance dates – especially as it relates to Scope 3 emissions. ▪ Adoption/compliance dates are quite aggressive and likely optimistic. ▪ We would not oppose extending compliance dates by one year. ▪ See Preferred Path Forward section.

OVERARCHING CONSIDERATIONS

As we considered the Proposed Rule, we identified several cross-cutting issues or overarching themes, which we highlight here.

Inclusion of Climate Disclosures in Financial Statements: A Step Beyond the Rest of the Globe

Much has been made of the pace at which Europe has moved to create sustainability (non-financial or ESG) standards, many observing that Europe is ahead of the United States. That said, the SEC has released the Proposed Rule in advance of EFRAG and the ISSB's work on climate disclosures. And the United States, unlike Europe or internationally, has proposed to include climate-related disclosures within the financial statements. EFRAG and the ISSB's disclosure would be outside the financial statements. The ISSB and EFRAG do not have the authority and/or mandate to establish disclosure requirements for within financial statements. In this way, the SEC's Proposed Rule is a step beyond those of Europe or the international standard setter. We agree that linkage of the climate-related risks to the financial statements is essential, and we consider – in the Disclosures Inside Financial Statements section – whether the disclosures contained within the Proposal are the most decision-useful to investors. While we have a view on how to make the disclosures more decision-useful, we support the identification and disclosure of climate-related risk impacts on actual financial results. Anchoring the disclosures outside the financial statements to those within the financial statements will have a focusing effect and increase the reliability and consistency of both.[10]

Information Must Be Decision-Useful and Predictive: A Link Is Needed Between Disclosures Inside and Outside Financial Statements

The central question for investors is whether the information provided by the Proposed Update will be decision-useful for investment decision making that is financially value relevant for the long term. Having reviewed the Proposed Rule in detail, we attempted to synthesize the elements of the Proposal and consider/address from a high level whether the information set derived from the Proposal will be decision-useful and have predictive capacity. The text in **Exhibit 1** that follows provides a summary of information likely to appear outside and inside the financial statements as a result of the Proposal. This is a very high-level summary of our interpretation of the information from a financial analysis and investment decision-making perspective. We discuss the necessary linkage—and what is missing—between the two in the paragraphs that follow.

[10] We would also observe that existing US GAAP and IFRS standards—as highlighted in publications by the FASB and IASB, as noted by the SEC in the Proposal—require consideration of climate-related risks in the measurement of various financial statement estimates. Investors and others have observed that under both US GAAP and IFRS the isolation of climate-related risks and the communication of their impact has been sparse to date.

CFA Institute

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Exhibit 1

Outside Financial Statements

Information outside the financial statements will be located in a separate section of the forepart and include the following:

- ***GHG Emission Non-Financial Metrics***
  - Quantitative nonfinancial metrics on all three scopes of GHG emissions. Scope 1 and Scope 2 irrespective of materiality. Scope 3 if material.
  - Many companies may conclude Scope 3 is material given suggestion to use the ratio of Scope 3 Emissions/Total Emissions in making determination.
  - No internal pricing/external carbon price is required to be provided to enable computation of cost of reducing the disclosed emissions.
  - Attestation of Scope 1 and 2 emissions would be required, based on a implementation delay. Type of attestation will evolve from limited to reasonable assurance over time.
  - Scope 3 emission disclosures would be subject to a legal safe harbor.
- ***Climate Related Risks, Risk Management, Governance, Impacts on Strategy, Business Model, and Outlook***
  - Discussion of climate-related risks, their management and governance as well as impact on strategy, business model and outlook is required.
  - Disclosures will likely be more extensive and time bounded than other risks, but we expect will be mostly qualitative (other than physical location disclosures). Monitoring and enforcement by SEC will be necessary to ensure information is sufficiently detailed and company specific.
  - Discussion of the materiality decisions made in arriving at the climate -related risks is to be provided.
  - Physical risk disclosures would include location of properties subject to flood hazard (% of buildings by meters or acres) or water stress (book value and % of assets) risk. Book value of flood hazard properties will not be provided. Neither replacement cost nor operational impacts are to be provided.
  - Internal carbon prices will only be required, if maintained.
  - Scenario analysis will only be required, if used.
  - Disclosure of use of carbon offset or renewable energy credits will be required.
  - Disclosure of opportunities is allowed. Such disclosures likely to be limited given proprietary concerns. SEC may need to require disclosure within filings if opportunities are discussed in other public documents or statements of the registrant.
  - Discussion and analysis of the GHG emissions (that are nonfinancial with no financial value linkage) and the financial impact and expenditures metrics (that reflect current period accrual effects) is to be provided. See analysis below illustration.
  - Transition plans are to be provided–the level of detail will be a matter of implementation and may require SEC monitoring.
- ***Targets and Goals***–Any target or goal will be required to be disclosed, if established, with certain baseline and progress disclosure requirements.

Inside Financial Statements

- ***Financial Impact Metrics***–Components of financial statement lines items (captions) that are climate-related events or transition activities (i.e., severe weather events, other natural conditions, transition activities, and identified climate-related risks) and represent greater than 1%, on an absolute value basis, of the related consolidated financial statement caption are to be provide and are labelled financial impact metrics. Disaggregation of positive and negative impacts by type of climate-related event or transaction is required. Other than items within the investing and financing section of the statement of cash flows, these disclosures will be on an accrual basis.
- ***Expenditure Metrics***–Expenditure metrics equivalent to 1%, on an absolute value basis, of aggregate expenditures (spending) expense or capitalized associated with climate-related events or transition activities (i.e., severe weather events, other natural conditions, transition activities, and identified climate-related risks). These will be on an accrual (not cash) basis and can be monetary or nonmonetary expenditures. Expenditure metrics will be disaggregated by positive and negative impacts by type of climate-related event or transaction, but they will be in the aggregate and will not be linked to the financial impact metrics by financial statement caption—reducing linkage between metrics provided in financial statements.
- ***Financial Estimates and Assumptions***–A qualitative discussion of the impact of climate-related events or transition activities (i.e., severe weather events, other natural conditions, transition activities, and identified climate-related risks) on financial estimates and assumptions will be disclosed. This will not be quantitative and will not necessarily relate to financial statement captions.
- ***Impact of Identified Climate-Related Risks***–In addition to disclosing the impact of climate-related events or transition activities (i.e., severe weather events, other natural conditions, transition activities) on financial and expenditure metrics, registrants are also required to disclose the impact of any climate-related risk identified outside the financials separated by physical risks and transition risks. The connection between this disclosure requirement and the aforementioned metrics is not precisely clear.
- ***Definitions***–Definitions of climate-related events and transactions will be based upon those added to Regulation S-K Item 1500 (17 CFR §229.1500) outside of the financial statements. Many interpretive issues will likely emerge. SEC's inclusion in financial statements will increase scrutiny on such terms not only in the US but globally.
- ***Contextual Information***–Information is to be provided describing how each metric was derived including inputs and assumptions used, and policy decisions made in computing metric.
- ***Periods Presented***–Disclosures will be presented for all historical periods. Annual financial statements need only include disclosures.

The Proposed Rule:
Requires a Discussion of Disclosures Inside and Outside Financial Statements
We note the requirement in 17 CFR §229.1502(c) to include a discussion regarding how any metrics referenced in 17 CFR §210.14-02 (financial statement metrics), 17 CFR §229.1504 (GHG non-financial emission metrics), and 17 CFR §229.1506 (goals and targets) relate to the business model or strategy. We also note the requirement in 17 CFR §229.1502(d) to provide a narrative discussion regarding how 17 CFR §229.1502(a) (climate-related risks) have had, or are reasonably likely to have, an effect on the registrant's financial statements and that this discussion should include any of the climate-related financial statement metrics from 17 CFR §210.14-02. With that requirement to link and discuss metrics inside and outside the financial statements we make the following observations regarding additional information needed to make such a discussion and analysis more meaningful.

Financial Analysis Looks Forward Not Backward
The analysis and valuation of a registrants' securities is centered around assessing a companies' risk-taking and risk management practices and making predictions of future cash flows, with an emphasis on cash flows in the most immediate 10–20 years. Forward-looking measurements and disclosures are the most effective transmission mechanism in communicating such information. Historical measures are of interest because of their confirmatory value, but they are limited in relevance because of their inability to provide insight into expectations regarding future cash flows. Disclosures based on current expectations of the future are, therefore, inherently more relevant to investment decision making than disclosures based on historical measures. As technologist Herb Brody has stated:

> *Telling the future by looking at the past assumes that conditions will remain constant. This is like driving a car by looking in the rearview mirror.*

Accordingly, our assessment of the financially value-relevant decision-usefulness of the information in the Proposal is made with that frame of reference.

Disclosures Inside Financial Statement
<u>Challenges with Proposed Financial Statement Metrics</u>
This future-oriented paradigm is even more true and more important given the focus on climate risk going forward. Investors need metrics that are forward-looking and predictive as they are primarily focused on the prospective impacts of climate-related risks on future earnings and future cash flows. Historical financial statement and expenditure metrics may not be predictive of future impacts. Rather, they are likely more confirmatory—an important tool for analysts in assessing the reliability of management's early statements, but not the only necessary tool. As noted in the Disclosures Inside Financial Statements section, the financial impact and expenditures "metrics"—more appropriately labeled elements of financial statement line items/captions—in the Proposed Update will be mostly backward-looking and provided on an accrual rather than cash basis. As such, the information may have confirmatory, but not predictive, usefulness. In the Disclosures Inside Financial Statements section, we observe challenges with the meaning of such metrics and their interconnectedness or cohesiveness.

Our Preferred Financial Statement Metrics: Cash-Based

As a result of those limitations, we believe cash metrics (i.e., essentially a direct cash flow of climate-related cash expenditures combined with disclosure of cash expenditures capitalized and the related useful life) and disclosure of the quantitative impacts of changes in financial assumptions and estimates by income statement caption would provide more decision-useful information for investors. We describe these in detail in the section Our Preferred Alternative: Different Financial Statement Information and a Link Between Information Inside and Outside Financial Statements, contained within the Disclosures Inside Financial Statements section. Though these cash metrics too will be backward and confirmatory, they provide real cash-flow context for time series of the information, and they can be more directly connected to the climate-related events, transition activities, and risks described in the forepart.

As we note above, we reiterate our view on the importance of inclusion of climate-related impact disclosures within the financial statements as they anchor the present results to management's previous statements. The liability provisions related to information contained in financial statements has a focusing effect. We would like that focus to be on cash-related metrics.

Disclosures Outside the Financial Statements (the Forepart)

Observations on Climate-Related Risks, Risk Management, Governance, Impacts on Strategy Business Model and Outlook

The Proposed Rule also requires disclosure of a company's climate-related risks, their risk management and governance as well as the impact on its strategy, business model, and outlook, but this will—with the exception of some quantitative information on physical risks—likely be mostly qualitative. We are very supportive of these disclosures but believe that they will require significant enforcement efforts by the Commission to be useful and we believe they need to be more quantitative than qualitative.

See Disclosures Outside Financial Statements (Disclosures Regarding Climate-Related Impacts on Strategy, Business Model, and Outlook: Disclosure of Material Impacts)

Observations on GHG Non-Financial Emission Metrics

The section, Greenhouse Gas Emissions (Investor Support for Disclosure of GHG Non-Financial Emissions Metrics: Some Suggest Impact Metric, But They Are a Barometer of the Current State of Climate Risk Exposure and Needed Transition That Investors Must Price), provides our detailed views in support of GHG emission disclosures. There we note that some will argue that GHG emissions are non-financial metrics and are solely impact metrics, that do not belong in filings with securities regulators. This is not the case. Investors seek such information because of the increasing pressure on companies—from many different types of stakeholders (i.e., not simply investors), including legislators and regulators—to reduce such emissions.

That said, GHG emissions are but a barometer, albeit a blunt instrument, to understand the current transition exposure and how progress is or can be made in meeting these stakeholder demands. Many companies are entering into net zero commitments to appease such demands. It is a reduction of such GHG emissions that facilitates an understanding of the company's plan to reduce its climate risk. Investors expect the cost of reducing such emissions will be significant.

The Proposed Rule requires GHG intensity metrics, but there is no required quantification of the cost of reducing the GHG emissions and the financial impact of such cost to the registrant over time. Investors will have to apply their estimates of the costs of transitioning to a lower carbon future for the company. While GHG emission disclosures will be more reliable because they are attested to, the cost of reducing them will be highly uncertain unless management has established targets and goals, maintains an internal carbon prices and uses carbon offsets.

Linking the Financial Statement Metrics with the Mostly Non-Financial Discussion in Forepart Will Be Challenging: Disclosures More Suited for Sophisticated Investors

Because GHG-metrics will be non-financial metrics, the discussion of climate related risks mostly qualitative, and the financial statement metrics mostly backward-looking accrual metrics, we do not believe the discussion the SEC is seeking in 17 CFR §229.1502(c) and (d) will be as informative as it could be without quantification of the forward-looking cost of reducing GHG emissions.

We believe, however, that this requirement to link the disclosures inside and outside the financial statements is very important. The current Proposal will likely be a starting point for sophisticated institutional investors who have the time, money, registrant access, and knowledge to make such estimations of the impact of reducing these disclosed GHG emissions on a companies' enterprise value. That said, even institutional investors may be challenged to take the GHG emission metrics that are not financially quantified and assess their effects on future cash flows using a qualitative discussion outside the financials and only financial statement metrics based upon current period accrual accounting—rather than cash-based effects. Retail investors will likely be very challenged to use such information other than to compare changes in GHG metrics over time.

SASB (Soon to Be ISSB) Industry-Based Metrics Are That Link

To our mind, an important link between the quantitative backward-looking disclosures in the financial statements and the qualitative discussion and non-financial GHG emission metrics outside the financials is needed to facilitate the decision-usefulness of this information. Specifically, investors need quantitative insights into the expected impact of a transition on future revenue and expense expected in the near future. The SASB has, over the past 10 years, developed such metrics, by industry, which demonstrate these value drivers for investors. As the SEC's own discussion about materiality of GHG emissions in the Proposed Rule highlights, industry-based specificity is the first layer of a materiality filter for a registrant. The SEC has also acknowledged the need for industry-based disclosures in other rulemaking, such as insurance, banking, and oil and gas. Given the uneven effect climate may have on respective industries, we believe an industry-based approach is important.

The industry based SASB standards will, we hope through the ISSB's due process, be fully embedded within the ISSB standards.[11] This makes it more likely that international companies

[11] The SASB's industry-based climate metrics are included by way of Appendix B in IFRS S2, *Climate-Related Disclosures*. The SASB standards overall are included by way of reference to industry-based SASB standards in IFRS S1, *General Requirements for Disclosure of Sustainability-Related Financial Information.*

and US foreign filers will have the necessary metrics investors are looking for, where they would not be included in US SEC filings of domestic registrants. In the United States, these metrics, if provided, could or would be included in sustainability reports—not SEC documents—making the sustainability reports (because they have these forward-looking metrics) possibly more decision-useful for investors. As such, this will reduce the effect of the SEC's important disclosure improvements.

Summary

Overall, we believe the disclosures currently included in the Proposed Rule are useful but would be more decision-useful and predictive to investors if:

- Financial statement metrics were more cash-based and changes in estimates and assumptions were quantified.
- The discussion of climate-related risks, their management and governance, as well as the impact on strategy, business model and outlook were required to be more quantitative.
- GHG emission metrics and the cost of their reduction were more financially linked.

Further, we believe, as illustrated pictorially in **Exhibit 1**, that the SEC should include in the final rule industry-based metrics (i.e., such as the SASB standards being included in the ISSB standards) that enable investors to assess more effectively the forward-looking impact of managing climate-related risks and link the disclosures inside and outside of financial statements. These industry-based metrics act as an important materiality filter and enable an assessment looking forward of the impact climate related risks will have on enterprise value (i.e., what investors seek to discover). These metrics facilitate the discovery of enterprise value and will provide the information for appropriate contextualization, discussion, and analysis that the SEC is seeking in 17 CFR §229.1502(c) and (d). They will also facilitate the emergence of a global baseline with the ISSB.

Reference to, Or Lack of Reference to, Relevant Frameworks and Standards

Based Off of TCFD and GHG Protocol,
But No Reference to Them in the Actual Proposed Rule

We note throughout the Release the SEC references to frameworks or standards developed by others. For example, the SEC:

- Refers to the TCFD framework extensively in its consideration of disclosures to be made under Item 1500 under Regulation S-K in the forepart to the financial statements. (See Disclosures Outside Financial Statements (Overview of Climate Related Reporting Framework, Support Disclosures Based Upon TCFD: Several Observations)
- Looks to the Greenhouse Gas Protocol when considering the method of disclosure of the Scope 1, 2, and 3 emissions. (See Greenhouse Gas Emissions (GHG Emissions Metrics, GHG Definitions & Use of GHG Protocol)

To a lesser extent, other frameworks are also referred to in the Proposal. The SEC does not, however, mention such frameworks or standards in the Actual Proposed Rule in the Statutory Authority section of the Release (Section VIII of the Release) that will be added, if finalized, to the CFR.

It is likely that it is not evident to all stakeholders that the TCFD framework and GHG Protocol are not in the Actual Proposed Rule. Many have focused on the discussion of the Proposal

(Section II of the Release) which discusses how the rulemaking looked to the TCFD and the GHG Protocol as the basis for many of the proposed disclosures. But the Actual Proposed Rule makes no mention of these standards.

Those reading the Proposal may not make a comparison between the discussion and the actual rule and therefore not recognize this difference and the implications of this lack of inclusion in the Actual Proposed Rule.

Use of Third-Party Frameworks and Standard Setters

As an investor organization, we have spent decades advocating for the creation of accounting standards useful to investors that are issued by organizations that are independent and adequate in their funding; have a board composition that is fair to all stakeholders; focus on investors (users) as the audience for such information; and have a transparent and fair agenda setting and due process, including public meetings and consultations as well as active engagement with users/investors of the information in the standard-setting process.

In considering the leveraging of these frameworks/standards in their discussion of the Proposed Rule, we believe the SEC must consider:

- whether they have evaluated the efficacy of these organizations and the resulting standards relative to the important criteria for standard-setting;[12]
- whether basing the Actual Proposed Rule on the frameworks/standards results in sufficient guidance/detail in the Actual Proposed Rule for application of the principles drawn from the standards;[13]
- the implications to these organizations of reference to their frameworks/standards in the Proposal but not the Actual Proposed Rule;[14]
- the ongoing activities that may be necessary for these organizations to sustain upkeep and development of the frameworks/standards given the greater focus on their organizations;[15]
- whether the SEC's Actual Proposed Rule will need continual updating as it is using a snapshot of these frameworks/standards at this moment in time and there is no process for updating the frameworks/standards—absent a change in the SEC's final rule—relative to the scrutiny and interpretation that will naturally occur as these underlying standards or principles will be applied much more broadly in the US capital markets.[16]

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12 As an example, the GHG Protocol has been developed by the World Resource Institute, which is funded primarily by corporations, the rules are nearly 20 years old, and evidence of a due process is not obvious on their website.

13 Investors have witnessed the Financial Accounting Standards Board's (FASB's) and the International Accounting Standards Board's (IASB's) implementation of the principles of fair value without an underlying standard related to fair value. And, even when the fair value standard was created, there remains the need for a valuation standard setter that can interpret, update, evolve, ensure consistency of, and manage the independent development of valuation standards. Estimation of Scope 3 GHG emissions is likely to be very subjective and open to interpretation that needs to be discussed, debated, and officially interpreted.

14 The SEC's basing of the Actual Proposed Rule on the standards is akin to tacit endorsement of the standards which will likely create more scrutiny of the organization and the standards relative to the aforementioned criteria.

15 For example, will the Task Force on Climate-Related Financial Disclosures continue on post integration of such principles into the ISSB standards?

16 As Scope 3 emissions become the focus for more US public registrants, how will these interpretive issues and focus on the WRI evolve the SEC's rulemaking?

While we support the use of the TCFD principles in the Actual Proposed Rule and the leveraging of the GHG emission metric guidance from the GHG Protocol, the latter will bring with it interpretive and long-term implementation challenges that we believe the SEC must consider as it prepares the final rule, as these organization may become shadow rule makers and de facto standard setters.

Lack of Reference to SASB and Sustainability Standards

Though the SEC is basing its disclosure requirements in the Actual Proposed Rule on the TCFD framework and the GHG Protocol, the SEC does not look to the SASB industry-based standards for the disclosure of drivers or metrics of value-relevant financial performance.

This lack of reference to the SASB standards may likely be due to the fact that SASB standards are too extensive, clearly will need to be updated as practice evolves, and will form the basis for ISSB standards. The association of the SASB to the ISSB also likely presents another significant hurdle given the ISSB's parent will be the IFRS Foundation.

More specifically, during the debate over the convergence of US GAAP and IFRS in the early 2010s, a variety of legal interpretive issues arose regarding whether the SEC had the authority to fund and delegate accounting standard-setting authority to the IASB. These same challenges likely exist or persist now by extension to the ISSB, which brings with it the additional challenge of requiring the SEC to evaluate whether it has authority to set sustainability standards.[17]

That said, investors would like to have a better understanding regarding why the Actual Proposed Rule can be based on the TCFD framework and the GHG Protocol, but not the SASB standards. This is an especially important question given we believe these SASB metrics are a

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[17] The SEC has the authority to set accounting standards in the United States as stated in footnote 316 to the Proposed Update:

> *The Commission has broad authority to set accounting standards and principles. See, e.g., 15 U.S.C. 77s; 15 U.S.C. 7218(c); and Policy Statement Reaffirming the Status of the FASB as a Designated Private-Sector Standard Setter, Release No. 33–8221 (Apr. 25, 2003) [68 FR 23333 (May 1, 2003)], at 23334 ("While the Commission consistently has looked to the private sector in the past to set accounting standards, the securities laws, including the Sarbanes-Oxley Act, clearly provide the Commission with authority to set accounting standards for public companies and other entities that file financial statements with the Commission."). See also FASB Accounting Standards Codification ("FASB ASC") Topic 105–10–10–1 ("Rules and interpretive releases of the Securities and Exchange Commission . . . are also sources of authoritative GAAP for SEC registrants.").*

And noted in the following:

- Study Report: Study Pursuant to Section 108(d) of the Sarbanes-Oxley Act of 2002 on the Adoption by the United States Financial Reporting System of a Principles-Based Accounting System
- Sarbanes-Oxley Act | Wex | US Law | LII / Legal Information Institute (cornell.edu)

During the discussion of convergence to IFRS in the early 2010s, the SEC likely concluded that because the IFRS Foundation takes funds from various organizations, which was inconsistent with the funding provisions set forth in the Sarbanes-Oxley Act of 2002 (SOX), the SEC could not fund the IFRS Foundation with public company assessments levied by SOX (i.e., this is a laymen's explanation of the legal interpretation) – though the SEC determined it could accept IFRS, without reconciliation from foreign filers. This may also be a contributing factor to the SEC's inability to reference directly to the TCFD or GHG Protocol as well as the SASB standards via the ISSB.

needed link in making the disclosures included in the Proposal even more value relevant and predictive.

Further, (1) the SASB has undergone the process of structuring and due process which is more in line with what our organization has supported and has a means of updating their standards; (2) as we note elsewhere, the question may emerge as to why SASB standards are being used by many companies in their sustainability reports but not in their SEC filings and the need investors may find to gather value-relevant information from two locations; and (3) the use of SASB, soon to be ISSB standards, will go further toward establishing a global baseline.

Establishing US GAAP Without Referring to or Relying Upon FASB
As it relates to the financial statements, the SEC has not waited for, or called upon, the FASB to act in relation to climate-related disclosures and has set a disaggregation threshold within the financial statements that is precedent setting. Furthermore, as we address next, the definitions in the Proposal do not reside within US GAAP. This introduction of new terms into the US GAAP lexicon and the lack of incorporation of such definitions into Codification may result in significant interpretive issues as we describe elsewhere. Unlike with SASB (ISSB) standards, where the SEC likely does not have authority to reference their standards, here the SEC has that authority but has chosen not to use it. Rather, the SEC has undertaken to establish US GAAP related to climate risk on its own, which it does from time to time. Some have suggested that they would prefer the FASB establish sustainability related metrics for inclusion in the financial statements. At this stage, we would not favor this approach as the FASB's due process is far too slow to effectuate the needed change in a timely manner.

Overall Consideration
The SEC has not used traditional standard setters (FASB) when it has the authority to do so. It has integrated, rather than referenced, standard setters and frameworks in certain areas, such as TCFD for risks, risk management, governance and strategy, impact, and outlook and the GHG Protocol as it relates to GHG emissions, but not in important areas like future-oriented industry-based metrics from SASB that will increase consistency globally through their adoption by the ISSB. We think the SEC should more holistically consider how they can manage the interpretive issues which will emerge with the GHG Protocol and determine how they can incorporate SASB's (ISSB's) industry-based metrics in the final rule.

Climate-Related Definitions

Included with the Actual Proposed Rule (17 CFR §229.1500), the SEC adds new climate-related definitions to the CFR.[18] Those terms are included in the **Appendix** at **Table A-1** within the Disclosures Inside Financial Statements section (Definitions, Terminology, and Interpretive Issues) section. Also described in that section are some of the interpretive issues that may emerge from the use of these terms within financial statements by way of Regulation S-X (17 CFR §210.14-01(c)). While these terms are being introduced in the Actual Proposed Rule within Regulation S-K (outside the financial statements) they will also be used within the financial statements.

While many such terms have been used in the climate disclosure and reporting ecosystem (e.g., TCFD framework) and in sustainability reports for some time, their inclusion within SEC filings—most specifically their use within the financial statements—will bring increased scrutiny and a desire for interpretive guidance in the United States.

It is one thing to use terminology in a qualitative discussion outside SEC filings in sustainability reports, and something completely different when such terminology is used to identify, capture, record and report financial statement amounts for metrics being required in the Proposed Rule. Clear interpretations are essential for consistency and comparability of metrics provided to investors and so that they can be computed and audited by preparers and auditors, respectively.

While we do not disagree with the introduction of these terms in the Proposed Rule, we believe that the SEC must consider the challenges of the use of such terminology, which may emerge and who will be charged with such interpretive guidance.

We would also note that the SEC's integration of these definitions into the Securities Act and the Exchange Act—and the ensuing interpretations of the terms—will provide greater clarity globally and benefit investors.

[18] We also note the SEC is including definitions from the GHG Protocol related to GHG emissions. See discussion at Greenhouse Gas Emissions (GHG Emission Metrics Disclosures, GHG Definitions & Use of GHG Protocol).

Materiality

The debate about ESG and sustainability disclosures has brought the discussion of materiality to a place of prominence it has not previously enjoyed—other than with securities lawyers and accountants. We now experience those in the investment profession—who have had little involvement in the technical and legal debates about materiality—using the terms financial materiality, double materiality, and dynamic materiality. These conversations, and the use of these terms, creates a critical need to come to a common understanding, not only in the sustainability reporting ecosystem, but also for the benefit of investors, preparers, auditors, lawyers, standard setters, policymakers, and regulators in the broader reporting ecosystem. Now, not only do the FASB, IASB, and SEC have definitions of materiality—so too will the ISSB[19] and EFRAG in their recent releases—as well as the Global Reporting Initiative. There is much to triangulate and much more education that is necessary to ensure commonality of understanding and application[20]—by all relevant stakeholders. There is more to cover on the topic of all these varying interpretations of materiality than we have time or space to cover in this response. That said, we consider the application of materiality in the Proposed Rule.

Materiality has been defined in the United States through legal precedent and the SEC's Staff Accounting Bulletin (SAB) SAB 99 release in 1999. As noted in the Proposal:

> *As defined by the Commission and consistent with Supreme Court precedent,* ***a matter is material if there is a substantial likelihood that a reasonable investor would consider it important when determining whether to buy or sell securities or how to vote****. As the Commission has previously indicated, the* ***materiality determination is largely fact specific and one that requires both quantitative and qualitative considerations****. Moreover, as the Supreme Court has articulated, the materiality determination with regard to potential future events requires an assessment of both the probability of the event occurring and its potential magnitude, or significance to the registrant.*

While many look to the Supreme Court definition of materiality, others highlight that such definition is a fraud-based definition and not a definition of materiality that ex ante ensures investors obtain decision-useful information.

In 2021, then-Acting Chair Lee released a statement, *Living in a Material World: Myths and Misconceptions about "Materiality"*,[21] which provided what some say may be a broader interpretation of materiality. In reality, it is a statement clarifying myths and misconceptions regarding: the SEC's ability to require disclosures, even immaterial ones, under Federal securities law; the ability of management to make judgements about what is material and should be disclosed to investors; and the ability and desire of investors to state what information they believe is material and how they seek to assess materiality themselves. Her statement highlights the fact that materiality is positional and judgmental, but that investors are the ultimate arbiter of what is material in making investment and voting decisions.

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[19] See Question 8 and related paragraphs of the IFRS S1 Exposure Draft (March 2022).

[20] See also documents, such as "One Small Step From Financial Materiality to Sesquimateriality: A Critical Conceptual Leap for the ISSB," Harvard Law School Forum on Corporate Governance (4 May 2022).

[21] In that paper, she cites the CFA Institute 2015 paper on the topic of financial materiality.

We excerpt below her four key myths, and some of the more salient points, because we believe they explain what some may perceive as varying applications of materiality in the requirements of the Proposed Rule:

> ***Myth #1: ESG Matters (Indeed All Matters) Material to Investors Are Already Required to Be Disclosed Under Securities Laws***—*We frequently hear that new climate or ESG disclosure requirements are unnecessary because the existing disclosure regime already requires the disclosure of all material information. This is simply not true, and reflects a fundamental misunderstanding of the securities laws. Public company disclosure is not automatically triggered by the occurrence or existence of a material fact. There is no general requirement under the securities laws to reveal all material information. Rather, disclosure is only required when a specific duty to disclose exists…..The bottom line is that absent a duty to disclose, the importance or materiality of information alone simply does not mandate its disclosure.*
>
> ***Myth #2: Where There Is A Duty to Disclose Climate and ESG Matters, We Can Rest Assured That Such Disclosures Are Being Made***—*Investors are essentially told that if something is material, it is already being disclosed, suggesting that such disclosure is both required and effective. Even when a duty to disclose exists, however, a principles-based standard that broadly requires disclosure of "material" information presupposes that managers, including their lawyers, accountants, and auditors, will get the materiality determination right. In fact, they often do not…….Thus lawyers, auditors, and managers can and do get the determination of materiality wrong. And while our Enforcement Division stands ready to act whenever material information required to be disclosed is improperly withheld, these types of cases can be particularly difficult to police since the omitted information will often not be known to the public or the SEC……A disclosure system that lacks sufficient specificity and relies too heavily on a broad-based concept of materiality will fall short of eliciting information material to reasonable investors.*
>
> ***Myth #3: SEC Disclosure Requirements Must be Strictly Limited to Material Information***—*This assertion rivals the first myth in terms of its prevalence. It is often made without citation and appears to be a widely held assumption. However, this is affirmatively not what the law requires, and thus not how the SEC has in fact approached disclosure rulemaking….The idea that the SEC must establish the materiality of each specific piece of information required to be disclosed in our rules is legally incorrect, historically unsupported, and inconsistent with the needs of modern investors, especially when it comes to climate and ESG.*
>
> ***Myth #4: Climate and ESG are Matters of Social or "Political" Concern, and Not Material to Investment or Voting Decisions***—*This is one I've often addressed in the past, so I'll just review a couple of summary points on this today. First, the idea that investor concerns with scientifically supported risks like those associated with climate change is grounded in "politics" turns fact-based analysis on its head. If anything, it's the insistence that science and data must or should be ignored that appears questionable. Second, the fact that a topic may have political or social significance does not foreclose its being material, either qualitatively or quantitatively. To the contrary, we are increasingly seeing all manner of market participants embrace ESG factors as significant drivers of decision-making, risk assessment, and capital allocation precisely because of their relationship to firm value. Finally, investors, the arbiters of materiality, have been overwhelmingly clear in their views that climate risk and other ESG matters are material to their investment and voting decisions.*

Some perceive the SEC in the Proposed Rule has applied varying levels of materiality or no application of materiality, in the determination of disclosure requirements. Further, in some sections, it appears the SEC is requiring disclosures or discussion of how materiality has been determined—something heretofore unprecedented. We would make the observations in **Table 6** regarding the SEC's applications of the concept of materiality—or not—in the determination of disclosure requirements to be made by registrants, based upon a traditional interpretation of materiality (including the myths and misconceptions)—without giving consideration of Commissioner Lee's statements. Then we highlight how the myths elucidated by her may be applicable and refute the notion that the Proposed Rule includes novel applications of materiality.

Table 6

DISCLOSURES OUTSIDE THE FINANCIAL STATEMENTS

Climate-Related Risks:
Time Bound and Dynamic Discussion of Material Climate Risks

The Proposal requires "discussion" of the materiality of climate-related risks in the short, medium, and long term and introduces the notion of materiality being dynamic. Section II.B.2 of the Proposed Rule states:

> *To help ensure that management considers the dynamic nature of climate-related risks, we are proposing to require a registrant to* ***discuss its assessment of the materiality of climate- related risks over the short, medium, and long term****.*

The Actual Proposed Rule—17 CFR §229.1502(a)(2) (Strategy, business model and outlook)— refers to the time frame concept but does not indicate a discussion of the materiality is required. There is no mention of the term dynamic in the Actual Proposed Rule. The need to describe materiality assessments related to climate-related risks appears instead in 17 CFR §229.1503(a)(1)(iv) (Risk management) where it includes a reference to 17 CFR §229.1502(a)(2) as follows:

> *1)* ***When describing*** *any processes for identifying and assessing climate related risks,* ***disclose****, as applicable,* ***how the registrant****:……(iv)* ***Determines the materiality of climate-related risks****, including how it assesses the potential scope and impact of an identified climate-related risk, such as the risks identified in response to §229.1502.*

As it relates to this time bound, dynamic, "discussion" or "description" of materiality we would make two observations:

- *SAB 99 Does Not Explicitly Discuss Materiality Time Frames*—A search of SAB 99 yields no use of the terms short, medium, or long-term or dynamic. And, while SAB 99 allows for qualitative assessments of materiality including the magnitude or probability of loss, these time frame-based terms included in the Actual Proposed Rule—and the related necessary description of the materiality—may suggest a shift in the definition of materiality that requires more specific consideration of time horizons in the assessment of materiality and the fact that materiality changes/fluctuates and is possibly more dynamic over time.
- *SEC Registrants Do Not Traditionally "Discuss" or "Describe" How Items to Be Disclosed Were Assessed to Be Material*—We focused so specifically on the language in 17 CFR §229.1503(a)(1)(iv) of the Proposed Rule because this is so unique. Traditionally, registrant filings do not include a "discussion" of how they determined materiality—registrants simply include what they have determined to be material. While other jurisdictions disclose materiality determinations, this is not something traditionally done in the US.

Preparers will likely find the need to describe their materiality conclusions related to climate-risk novel, but we wonder whether the request to describe the materiality conclusions are not simply an attempt to cure the problem articulated in Myth #2 and ensure that preparers and investors come to agreement on what is material. Investors will support the disclosure regarding materiality conclusions of climate-related risks and ask: (1) Why this discussion would only be included for climate-risk? and (2) Why such discussion of materiality does not exist related to the financial statements broadly? Is the SEC creating a duty to disclose climate-related risks (Myth #1) and acknowledging investors conclusion that climate risks are material (Myth #4)?

CFA Institute

Greenhouse Gas Emission Disclosures: ***Application (Scope 3) or Lack of Application of Materiality (Scope 1 and 2)***
While climate risks are to be disclosed based upon a discussion of material climate-related risks, the Proposed Rule requires disclosure of Scope 1 and Scope 2 emissions without regard to whether they are material. Scope 3 emissions are to be disclosed only if material. Under the Proposed Rule, the traditional notion (i.e., possibly myth) of not making disclosures unless they are material has been replaced by the requirement to include Scope 1 and Scope 2 emissions irrespective of materiality. Further, registrants must collect Scope 3 emissions to determine if they are material. So, irrespective of whether they are disclosed, registrants must undertake the exercise of computing Scope 3 emissions. More challenging is how to assess materiality of Scope 3 emissions in the context of existing materiality guidance. Existing materiality guidance is generally assessed through a financial lens, while Scope 3 emissions are non-financial metrics—and there is no disclosure that quantifies the cost of reducing the emissions to the enterprise. Still further, climate risks—as noted above—are only to be disclosed if material, yet Scope 1 and 2 GHG emissions are disclosed irrespective of materiality. This may present an inconsistency in the application of materiality for climate-related risks (management makes a materiality assessment) and GHG emissions (no assessment is allowed for Scope 1 and 2 emissions). Moreover, the SEC's discussion in the Proposed Rule regarding assessing the materiality of Scope 3 emissions highlights several nuances or challenges: ▪ The SEC notes that the definition of materiality would be consistent with the Commission's definition of materiality and the Supreme Court's precedent. ▪ There is no requirement (unlike for climate-related risks) to describe how the registrant arrived at is materiality conclusions for Scope 3. ▪ The SEC notes it is not requiring a quantitative threshold for assessing materiality of Scope 3 emissions. ▪ The SEC notes, however, that some use the relative relationship of Scope 3 to total emissions, with some using 40% of total emissions as a materiality threshold for Scope 3 emissions. ▪ Many believe that Scope 3 emissions will be the most significant. ▪ The SEC notes in its discussion of the Proposed Rule that materiality also possesses many qualitative characteristics that vary by industry—providing several examples by industry—and highlighting that the establishment of targets and goals may facilitate a determination of material amounts. ▪ Scope 3 emissions, as mentioned above, are a non-financial metric and there is no requirement for the registrant to quantify the cost of reducing Scope 3 (or Scope 1 or Scope 2 emissions). As we considered the SEC's application of materiality when establishing disclosure requirements related to the GHG emissions we noted the following: ▪ *No Requirement to Disclose Scope 3 Materiality Decision-making Process*—There is no requirement to discuss or describe how materiality was determined. As such, there is no context as to how materiality was or was not decided by the company, this will have to be inferred by investors. ▪ *No Requirement to Provide a Financially Value-Relevant Context*—For investors focused on financially value-relevant information—in contrast to impact metrics—there is no quantification of the cost of reducing the GHG emissions to assess whether that is financially value relevant. If materiality is based upon what a "*reasonable investor would consider it important when determining whether to buy or sell securities or how to vote*," this would make any materiality assessment non-financial. ▪ *Scope 3 as a Percentage of Total Emissions May Be Misleading Materiality Ratio*—The application of a percentage of total emissions (Scope 3/Total Emissions) (1) does not give any consideration to the cost to the organization of reducing such emissions (financial materiality), and (2) may trigger disclosure of Scope 3 even if Scope 1 and Scope 2 are not considered material. If Scope 3 is large relative to Scope 1 and Scope 2 which are small, it does not necessarily make Scope 3 financially material to the organization—just relative to total emissions of which it is likely the greatest portion. Thus, many companies will strike this threshold based upon the prevailing view that Scope 3 emissions will be most significant.

- *Industry Context is Important*—The discussion in the Proposed Rule highlights the importance of industry context, but the SEC's rule does not make industry specific requirements which are the first materiality filter for investors.

Overall, our initial assessment—as it relates to traditional concepts of financial materiality being applied to GHG metrics—yielded the following conclusions: (1) no materiality threshold for Scope 1 and Scope 2 emissions, (2) no description of how materiality for a non-financial metric like Scope 3 was determined by management, and (3) no requirement to associate the Scope 3 GHG emission metric with any form of financially value-relevant cost upon which investors can assess financial materiality.

As we considered Commissioner Lee's comments, however, we noted the SEC, through the Proposed Rule, is likely creating a duty to disclose Scope 1 and 2 emissions even if not material (Myths #1 & #3) and allowing investors to make an assessment of materiality (Myth #4), but we believe that the SEC should—like with climate-related risks—require management to described how it reached a materiality decision with respect to Scope 3 emissions to ensure management and investors are aligned in their conclusion (Myth #2).

Targets: No Materiality Threshold

The Proposed Rule also requires (Section II.H), irrespective of materiality, the disclosure of any climate-related targets or goals. As with Scope 1 and Scope 2 disclosures, no materiality threshold appears to be applicable, which is unique to the application of the SEC's disclosure rules.

As we considered Commissioner Lee's comments, however, we noted the SEC—once again—through the Proposed Rule is likely creating a duty to disclose targets even if not material (Myths #1 & #3) so that investors can make their own assessments of materiality (Myths #2 & 4).

DISCLOSURES INSIDE FINANCIAL STATEMENTS

1% Disaggregation Threshold

For many, the most surprising application of the concept of the materiality (really disaggregation, but by application materiality) is the SEC's inclusion in the Proposed Rule that climate-related events, transition activities, and risks that exceed more than 1% of a financial statement caption or aggregate expenditures must be disclosed in the notes to the financial statements. While the SEC references other uses of the 1% rule, this level of disaggregation is outside the traditional norms of materiality (e.g., 5%) of a financial statement caption. While this is certainly a materiality threshold investors would like to see applied to many disaggregation decisions in the financial statements, this 1% threshold is unique to climate-related disclosures.

As with Targets and Goals, is this threshold not simply a means of creating, as Commissioner Lee's statement indicates, a duty to disclose (Myth #1 & 3)?

Financial Estimates and Assumptions

The disclosure requirements related to financial estimates and assumptions, though qualitative, do not appear to have a materiality threshold.

Same analysis as relative to myths as for disaggregation threshold.

Our initial consideration of the materiality assessments or applications in the Proposed Rule were substantially changed when we filtered them through the lens of the materiality myths and misconceptions articulated in Commissioner Lee's speech. That said, we believe the SEC may wish to offer guidance and education regarding the application of these materiality principles to ensure everyone views them through the same paradigm as it relates to climate disclosures.

Relevance vs. Reliability

The Proposal makes the following observation:

> *The Commission has* ***long recognized the important role played by an independent audit in contributing to the reliability of financial reporting****. Relatedly, studies suggest that investors have greater confidence in information that has been assured, particularly when it is assured at the reasonable assurance level.*

In principle, we agree with this statement. That said, what we have learned from decades of speaking with investors is that relevance always takes precedence over perfect reliability. Investors do not want, or want to wait for, perfectly reliable information at the cost of not receiving relevant information in a timely fashion. This is why investors support fair value over amortized cost, the latter of which is highly reliable but lacks relevance in investment decision making. Investors have seen innumerable instances where the accountants and auditors have sought measures, such as historical cost, that they feel more confident in assuring but which lack relevance to investors.

Alternative data used for investment decision making illustrates that it is not audit or assurance that establishes data as relevant or reliable for decision-usefulness; rather, it is regression and the predictive capacity of the data which enables investors to establish the usefulness (i.e., relevance and reliability) of information.

Our point here is that reliability is important, but not to the point at which it deters the provision of relevant information. Thus, while we recognize the importance of underlying standards, comparability, and reliability of information for investment decision making, we believe—as we discuss with our preferred alternative for financial statement metrics—that relevant information is better than perfectly reliable information. This informs our support for Scope 3 emission disclosures (i.e., expressed as ranges and without verification), our position on deferring transitioning to reasonable assurance on Scope 1 and Scope 2 emissions, and the need to include information outside financial statements before including within financials.

We specifically emphasize this point as it relates to disclosures of Scope 3 emissions. Investors are willing to accept these climate-related disclosures even if they are not perfectly reliable. The safe harbor protections the SEC is proposing should help mitigate preparers concerns over estimated emission disclosures.

Safe Harbor Provision of the PSLRA

Given the subjective and forward-looking nature of the many of the climate-related disclosures in the Proposed Rule, we are supportive of the application of the safe harbor provisions of the Private Securities Litigation Reform Act (PSLRA) as it relates to key provisions of the Proposed Rule, including application to disclosures such as determination of time horizons, scenario analysis, internal carbon prices, carbon offsets, transition plans, Scope 3 GHG emissions, and targets and goals.

We note the discussion in the Proposal regarding the applicability of the PSLRA:

> *We also note that, under our existing rules, registrants long have had to disclose forward-looking information, including pursuant to MD&A requirements. To the extent that the proposed climate-related disclosures constitute forward-looking statements, as discussed below, the forward-looking statement safe harbors pursuant to the Private Securities Litigation Reform Act (PSLRA) would apply, assuming the*

> *conditions specified in those safe harbor provisions are met. We note, however, that there are important limitations to the PSLRA safe harbor. For example,* ***we are proposing that climate-related disclosures would be required in registration statements, including those for initial public offerings****, and* ***forward-looking statements made in connection with an initial public offering are excluded from the protections afforded by the PSLRA****. In addition, the PSLRA does not limit the Commission's ability to bring enforcement actions.*[22]

And, further, we note the challenge that the inclusion of these new disclosures may present for registrants:

> *The proposed rules would significantly expand the type and amount of information registrants are required to provide about climate-related risks.* ***Registrants unfamiliar preparing these disclosures may face significant uncertainty and novel compliance challenges****. To the extent this leads to inadvertent non-compliance,* ***registrants may face additional exposure to litigation or enforcement action****. However, certain factors may mitigate this concern. First,* ***existing and proposed safe harbors would provide protection from liability for certain statements by registrants****, including projections regarding future impacts of climate-related risks on a registrant's consolidated financial statements and climate-related targets and goals. Second, the* ***proposed rules would include phase-in periods*** *after the effective date to provide registrants with sufficient time to become familiar with and meet the proposed disclosure requirements.*[23]

We would note the PSLRA will not apply to certain statements during an initial public offering but will be applicable in routine filings. We recommend that the safe harbors for climate-related forward-looking disclosures be extended to initial public offering registration statements as this is when such information may be most decision-useful—and that the SEC consider the application of these safe harbor provisions in the initial periods of adoption.

Private Company Implications from Emission Disclosures

We believe it is important to note that the Proposed Rule's requirement to include Scope 3 emissions will have the effect of pushing the SEC's GHG emission reporting requirements into the private or non-public company market. The SEC's Proposed Rule requires GHG emission disclosures from registrants up and down their supply chains, meaning that this Proposed Rule would indirectly impact private/non-public companies globally as it will necessitate the reporting of GHG emissions from those companies to the registrant. Any company across the globe doing business with a US public company will be scoped in to the GHG emissions disclosures needing to provide such information to their public company customers. This may make US public companies challenging to do business with. We believe the SEC should make this more obvious in the discussion of the Proposed Rule.

As we discuss in various locations in this letter, the GHG emission reporting throughout the supply chain brings with it a variety of challenges including lag-time in reporting; boundaries of financial reporting; collecting the data from other sources, including whether it is audited or non-audited; and how such climate-related events and transition activities are captured in the financial statement metrics—to name a few. These practical questions will likely take time to resolve and implement, but if the SEC does not require the information there will be little progress in this endeavor.

[22] See page 21352 of the Federal Register Version of the Proposal.
[23] See page 21444 of the Federal Register Version of the Proposal.

Discussion in Proposal vs. Actual Proposed Rule

As we have reviewed the Proposed Rule, we have noted that the discussion of the Proposed Rule in the Release when compared to the Actual Proposed Rule—Section VIII (Statutory Authority) of the Release—led to a different level of understanding or clarity of the requirements. Examples of this include the following:

- *Basing the Actual Proposed Rule on TCFD or GHG Protocols*—The discussion of the Proposed Rule notes the SEC is basing the disclosures on the TCFD Framework and GHG Protocol, but when you search the Actual Proposed Rule, these frameworks are not mentioned. As addressed previously, this is not something many will take notice of and the discussion in the Proposal may imply a greater use of/reference to such frameworks than the Actual Proposed Rule requires. This may leave readers with differing interpretations of what is actually occurring.
- *Disclosure of Materiality Determinations of Climate-Related Risks*—Section II.B.2 of the Proposal refers to the need to "discuss" how the materiality of climate-related risks was determined in the registrants' forepart, whereas the Actual Proposed Rule (17 CFR §229.1502(a)(2)) makes no reference to the need to discuss, describe, or disclose how materiality was determined. When reviewing the Actual Proposed Rule, one notes that another section 17 CFR §229.1503(a)(1)(iv)—requires disclosure of how the registrant determines the materiality using the climate-related risks in the aforementioned 17 CFR §229.1502(a)(2)) as an example. Section II.E.1 of the Proposal, which is meant to discuss 17 CFR §229.1503(a)(1)(iv) (risk management), makes no mention of the materiality disclosure requirement that exists in the respective section of the Actual Proposed Rule meant to be discussed in Section II.E.1. Requiring management to disclose how it determined materiality is a significant change and should be more obvious.
- *Impact of Climate-Risks on Financial Impact Metrics*—In a review of the Proposal in Section F.2, when compared to the language in the Actual Proposed Rule in Section VIII, we note the need to include the impact of climate-related risks disclosed outside the financial statements [as defined in 17 CFR §229.1500(c) and identified pursuant to 17 CFR §229.1502(a)] in the financial impact metrics [as defined in 17 CFR §210.14-02(c)-(h)] pursuant to 17 CFR §210.14-02(i) within the financial statements. This impact, and how it should be incorporated in the metrics, is not as obvious as it needs to be for the information to be produced in the financial statements.

We use these examples to highlight that we have found it more necessary than normal to reconcile the discussion in the Proposal with the Actual Proposed Rule to understand the exact requirements and to understand the nuances of the Proposed Rule's important changes. It is very important for the provisions of the Actual Proposed Rule to be clear and obvious to stakeholders, so they appreciate the consequences of the Proposed Rule.

CFA Institute

Climate Disclosures: Balancing Financial Reporting Improvements

As an investor organization, we have advocated for some of the most progressive accounting (measurement and recognition) and reporting, and audit reforms over the past 60 years—where our views were, at the time, considered to be very progressive (e.g., recognition of pension obligations, expensing of stock-based compensation, use of fair value for financial instruments, and recognition of leasing liabilities). Congress engaged in several of these debates, as we see emerging today as it relates to climate-related disclosures. When proposed, such changes were considered to be revolutionary—until they became commonly accepted elements of US GAAP. This Proposed Rule will likely garner similar characterization.

We find there is much to do in improving corporate disclosure and reporting on a wide variety of issues, many of which we have requested for decades, and others of which are more emergent. In our recent response to the Financial Accounting Standards Board's (FASB's) agenda consultation, we strongly encouraged the FASB to embrace a more progressive agenda and strategy (i.e., including addressing technology, ESG/sustainability, greater income statement disaggregation, improved segment reporting, and a direct method cash-flow statement) to meet the needs of investors.

These points illustrate that CFA Institute has pushed strongly for financial reporting reforms for investors over many decades—some of which have been politically controversial—and, having done so, we understand that for a multitude of practical and political reasons, such changes take time and are evolutionary. That said, we are persistent in our pursuit of the information needs of investors, and we take a long-term view in achieving these information needs. Consider, for example, our desire for leases to be presented as obligations—this took over 40 years, but our views stayed the same. Presently, there are many very important financial reporting improvements needed, which in timing and importance need to be balanced relative to the climate-related disclosure requirements in the Proposal. We also recognize that it may not only be the ability to write such standards by the FASB or rules by the SEC, but also the ability of preparers to implement them, that drive achieving these improvements.

The Proposal demonstrates that the SEC has given a greater relative importance to climate-related disclosures than for other risks faced by registrants. Examples of this include the following:

- A separate section for climate-related disclosures outside the financial statements and a separate footnote within the financial statements.
- Increased, and unique, disclosures related to climate-related risk, risk management and governance and their impact on a registrants' strategy and business.
- A requirement to describe materiality assessments for climate-related risks in 17 CFR §229.1503(a)(1)(iv).
- A requirement to disclose non-financial metrics—GHG emissions—outside of the financial statements, and the prioritization placed on providing assurance over such emissions relative to other disclosures in the forepart.
- More detailed disclosure of physical location of properties.
- Precedent-setting disaggregation thresholds for "metrics" to be included the financial statements.
- A compliance date that is very quick.

These items illustrate a higher relative importance to climate-related disclosures than other risk disclosures, but they also may consume the time of registrants and their ability to implement any improvements emerging from the FASB's agenda. These implementation challenges may mute the FASB's agenda. The same may be true of the IASB.

In our view, the SEC must balance the precedent-setting nature of some of the disclosure elements of this Proposed Rule—and the speed with which they are being proposed to be implemented—with other financial reporting priorities. The SEC may need to consider an evolutionary approach to such disclosures that enables a suite of investor information needs to be met. We appreciate the urgent needs associated with the climate-related disclosures. We also recognize there are major economic events and technological transformations that will likely impact companies more immediately/emergently and that disclosures that facilitate an understanding of those risks and operations need to be considered by the SEC as they finalize the Proposed Rule. We believe it may be important for the SEC to consider a time horizon or road map to implementation of these disclosures that balances the various priorities over time. We make suggestions in that regard in the next section.

PROPOSED PATH FORWARD

In our previous comment letter in response to the SEC's 2021 Request for Public Input on Climate Change Disclosures, we advocated for an evolutionary as opposed to a revolutionary approach to climate-risk disclosures. As we consider the SEC's Proposal in its entirety—with the desire to balance investor demand for climate-related disclosures, the challenge registrants will face in preparing the information, and taking account of our desire to balance this climate-related reporting priority with other financial reporting improvements—we propose a staggered or evolutionary approach as follows:

Table 7

YEAR	PROPOSED CLIMATE DISCLOSURE TIMELINE
Year One **FY 2023** **Filed 2024**	▪ *Risk, Governance, Strategy, and Impact*—We believe the description of climate-related risks, their management, governance and impact on the strategy and the business can be accomplished relatively quickly and can be implemented one year from the passage of a final rule. We believe the physical risk location data can be deferred for one year. ▪ *Scope 1 and Scope 2 Emission and Intensity Metrics*—We believe companies should be able to implement the disclosure of Scope 1 and Scope 2 emission disclosures one year from the passage of the final rule as many companies are providing in other venues.
Year Two **FY 2024** **Filed 2025**	▪ *Physical Risk Location Information*—Physical risk location information would be incorporated with a lag of one year in year two. ▪ *Scope 3 Emissions and Intensity Metrics*—That same year we would propose registrants be required to make their first disclosures of Scope 3 GHG emissions with appropriate safe harbors. We would support disclosure by the largest registrants and most significant emitters by industry with other registrants and other industries being transitioned in over time.
Year Three **FY 2025** **Filed 2026**	▪ *Industry-Based Metrics (SASB/ISSB Standards)*—As we describe elsewhere herein, we believe it is essential that the SEC consider how to incorporate industry-based metrics—as developed by the SASB and being incorporated into the ISSB standards—that highlight drivers of future performance. These should be a priority three years from the passage of a final rule. Their inclusion combined with the data in the preceding two years would amount to significant progress toward a global baseline within three years.
Year Four **FY 2026** **Filed 2027**	▪ *Financial Impact Metrics (Outside Financial Statements)*—As described elsewhere herein, we have proposed the development of cash flow metrics and quantitative disclosures of the climate-related impact on financial estimates and judgements. We would propose their adoption four years after the passage of a final rule, but we would propose they first be provided outside the financial statements with a safe harbor provision. We believe this approach provides for time to refine definitions, disclosures, build controls and capture comparative periods, if needed. This approach would also provide time for investors to become familiar with the company's risks, their management and governance, and confirm whether managements insights from prior years are manifesting themselves in the financial impacts. ▪ *Limited Assurance: Scope 1 and Scope 2 Emissions*—Scope 1 and Scope 2 could be attested to at a limited assurance level.
Year Five **FY 2027** **Filed 2028**	▪ *Financial Impact Metrics (Inside Financial Statements)*—We would then propose the aforementioned cash flow metrics and quantitative disclosures of the climate-related impact on financial estimates and judgements be moved inside the financial statements. This could possibly be moved out one additional year to 2028 to ensure the information is of high-quality and auditable.
Year Six **FY 2028** **Filed 2029**	▪ *Reasonable Assurance: Scope 1 and Scope 2 Emissions*—Scope 1 and Scope 2 could be attested to at a reasonable assurance level.
Note: The above dates are for a large-accelerated filer. See discussion in Other Matters: Compliance Date regarding our views on staggered adoption dates for different sized filers.	

We believe the above approach would balance investors immediate needs for relevant over perfectly reliable information, with issuers need to develop systems and controls to gather information and to ensure that appropriate safe harbors protect their ability to provide relevant information in as timely a manner as possible. We also believe this approach facilitates an industry-based approach that is most meaningful for investors while achieving a global baseline of disclosures within three years of issuing a final rule.

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Thank you for your consideration of our views and perspectives. We welcome the opportunity to meet with you to provide more detail on our letter. If you have any questions or seek further elaboration of our views, please contact me by email at sandra.peters@cfainstitute.org or by phone at 347.413.0774. CDPC members John Turner and Jack Ciesielski contributed to the content in this letter related to Section K (Structured Data) and Sections I (Targets and Goals), J (Applicability to Registrants), L (Furnished vs. Filed), and M (Compliance Dates), respectively, of the Proposal. CFA Institute staff Matt Orsagh contributed toward the content in this letter related to Section G (GHG Emission Metric Disclosures) of the Proposal.

Sincerely,

Sandra J. Peters

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cc:
Paul Andrews, Managing Director, Research, Advocacy and Standards
Paul Munter, Acting Chief Accountant, Securities and Exchange Commission
Renee Jones, Director, Division of Corporation Finance, Securities and Exchange Commission
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Emmanuel Faber, Chair, International Sustainability Standards Board
Sue Lloyd, Vice Chair, International Sustainability Standards Board
Jean-Paul Gauzes, Acting EFRAG Sustainability Reporting Board Chair, EFRAG President

RESPONSES BY SPECIFIC SECTION

Cross-references to the Perspective That Informs Our Response, Summary of Positions, Overarching Considerations, and Proposed Path Forward are references to the body of the letter. All other cross-references refer to other sections within the Appendix.

DISCLOSURES OUTSIDE FINANCIAL STATEMENTS (REGULATION S-K)

The disclosures to be made outside the financial statements include those related to GHG emissions which are addressed after the discussion of Disclosures Inside Financial Statements, consistent with the order in the Proposal. GHG emission disclosures are an integral part of the disclosures outside the financial statements.

Overview of the Climate-Related Reporting Framework (Pages 46–54, Questions 1–7)
Support Disclosures Based Upon TCFD: Several Observations (Pages 46–50, Questions 1–4)
As we said in our previous comment letter in response to the SEC's 2021 Request for Public Input on Climate Change Disclosures, we believe the TCFD guidance[24] provides a useful framework for communicating how a company thinks about climate risk from a strategic perspective and their plans for managing climate risk. This, like Scope 1 and Scope 2 emission disclosures, were expected elements of the Proposal, and the global baseline, and likely won't be a controversial element of the Proposed Rule. That said, there are interesting questions for the SEC—and its stakeholders—to consider regarding the disclosures.

As we note in the Overarching Considerations section, the question of relative priority of climate-related risk disclosures, and the details proposed, will likely garner attention from registrants, who may not want such disclosures and investors who want similarly detailed disclosures for many other risks—some of which they may perceive to be more immediately emergent or important.

Further, the quality—and usefulness—of the disclosures will be highly dependent upon how they are implemented. The disclosures outside the financial statements—other than GHG emissions and certain physical location disclosures—will likely be mostly qualitative. Disclosure needs to be sufficiently company specific to be decision-useful—not boilerplate. As noted in the Proposal, the TCFD's own study of the application of its guidance suggests compliance is weak. With inclusion in SEC filings, this will naturally improve, given the liability concerns, but to be decision-useful, this element of the Proposal will require persistent enforcement from the SEC. Similar to the initial implementation of management's discussion and analysis (MD&A), this will likely necessitate post-implement review by the Commission.

We support the SEC's decision to add new subparts and include disclosures under Regulation S-K and Regulation S-X. We indicate our support for a connection within the financial statements

[24] See, "Publications," Task Force on Climate-Related Financial Disclosures (fsb-tcfd.org).

and we express our preference for an alternative approach to the metrics in the Disclosure Inside Financial Statements section, which follows. Within this section, we highlight the need for additional more forward-looking industry-based metrics, such as those developed by the SASB, as discussed robustly in the Overarching Considerations section. As we describe elsewhere herein, we do not support inclusion of GHG emissions in financial statements—as they are non-financial metrics. We consider how the disclosures will be used by investors in each of the sections of this letter, but in a connected way in the Overarching Considerations section.

We also discuss in the Overarching Considerations section the reference, or lack of reference, to TCFD framework in the Actual Proposed Rule given the extensive discussion of TCFD in the Release. It may not be clear to those not deeply steeped in the legal manner in which the Proposal gets incorporate into US law that the discussion of TCFD in the discussion section of the Proposal does not mean the TCFD framework has been referred to by the SEC—simply that the Actual Proposed Rule is "based upon" a snapshot of the TCFD requirements at the time of the Proposal, or the passage of a final rule. Based upon our discussion with many who are not deeply entrenched in the Proposal this fact is not obvious as it is not explicitly communicated in the Proposal. It can be inferred, but it is not explicitly stated. As we note in the Overarching Considerations section, the SEC's snapshot approach brings with it a number of practical questions regarding the development of the framework (i.e., consistent with independent standard-setting for the purpose of investors, not prudential regulators) and how TCFD is maintained as the requirements may likely change—and could possibility become the responsibility of the ISSB—once broader application emerges. Said differently, will the TCFD framework shift while the SEC rule remains the same because it is based upon TCFD as this moment? Will the TCFD continue indefinitely?

CFA Institute has well-defined criteria regarding the characteristics of independent standard-setting (i.e., funding, engagement with investors, agenda setting, due process, and public consultation and discussion), which is not clear the TCFD framework have meet, but which may or may not be important given the fact that the SEC requirements are "based-upon" but not "referencing to" TCFD requirements. Standards evolve, and we believe the SEC should consider how its rule "based-upon" but not "referencing to" the TCFD will evolve.

We believe the SEC's reference to the TCFD disclosures will make them more consistent and comparable as we note in the discussion of Definitions in the Overarching Considerations and Disclosures Inside Financial Statements sections. Terms used in SEC filing documents—specifically within the financial statements—will draw a higher degree of scrutiny as we discuss in the aforementioned sections, but the SEC must consider who will provide the interpretation for such terms and disclosures as they enter this new lexicon and liability regime. The SEC's incorporation of these definition will make the global use of these terms better, but it will be a process—a process that needs to be done in collaboration with the ISSB to ensure global comparability.

We would also note that review of what the TCFD defines as metrics—and what SASB defines as metrics—in comparison to what is defined as metrics within the Proposal are quite different.

While many stakeholders refer to metrics, this should not be construed, in our view, to mean they are referring to the same thing or that they are equally decision useful.

Location of the Climate-Related Disclosures (Pages 50–55, Questions 5–7)
Separate Section, Incorporated by Reference, and Filed vs. Furnished
We agree with the SEC's decision to incorporate the disclosures into a separate section. We recommended this approach in our previous comment letter in response to the SEC's 2021 Request for Public Input on Climate Change Disclosures.

We believe this approach, with appropriate use of cross-references, will focus issuers on creating a more cohesive and integrated discussion of the impact of climate risk to the organization strategically, how the company is managing such risk, and the impact on the value of the organization.

We are also supportive of this approach because it requires inclusion of the climate-related risk management in documents filed with the SEC, rather than simply furnishing the disclosures in a separate document.

Disclosure of Climate-Related Risks (Pages 55–72, Questions 8–18)
Definitions of Climate-Related Risk and Climate-Related Opportunities (Pages 56–67, Questions 8–18)

Definitions (Pages 56–63, Questions 8–11, 16, 17)
Definitions: Inclusion in SEC Filings Will Bring Focus, but Interpretive Issues May Be More Challenging Than Expected—See our discussion of terms and definitions being added via 17 CFR §229.1500 in the previous Overarching Considerations section and the Disclosures Inside Financial Statements (Definitions, Terminology, and Interpretive Issues) sections, which follow.

Disclosure of Impacts of Risks Is Necessary: Not Simply High-Level Discussion of the Climate-Related Risks—We observe that the Proposal discussion[25] notes:

> *The proposed rules would require a registrant to* ***disclose any climate-related risks reasonably likely to have a material impact*** *on the registrant's business or consolidated financial statements. A registrant may also disclose, as applicable, the actual and potential impacts of any climate-related opportunities it is pursuing.*

The language notes that the disclosure of climate-related risks that are expected to be material is required, climate-related opportunities is optional. We discuss our need for disclosure of the impact to be quantitative as well as qualitative in the section which follows at Disclosures Regarding Climate-Related Impacts on Strategy, Business Model and Outlook—Disclosure of Material Impacts.

Value Chain Disclosures, May Be Challenging to Obtain—We agree with the spirit of making climate-related disclosures within a registrants' value chain; however, obtaining such

[25] 17 CFR §229.1502(a) requires risk disclosures and (b) requires impact disclosures.

information and verifying its veracity is likely to be challenging. It also seems to expand the boundaries of the financial reporting beyond simply the registrant, which may be challenging and require safe harbor provisions. Investors need to understand the nature of such information may be substantially less reliable than the information controlled by the company. Like Scope 3 emissions, this information may be challenging to obtain and of varying degrees of quality.

Further, as we note in the Disclosures Inside Financial Statements (Identifying Climate-Related Impacts from Supplier (Upstream) Costs: Likely the Most Significant, But Not Included in Financial Statement or Expenditure Metrics) section, the metrics included in the Proposed Rule, will not likely capture such climate-related risks.

<u>Support Separating Disclosures by Physical and Transition Risks, May Not Always Be Possible</u>—We support separating physical and transition risks for purposes of climate-related risk disclosures. That said, they may not be as easily separable as the definitions may suggest. Physical risks may manifest financially as transition risks. We believe it is important to explore the interconnectedness of the two and consider whether a caption is needed for those that have key elements of both. We also address this in Disclosures Inside Financial Statements (Definitions, Terminology, and Interpretive Issues, Mixture of Risk Factors (Physical and Transitions Risks) section.

Physical Risk Disclosures (Pages 59–62, Questions 12–14)
<u>Proposed Required Physical Risk Disclosures</u>—The Proposed Rule requires specific disclosures of the nature of the following physical risks:

- <u>Location of Properties Subject to Physical Risk</u>—The ***location*** of the properties, processes, or operations subject to physical risks. We would note the Proposal discussion says this should include specific information, such as zip codes or geographic concentrations, but the Actual Proposed Rule (17 CFR §229.1500(a)(1)(i)) does not indicate that this degree of location specificity is required, this specificity is included in the definition of the term "location."
- <u>Flood Hazard Areas</u>—The ***percentage*** of buildings, plants, or properties (square meters or acres) ***located in flood hazard areas*** in addition to the location if flooding is a material climate risk (17 CFR§229.1500(a)(1)(i)(A)).
- <u>High-Water Stress Areas</u>—***Location of assets in regions of high or extremely high-water stress*** and the ***book value, and as a percentage of total assets*** in such regions in addition to their locations would be required disclosure. Also required would be the ***percentage of the registrants' total water withdrawn in those regions*** (17 CFR §229.1500(a)(1)(i)(B)).

<u>Proposed Required Disclosures May Be Missing Important Elements</u>—Although the Proposal discusses physical risks associate with rising temperatures, wild-life prone areas, and rising sea levels, the Actual Proposed Rule does not specify additional disclosures for these risks. The Proposal does not explain why only flood hazard or high-water stress physical risks were chosen for such physical risk disclosures. Without including these other items more specifically in the Actual Proposed Rule, we would not expect registrants to provide such information.

Further, we believe the Actual Proposed Rule requiring location disclosures (17 CFR §229.1500(a)(1)(i)) should include a cross-reference to the definition of location meaning zip code or equivalent, to ensure that connection to that level of detail is obvious. We also support connection of these disclosure to disclosures required by 17 CFR §229.102, Description of Property. We also believe tabular, preferably visual, display of the geographic locations (concentrations) should be required (and tagged) to enable greater use and understanding of the physical risks.

Still further, there is no requirement to disclose the book value or percentage of total assets subject to that physical risk—other than for high-water stress areas. The book value is important for those subject to flood hazard as well. For both flood hazard and high-water stress areas, replacement value is likely a more important measure than book value, as well as the impact on financial performance (revenues and expense) of this risk, should it emerge. For example, there could be property with very little book value (as fully depreciated), which could be very costly to replace and have very significant impacts on a registrants' operating results, if not useable.

These pieces of information can be useful, but they need to be better connected to the projection of the future cash flows of the enterprise, and without a complete information set, the information is not as useful as it could be to projecting future cash flows. Any plans the company has to transition away from these properties (i.e., which demonstrates the interrelationship between physical and transition risk) would also be useful.

Relative Importance: Are Physical Risk Disclosures More Important Than Location of Cash Balances and Tax by Jurisdiction?—While we support the physical risk disclosures, we would be remiss if we did not highlight this disclosure relative to the section in the Overarching Consideration entitled Climate Disclosures: Balancing Financial Reporting Improvements. We would observe that the property disclosures required under the Proposed Rule would provide more detailed disaggregation on the companies' properties than, for example, the location of its cash or income taxes by jurisdiction—something investors have persistently requested over the past decade. As investors, we will also likely know more about physical risks than we do about intangible assets. Both are examples of improvements in financial reporting that investors have been seeking for at least the past decade, which need to be balanced with climate-related reporting in making financial reporting improvements.

Transition Risk Disclosures (Pages 62–63)
The Proposal discussion notes related to transition risks:

> *The proposed rules would require a registrant to* ***describe the nature of transition risks****, including whether they relate to regulatory, technological, market (including changing consumer, business counterparty, and investor preferences), liability, reputational, or other transition-related factors, and how those factors impact the registrant.*

The emphasis—from 17 CFR §229.1502(a)(1)(ii)—is on the description of these risks, not on the quantification of the implications of those risks on the company and the strategy. While the requirement to discuss actual and potential climate impacts is included in 17 CFR §229.1502(b), we worry that transition risks disclosures will be boilerplate, as unlike for physical risks, there are no required quantitative disclosures. What investors need is a description of the link between GHG emission disclosures and the cost of transitioning's impact on the value of the enterprise.

While the disclosures regarding the transition plan (17 CFR §229.1503(c)) and targets and goals (17 CFR §229.1506) will facilitate that understanding and be helpful, a company that has neither, with no requirement to explain the cost of GHG emissions and their reduction, will likely only speak in generalities about its transition risks. While this may communicate to investors that the company's management of this risk is weak, and the investment should be avoided, we would prefer something more precise upon which to make an investment or divestment decision.

The Proposal discussion does not include the following element of the Actual Proposed Rule (17 CFR §229.1502(a)(1)(ii)), which we believe is important to emphasize:

> *A registrant that has* ***significant operations in a jurisdiction that has made a GHG emissions reduction commitment*** *may be exposed to transition risks related to the implementation of the commitment.*

This an important disclosure consideration and highlights the need to emphasize that changes in legislation or regulations and international accords or agreements may have differing impacts—hence, our request for GHG emission disclosures by geographic region. Investors, for example, not only need disclosure of the GHG emissions but also where they emerge—as legislation regulations and international agreements may change unevenly across the globe and present different risks and business outcomes.

We also note that 17 CFR §229.1503(a)(1)(ii)) and 17 CFR §229.1503(c)(2)(A)), if a transition plan has been adopted, address the need to consider this as a part of risk management.

Opportunities (Page 62, Question 18)
We support the discussion of opportunities as we believe they exist; however, we remain skeptical that many companies will make disclosures in this regard. We believe it will take enforcement monitoring to ensure that opportunities—made by company management as part of marketing company stock—are not disclosed in other venues, forums, or publications, but omitted as disclosures within the company's SEC filings. We believe that the SEC should consider language that makes the opportunities discussion optional unless such opportunities are included in other public communications to investors and other stakeholders.

See our discussion of opportunities in the context of the use of these terms in the financial statements. See Disclosures Inside Financial Statements (Definitions, Terminology, and Interpretive Issues).

Other Metrics (Question 15)
The Proposal includes a question regarding the need for other metrics (Question 15). We believe that other metrics would be useful to investors as we describe in the section entitled Information Must Be Decision-Useful and Predictive: A Link Is Needed Between Disclosures Inside and Outside Financial Statements within the Overarching Considerations portion of the letter. Please refer to that section.

Time Horizons and Materiality Determination (Pages 63–67, Question 8)
The Proposal discussion states the Proposed Rule would emphasize that when assessing materiality of a particular risk, it should consider its magnitude and probability over the short,

medium, and long term. The Proposal also notes that to ensure that management considers the dynamic nature of climate-related risk the SEC is proposing to require a registrant to "discuss" its assessment of the materiality of climate-related risks over the short, medium, and long term. The Proposed Rule reminds registrants that, to the extent that the climate-related disclosures represent forward-looking statements under the PSLRA, they are subject to the safe harbor—noting that the climate-related disclosures required in a registration statement, including IPOs, are excluded from the protections under the PSLRA.

Time Bound and Dynamic Discussion of Material Climate Risks: New Concepts—Two subsections—Materiality and Discussion in Proposal vs. Actual Proposed Rule—within the Overarching Considerations section of the letter provides important considerations as they relate to the SEC's interpretation and application of materiality in requiring these disclosures as well as the need for a registrant to describe their determination of material risks.

Requiring management to consider time horizons more explicitly, and the dynamic nature of materiality, adds a different, or at least more explicit, consideration of the qualitative, and possibly quantitative, elements of materiality under SAB 99. Further, requiring management to describe how it determined materiality would be something quite unique in the context of the United States, as investors currently have no insight into how materiality determinations are made by management related to other risks—or for other disclosures made throughout SEC filings and registration statements, including with financial statements. We believe this change should be made more explicit so as to be obvious.

Time Horizons Parameters: Guidelines Helpful—We believe the SEC should provide guidelines on the definition of short, medium, and long term. In accounting parlance, the term "long-term" has been used to justify cost-based accounting in some instances, and we have previously stated we do not know how an issuer might use this language to justify a conclusion as we do not know what constitutes long-term from their perspective.

In the context of climate-related disclosures, the time horizons are very long-term so broad parameters would be useful from the SEC. This will also help investors assess the related uncertainty of the statements within these time horizons. We believe ranges of short term or 1–5 years, medium term or 5–15 years, and long-term or 15–30 years would be appropriate. More immediate 1–2 years or ultra-long-term 30-plus years might be options for consideration as well. The time horizons affect the estimations of future cash flow prospects, and many of the expected cash outflows related to climate-risk may be well beyond those specifically estimated by investors (i.e., they may be included in estimates of terminal value).

Issuer Definitions of Time Horizons—We also recognize, however, that each industry and business may have very different business models that necessitate discussion over very different time horizons, so we suggest guidelines with management adding texture to discuss the long-term or short-term nature of their specific business. Issuer disclosure of their time horizons (even if parameters are provided) is important for the purpose of comparison between years for the company and with its competitors.

<u>Safe Harbor Protections</u>—See the Safe Harbor Provision of the PSLRA section within the Overarching Considerations portion of this letter.

Disclosures Regarding Climate-Related Impacts on Strategy, Business Model, and Outlook (Pages 72–93, Questions 19–33)

Disclosure of Material Impacts (Pages 72–77)

<u>*Strongly Support the Need to Disclose Material Impacts*</u>—We agree in principle with the Proposal to require disclosures of the material impacts of climate-related physical and transition risks describing the actual or potential impacts of these risks on the registrants' strategy, business model, and outlook with an emphasis on doing so with respect to time horizons and how it has impacted strategy, financial planning, and capital allocation. We believe disclosures should be made if there will be impacts or significant changes made to business operations, including types and locations of a company's operations.

<u>*Need Quantitative and Qualitative Description of Impacts*</u>—We recognize the comment in the Proposal regarding the SEC's hope that its proposed disclosures—by the inclusion of the following language—will address the findings of the TCFD's most recent assessment of public disclosures. The TCFD found the disclosure of impacts was mostly boilerplate and did not include an assessment of the current or future impact of the risks. We remain unconvinced that the language in the Actual Proposed Rule will accomplish this objective. The language in the Proposed Rule using terms like describe, discuss, or disclose are likely only going to garner qualitative, and likely boilerplate, disclosures. As an example, consider the following language in 17 CFR §229.1502(b):

> ***Describe*** *the actual and potential impacts of any climate-related risks described in response to paragraph (a)of this section on the registrant's strategy, business model and outlook:*
> 1) *Include impacts on the registrant's:*
>   - *Business operations, including the types and locations of its operations;*
>   - *Products or services;*
>   - *Suppliers and other parties in its value chain;*
>   - *Activities to mitigate or adapt to climate-related risks, including adoption of new*
>   - *technologies or processes;*
>   - ***Expenditure for research and development****; and*
>   - *Any other significant changes or impacts.*
> 2) *Include the time horizon for each* ***described impact*** *(i.e., in the short, medium, or long term, as defined in response to paragraph (a) of this section.*

The only item which might garner a quantitative disclosure is the requirement to disclose research and development expenditures. Expenditures connotes a quantitative number. We would note, however, that the financial statement disclosures proposed in 17 CFR §210.14-02(a)(2)(e) and (f) only provide aggregate expenditures expensed and aggregate expenditures capitalized—without reference to whether they relate to research and development.

We agree with the proposal to describe the impacts by time horizon, but quantification by time horizon is important to cash-flow estimation for investors. Without quantitative disclosures, the impact by time horizon is very subjective and qualitative.

Our concern persists that the disclosures will remain high-level and qualitative and not quantitative, nor company specific. Investors do not want an identification of risks—or their impact—that is boilerplate and which they can surmise simply by the nature of the industry the registrant operates in. As we discuss in the Disclosures Inside Financial Statements section, we believe alternative cash-based metrics and quantitative disclosures of changes in judgments and estimates are necessary. We also identify the need for more forward-looking metrics outside the financial statements, as we address next and within the Information Must Be Decision-Useful and Predictive: A Link Is Needed Between Disclosures Inside and Outside Financial Statements within the Overarching Considerations portion of the letter.

Linking GHG Emission Non-Financial Metrics to Financial Statement Metrics: Proposed Rule Misses the Forward-Looking Link

We support the spirit of discussions required in 17 CFR §229.1502(c) and (d) that registrants should include—in the context of climate-related risk disclosures—a discussion of their impact on the current and forward-looking business strategy, financial planning, and capital allocation decisions. We note the requirement in:

- 17 CFR §229.1502(c) to include in the ***discussion*** how any metrics referenced in 17 CFR §210.14-02 (financial statement metrics), 17 CFR §229.1504 (GHG non-financial emission metrics), and 17 CFR §229.1506 (goals and targets) relate to the business model or strategy, and
- 17 CFR §229.1502(d) to provide a ***narrative discussion*** regarding how 17 CFR §229.1502(a) (climate-related risks) have had, or are reasonably likely to have, an effect on the registrant's financial statements and that this discussion should include any of the climate-related financial statement metrics from 17 CFR §210.14-02.

We support the spirit of the attempt to link the discussion of climate-related risks to their impact, both current and forward-looking, and to the financial statements, but we believe the non-financial nature of GHG emission metrics—with no required disclosure to quantify the cost to reduce them—combined with mostly backward accrual-based financial statement caption metrics will be challenging.

We discuss our challenges with, and our preferred alternative, to the financial statement metrics in the section Disclosures Inside Financial Statements within the subsections Financial Impact and Expenditure Metrics. In the Overarching Considerations section, we also describe what we believe are missing more forward-looking metrics—those being more industry-based[26] forward-looking metrics developed by the SASB and incorporated into the ISSB standards. We understand the constraints on referencing the SASB, soon-to-be ISSB, standards, but like with other standards upon which this Proposal is based, we believe there must be a means to be included in a final rule—as these are essential to a global baseline. Without those metrics, the United States with metrics within financial statements will look very different from companies

[26] It is important that investors understand the difference between industry-specific and industry-based standards. Industry-specific standards are those developed at an industry level after the overarching standard has been developed, whereas industry-based standards are standards where the standards are developed with reference to the drivers within and industry and then a standard-setting topic. These represent different risk and materiality thresholds.

internationally. See also the discussion of Reference to, Or Lack of Reference to, Relevant Frameworks and Standards in the Overarching Considerations portion of this letter.

Support Disclosure of How Resources Are Being Used
We are also supportive of the provision in the Proposed Rule to include how any resources are being used to mitigate climate-related risks. We would not oppose additional disclosures regarding how the registrant leverages climate-related financing instruments, such as green bonds, or other forms of "sustainable finance," such as "sustainability-linked bonds," "transition bonds," or other financial instruments linked to climate change, as part of its strategy to address climate-related risks and opportunities. Uses of the proceeds of such financing instruments and how they are tied to the financial statement metrics would be important contextualization disclosures.

Disclosure of Carbon Offsets or Renewable Energy Credits (Pages 77–79)
We agree with the disclosure requirement (17 CFR §229.1502(c)) that requires discussion of how carbon offsets or renewable energy credits (RECs) have been used in the registrant's climate-related strategy. See also our discussion regarding them in the Targets and Goals Disclosures section of this letter.

Disclosure of a Maintained Internal Carbon Price (Pages 79–83)
We believe it is important for a registrant to disclose an internal carbon price if maintained as per the Proposed Rule (17 CFR §229.1502(e)). We broadly agree with the principles of disclosure articulated in 17 CFR §229.1502(e), as follows:

(1) *If a registrant maintains an internal carbon price, disclose:*
    - *The **price in units** of the registrant's reporting currency per metric ton of CO2e;*
    - *The **total price**, including how the total price is estimated to change overtime, if applicable;*
    - *The **boundaries for measurement** of overall CO2e on which the total price is based if different from the GHG emission organizational boundary required pursuant to 17 CFR §229.1504(e)(2); and*
    - *The **rationale for selecting** the internal carbon price applied.*

(2) *Describe **how the registrant uses any internal carbon price** described in response to paragraph (e)(1) of this section to evaluate and manage climate related risks.*

(3) *If a registrant **uses more than one internal carbon price**, it must provide the **disclosures required by this section for each internal carbon price** and disclose its **reasons for using different prices**.*

However, we would note that some companies may simply fail to maintain an internal carbon price because they believe that application of such a price to the GHG emissions disclosures may depict an overly negative outlook of the company's operating results or liquidity.

We also would note that the use of different methods and prices may result in a lack of comparability, and we understand that it may be too early to require the use of an internal carbon price or a particular carbon-pricing methodology. We are also aware that carbon markets may not be sufficiently robust. Rest assured, however, that investors will take the GHG emission data and apply an estimate price/cost to reduce them to estimate the financially value-relevant impact of reducing greenhouse gas emissions. This is why we believe GHG emissions by geography are important. Investors must make such a gross calculation to link this non-financial metric to its impact on enterprise value. This will be a very crude estimation, but one analyst will likely undertake.

We support the application of PSLRA safe harbors to internal carbon price disclosures.

Disclosure of Scenario Analysis, If Used (Pages 83–88)
The Proposed Rule (17 CFR §229.1502(f)) would require a description of the resilience of a company's business strategy in light of future changes in climate-related risks but will not require a scenario analysis ***unless a registrant uses scenario analysis*** to assess the resilience of the business to climate risks. Specifically, the Actual Proposed Rule states:

> *Describe the resilience of the registrant's business strategy in light of potential future changes in climate-related risks.* ***Describe any analytical tools, such as scenario analysis****, that the registrant uses to assess the impact of climate-related risks on its business and consolidated financial statements, and to support the resilience of its strategy and business model.* ***If the registrant uses scenario analysis*** *to assess the resilience of its business strategy to climate-related risks,* ***disclose the scenarios considered (****e.g., an increase of no greater than 3 °C, 2 °C, or 1.5 °C above pre-industrial levels), including parameters, assumptions, and analytical choices, and the projected principal financial impacts on the registrant's business strategy under each scenario.* ***The disclosure should include both qualitative and quantitative*** *information.*

The last sentence of the Actual Proposed Rule notes the disclosure should include both qualitative and quantitative information. It is not clear if that applies only to the preceding sentence, which discusses scenario analysis, or to the resilience disclosure more broadly. The SEC should clarify this.

Given that Critical Estimates disclosures under Regulation S-K[27] similarly require registrants to provide ***qualitative and quantitative*** (i.e., sensitivity) analysis of estimation uncertainty that is likely to have a material impact on the financial condition or results of operations of the registrant, we were hopeful the SEC would require scenario analysis for climate-related risks. Many, if not most, registrants do not make the required critical estimates sensitivity analysis disclosures—until such time as they get an SEC comment letter asking them to do so. Investors have long advocated for better enforcement of this provision of the critical estimate's requirement. In many other areas, we have advocated for sensitivity and/or scenario analysis as it relates to many estimates (particularly fair values) as it is a false choice to believe there is one right answer with these estimates. While sensitivity analysis of critical estimates and scenario analysis of the impact of climate-related risks on a registrant's financial condition and business strategy are not precisely the same thing, they have at their core the estimation of a range of

[27] The disclosure requirement reads as follows:
(3) Critical accounting estimates. Critical accounting estimates are those estimates made in accordance with generally accepted accounting principles that involve a ***significant level of estimation uncertainty and have had or are reasonably likely to have a material impact on the financial condition or results of operations of the registrant***. Provide ***qualitative and quantitative information necessary to understand the estimation uncertainty*** and the ***impact the critical accounting estimate has had or is reasonably likely to have on financial condition or results of operations to the extent the information is material and reasonably available***. This information should include why each critical accounting estimate is subject to uncertainty and, to the extent the information is material and reasonably available, how much each estimate and/or assumption has changed over a relevant period, and the sensitivity of the reported amount to the methods, assumptions and estimates underlying its calculation. [86 FR 2126, Jan. 11, 2021]

outcomes that give investors a sense as to the variability in the underlying risks and related assumptions, which is useful to investors in their analysis—both qualitatively and quantitatively.

The lack of a requirement for scenario analysis is, therefore, disappointing as the registrant simply needs to state they do not perform such scenario analysis to avoid making such scenario analysis disclosures. Effective strategic planning, however, would suggest scenario analysis is necessary. A one-dimensional disclosure of the impact of climate-related risks on the business is not likely to be as helpful as scenario analysis. Further, strategy, by its nature, is a series of choices and a decision to take certain choices over others. There is never a single right answer. As we discuss in the Overarching Considerations section, investors value relevance over reliability of information. We recognize the high-degree of imprecision in such scenario analysis—as well as the emergence of more widely available and utilized models—and we would support some relevant information as opposed to no information because it is not perfectly reliable. As professional investors, we are in the business of making estimations of future cash flows and we understand scenario analysis helps bring this estimation to life and make the choices more multidimensional.

We would also observe, however, that a lack of scenario analysis provides qualitative evidence that a company's climate-related risk management, governance, and strategy may not be sufficiently robust or effective at assessing the resilience of a company's climate-related risk strategy. This in and of itself has information content for investors.

We support the application of PSLRA safe harbors to scenario analysis.

Governance Disclosure (Pages 93–100, Questions 34–41)

Board Oversight (Pages 94–96)

The Proposed Rule sets forth ***five disclosure requirements*** related to board oversight of climate-related risks, including the following:

1. The identity of any board members or committees ***responsible for oversight*** of climate-related risks.
2. Whether any members of the board of directors have ***climate-related risk expertise***, with disclosures in such detail as necessary to fully describe the nature of the expertise.
3. The ***processes by which the board*** of directors or board committee ***discusses climate-related risks***, including how the board is informed ***about climate-related risks, and the frequency of such discussion***.
4. Whether and how the ***board*** of directors or board committee considers climate-related risks as part of its ***business strategy, risk management, and financial oversight.***
5. Whether and ***how the board*** of directors ***sets climate-related targets or goals*** and ***how it oversees progress*** toward such targets or related goals, including the establishment of any interim targets or goals.

We support these disclosure requirements and make the following observations:

- *Compliance*—The Proposal notes these disclosures are derived from TCFD guidance, but the Proposal itself notes that the TCFD has observed little compliance with the disclosures. This raises a series of questions: Does the SEC believe required inclusion in an SEC document

will ensure compliance? Will the disclosures be boilerplate? Is the SEC willing to place greater enforcement behind this disclosure requirement to ensure it occurs?
- Competitive Harm—We believe there can be a disclosure of the impact on strategy without competitive harm. As investors, we are the party who would suffer from any competitive damage, but we need information to assess the risk as well. Competitive harm is a an oft-overplayed reason not to make disclosures.
- Board Authorship—Generally, management authors the SEC registration statement and filings not the board of directors—they read and approve. We think the SEC needs to clarify that the board is responsible for authorship of this section as we would like to ensure this is written by the Board itself and includes a sufficient level of detail by those responsible and in attendance at such meetings.
- Good Disclosures for Many Risks: Climate's Relative Importance—These would be excellent disclosures for many risks, not simply climate-related risks, and raise the question why climate-related risks deserve relatively greater prominence as to their governance.
- Proportionally—We think the need for climate expertise is industry and company dependent and that these provisions, or their application, need to consider this proportionally.

Management Oversight (Pages 96–98)
The Proposed Rule sets forth three disclosure requirements related to management's oversight role in assessing and managing climate-related risks, including the following:
- Whether ***certain management positions*** or committees are ***responsible for assessing and managing*** climate-related risks and, if so, the ***identity of such positions or committees*** and the ***relevant expertise of the position holders*** or members in such detail as necessary to fully describe the nature of the expertise;
- The ***processes*** by which such positions or committees are ***informed about and monitor*** climate-related risks; and
- Whether and ***how frequently such positions or committees report to the board*** or a committee of the board on climate-related risks.

We support these disclosure requirements and make the following observations:
- Climate's Relative Importance—These would be useful disclosures but unique to climate-related risks. There are many risks within an organization where the management of such risks is not described in this level of detail in the SEC filings, but for which investors would like such detail. Again, another instance where climate-related risk would necessitate substantially more disclosure than other types of risks.
- Compensation Is the Missing Ingredient—Many investors want a linkage of climate-related risk management and compensation. The Proposed Rule notes the SEC is not proposing a compensation-related disclosure requirement at this time, because they believe that existing rules requiring a compensation discussion and analysis should already provide a framework for disclosure of any connection between executive remuneration and achieving progress in addressing climate-related risks. This is likely something active investors will need to monitor and encourage as our experience is that what gets measured (and compensated) is what gets monitored, and without a link to compensation, there may not be the progress that is needed.

Risk Management Disclosure (Pages 100–110, Questions 42–51)

Disclosure of Processes for Identifying, Assessing, and Managing Climate-Related Risks (Pages 100–102)

We support the Proposed Rule disclosures (17 CFR 229.1503(a)) for identifying, assessing, and managing climate-related risks. The key elements or the Proposed Rule would require disclosure regarding:

- How the company assesses the ***relative significance of climate risk*** compared to other risks.
- How the company considers ***existing or likely regulatory requirements, such as GHG emission limits***, when identifying climate-related risks.
- How the company considers shifts in ***customer or counterparty preferences, technological changes, or changes in market prices*** in assessing potential transition risks.
- How the company ***determines materiality***, including the potential scope and impact of any related climate-related risk.

With each of these, the company would also be required to disclose the following:

- How it decides whether to ***mitigate, accept, or adapt to a particular risk***.
- How it ***prioritizes*** whether to address climate-related risks.
- How it determines how to ***mitigate any high-priority risks***.

The Proposed Rule (17 CFR 229.1503(b)) requires disclosure regarding how the company integrates climate-related risk management into the overall risk management of the company, and if a separate committee does this, how such committee interacts with the company's board or management committee.

As an investor organization, we would support all of the aforementioned requirements.

We would make several observations:

- *Integration of Climate and Overall Risk Management*—We believe the requirement to disclose the interaction of climate and overall risk management is particularly important as climate will touch all aspects of the business. We think it is important to describe precisely the separate and joint responsibilities of management and the board as it relates to climate risk and the interaction with other risk management.
- *Qualitative vs. Quantitative: Risk of Boilerplate, Unless Quantitative Metrics and Active Enforcement*—We agree with the concepts and spirit of the disclosure, but we worry that the disclosure runs the risk of being qualitative, high level, and boilerplate. To ensure this is not the case, we believe the disclosure will require vigorous enforcement by the SEC to ensure the discussion is meaningful.

  Additionally, as we have already noted, we believe that metrics or key performance indicators which highlight the drivers of customer or supplier preferences, technological changes, and market prices by industry are really the decision-useful disclosures investors need. This is where we believe metrics, such as those described in the Overarching Considerations section under the subsection Information Must Be Decision-Useful and Predictive: A Link Is Needed Between Disclosures Inside and Outside Financial Statements, should be discussed.

- *Regulatory Reforms by Geography*—Elsewhere in the Proposed Rule, geographic disclosure of physical property risks is proposed to be required. In our view, we need an analysis of regulatory risk by geography/region—including GHG emission disclosures by region, if for example, the regulation is requiring their reduction. A high-level discussion of the regulatory risks by region will not suffice. Investors need to link GHG emissions to the climate-related regulatory risks and the segment results by region.
- *Relative Importance*—We appreciate the importance of a description on how climate-related risks are identified and managed. As with the governance disclosures described in the preceding section, however, the question is one of relative importance of climate-related risk disclosures to the many other risks that investors are concerned with. Climate risk would garner significantly more disclosure than other risks.[28] The SEC may need to evidence the proportionality of the requirements and the need to prioritize with other disclosures.
- *Materiality*—As we describe in the Overarching Considerations portion of the letter under the Materiality subsection and in the Disclosure of Climate-Related Risks section, this requirement (17 CFR 229.1503(a)(1)(4)) to describe how the materiality of climate-related risks was determined is, in our view, precedent setting. We also describe how this materiality disclosure requirement needs to be more obvious in the Discussion of Proposal vs. Actual Proposed Rule section of the Overarching Considerations portion of the letter.
- *Competitive Harm*—See comments in the preceding Governance Disclosure section.

[28] We note the disclosure of risk factors in 17 CFR §229.105 (Item 105), Risk factors, as follows:
(a) Where appropriate, provide under the caption "Risk Factors" a discussion of the material factors that make an investment in the registrant or offering speculative or risky. This discussion must be organized logically with relevant headings and each risk factor should be set forth under a sub caption that adequately describes the risk. The presentation of risks that could apply generically to any registrant or any offering is discouraged, but to the extent generic risk factors are presented, disclose them at the end of the risk factor section under the caption "General Risk Factors."
(b) Concisely explain how each risk affects the registrant or the securities being offered. If the discussion is longer than 15 pages, include in the forepart of the prospectus or annual report, as applicable, a series of concise, bulleted, or numbered statements that is no more than two pages summarizing the principal factors that make an investment in the registrant or offering speculative or risky. If the risk factor discussion is included in a registration statement, it must immediately follow the summary section required by § 229.503 (Item 503 of Regulation S-K). If you do not include a summary section, the risk factor section must immediately follow the cover page of the prospectus or the pricing information section that immediately follows the cover page. Pricing information means price and price-related information that you may omit from the prospectus in an effective registration statement based on Rule 430A (§ 230.430A of this chapter). The registrant must furnish this information in plain English. See § 230.421(d) of Regulation C of this chapter. [85 FR 63761, Oct. 8, 2020]

Transition Plan Disclosure (Pages 102–106)

We support the Proposed Rule's requirement that a registrant disclose, if it has adopted a transition plan (i.e., a strategy and implementation plan to reduce climate-related risks) as part of its climate-related risk management strategy. We agree with the view that it will facilitate investor understanding of whether the company has a plan and whether it may be effective in the short, medium, and long term in achieving such a transition. Presently, many companies have made net-zero commitments by 2050 but have made little if any disclosures regarding how they plan to get there. This requirement would necessitate that they do so.

We support the inclusion of transition plans related to physical risks and as related to transition risks, including requiring disclosure of the following:

- ***Laws, regulations, or policies that restrict GHG emissions*** or products with high-GHG footprints, including emissions caps, and require the protection of high-conservation-value land or natural assets;
- ***Imposition of a carbon price***; and
- ***Changing demands or preferences*** of consumers, investors, employees, and business counterparties.

The Proposed Rule also requires the transition plan to be updated annually and allows (but does not require) a registrant to discuss opportunities.

We make several observations:

- *Need to Connect to Risk Disclosures*—We believe the transition plan needs to be connected to the risk disclosures articulated in the Transition Risk Disclosures section and any target disclosures noted in the Targets and Goals Disclosures section.
- *Need Metrics, Not Simply If Management Has Them*—We worry that this discussion/disclosure will be very qualitative without milestones or an ability to measure progress. We note that management is to include relevant metrics or targets, but that appears to be if management has them, rather than a requirement to have them.
- *Need Connection to Compensation*—We believe there needs to be a connection of management's compensation to achieving the plan.
- *Support Safe Harbor*—We support protection of these statements under the safe harbor provisions of the PSLRA.
- *Need an Annual Update*—We agree with the notion of an annual update. We would add language which requires more frequent update if there are significant changes in laws, regulations, or business drivers.

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APPENDIX

DISCLOSURES INSIDE FINANCIAL STATEMENTS (REGULATION S-X*)*

FINANCIAL STATEMENT METRICS (Pages 110–147, Questions 52–92)

Overview (Pages 110–116, Questions 52–58)

Contextual Information: More Specific Requirements Needed to Ensure Not Boilerplate (Ambiguity of Certain Elements of Proposal Need to Be Addressed to Provide Sufficient Context)

We support the inclusion of contextual information that explains the methods of computing the metrics and the related assumptions. Generally, within financial statements, however, such contextualization is minimal and can be boilerplate. As such, we believe more specific criteria will be needed for the information to be decision useful.

As we review this section of the Proposed Rule, we note there is a great deal of specificity as it relates to the basis of computing the "metrics," but there is less specific information on several matters that is needed to enable reviewers of the Proposal to understand its requirements and what the information provided will represent. More specificity is needed for interpretation of the rules and for appropriate contextualization and understanding of the contents of the Proposal. The following are examples of the challenges noted:

- *Ambiguity of Terms and Definitions*—See the discussion which follows regarding the incorporation of terms defined outside the financial statements (17 CFR §229.1500) into the financial statements and ambiguity regarding terminology, such as metrics, undefined terms (e.g., severe weather events, other natural conditions, transition activities, and expenditures), and the application of certain terms (e.g., opportunities) in financial statement context.
- *Distinction Between Financial Impact and Expenditures Metrics*—Ambiguity regarding the overlap, distinction between, and cohesiveness of expenditure and financial impact metrics.
- *Clarity on Need to Disclose Impacts of Climate-Related Risks on Financial Impact and Expenditure Metrics*—As we read the Proposal and compare it to the language in the Actual Proposed Rule, we note the degree to which a computation and contextualization of the impact of climate-related risks in 17 CFR §210.14-02(i) [disclosures within financial statements]—as defined in 17 CFR §229.1500(c) and identified pursuant to 17 CFR §229.1502(a) [disclosures outside the financial statements] and having an impact on the financial statement and expenditure metrics to be disclosed pursuant to 17 CFR §210.14-02(c)-(h) [disclosures within financial statements]—is not as obvious as it may need to be for the information to be produced in the financial statements. The disaggregation of the metrics by climate-related events and climate-related transitions would appear to encompass three elements: (1) severe weather events and other natural conditions, (2) transition activities, and (3) climate-related risks (17 CFR §210.14-02(i)) discussed outside the financial statements. The discussion in the Proposed Rule makes the incorporation of the first two elements much more obvious than the third. But this third element is an important link between information within and outside financial statements that may not be obvious.

We believe the Proposed Rule is meant to provide greater consistency and comparability of information for users; however, there is a need to address the aforementioned ambiguity to accomplish that objective.

Basis of Calculation:
Interpretations and Thresholds Are a More Important Consideration Than Mechanics
We do not object to the mechanics of the basis of computation; however, we express, for example, in the sections which follow other matters of concern related to: (1) definitions used to identify, capture, record and report the financial impacts of severe weather events and other natural conditions, transition activities, and identified climate-related risks; (2) the application of materiality thresholds; and (3) the meaning of the metrics and the overlap between financial impact and expenditure metrics; which may impact the decision-useful of the information derived from the calculations.

As a disclosure principle, we do not support netting or offsetting of effects within financial statements. The disaggregation of the metrics by positive and negative climate-related events and climate-related transitions by financial statement caption is appropriate, though we would note our concerns about climate-related risks being clearly included and we note our questions regarding definitional issues which follow.

We note that the disclosure is only required annually, but we are unclear as to whether the disclosure is required quarterly should there be a material change.

Segment Disclosures: Need Segment and Geographic Disclosures
Investment analysis is done at the segment level. We have emphasized the fact that segment reporting is as important as consolidated financial statements in our recent publication, *Segment Disclosures: Investor Perspectives*. As such, we support disclosure of any climate-related information at the segment level. That said, we believe given the different political and civil society objectives which exist globally—and the regulations which may ensue in different jurisdictions—that climate-related disclosures inside and outside of the financial statements should be presented on a geographic basis to identify where registrants efforts and resources are having to be deployed toward climate-related risks, as such regulations may shape where and how a registrant does business (i.e., avoiding high climate cost related jurisdictions in favor of lower climate-related cost jurisdictions.)

We have advocated for more disaggregated segment disclosures for decades. Cost has been stated as a reason not to provide such greater disaggregation, yet we find the climate-related disclosures would likely be more expensive that improving segment disclosures more broadly. See the Overarching Considerations section for a discussion of the importance of climate-related disclosures relative to other financial reporting improvements needed.

Periods Presented: A Transition-Based Approach
As a matter of disclosure principle, we believe value-relevant information should be provided for all periods presented in the financial statements. However, due to the difficulty of compiling information for historical periods before the Proposed Rule would go into effect, the SEC may

wish to consider transition provisions for the initial adoption of these requirements, whereby climate-related disclosures are required only for the current year in the initial year of adoption and are then carried forward and added to in future filings for comparative purposes. That is, prior period information should not be required in the initial year of adoption. We recognize the language of accommodation in the Proposal, but generally "unreasonable efforts or expenses" is a very high hurdle. Given the metrics proposed are backward-looking, we believe including historical periods in the period of adoption would not be cost-beneficial. The trend or time series can be developed going forward.

We generally understand the Proposed Rule to only require climate-related disclosures annually, but we believe that existing SEC rules will likely necessitate inclusion of information quarterly when there has been a material change in the disclosure. We believe the SEC may want to make this more obvious.

Definitions, Terminology, and Interpretive Issues:
May Require Additional Clarification to Increase Usefulness and Comparability of Data
Analyzing, categorizing, capturing, and coding financial statement elements as climate-related presents a plethora of interpretive questions and operational issues leading us to question whether such climate-related disclosures are even feasible at this time, especially if they are to be included in the financial statements and subject to a registrant's audit and internal controls over financial reporting (ICFR) in which case the interpretations will be more closely scrutinized by management and auditors due to the associated liability. While we understand many of these terms have been included in the climate disclosure lexicon for many years, the introduction of new terminology into the financial statements will bring a completely different level of scrutiny that many who are not trained accountants may not appreciate. As we review this section of the Proposed Rule, there are numerous definitions or terminology which we believe warrant further consideration or clarifications as we highlight next. The list is meant to be representative, not all inclusive.

"Metrics": Are These Metrics or Financial Statement Elements?—As an initial matter, we question whether the terms "financial impact metrics" or "expenditure metrics" being proposed are metrics in the traditional sense that analysts and investors use this term—that is, in calculating and communicating a relative measure such as return on assets (ROA) or return on equity (ROE) that may be compared across time and between companies. In our view, the "metrics" that the SEC is proposing seem to consist more of a disaggregation of financial statement elements related to climate-related events and transition activities on the financial statements. The Proposed Rule describes the SEC's ability to establish such metrics, and the existence of similar disaggregation currently within financial statements (i.e., analogizing to segment disclosures) is correct, but we do not label segment disclosures as metrics.

The term "metric" or "metrics" does not exist within the US GAAP Codification. Within US GAAP, the closest thing to a metric is earnings per share (EPS). Further, we label non-GAAP measures as measures, or alternative performance measures, not metrics. We do not raise this issue to be pedantic, but to highlight that the term metric may imply a relative degree of usefulness that is different from what the amounts will actually represent—that being disaggregate financial statement elements.

<u>*Definitions Integrated into Regulation S-X from Regulation S-K*</u>—Item 1500 (17 CFR §229.1500) of the Actual Proposed Rule adds new definitions to Regulation S-K, including the following:

Table A-1

▪ carbon offsets ▪ climate-related risk ▪ climate-related opportunities ▪ physical risks ▪ acute risks ▪ chronic risks ▪ transition risks ▪ carbon dioxide equivalent	▪ emission factor ▪ global warning potential ▪ greenhouse gases (GHG) ▪ GHG emissions ▪ GHG intensity (or carbon intensity) ▪ internal carbon price ▪ location ▪ operational boundaries	▪ organizational boundaries ▪ renewable energy credit ▪ scenario analysis ▪ Scope 1, 2, and 3 emissions ▪ transition plan ▪ value chain

These definitions are brought forward into Regulation S-X in section 17 CFR §210.14-01(b). The challenge, as we noted, is that discussion of these terms and concepts in a qualitative context in the forepart to financial statements is one thing, gathering quantitative impacts within financial statements subject to ICFR and audit is quite another.

We would also note that the Actual Proposed Rule in Reg S-K Item 1500 (17 CFR §229.1500) or the respective section of Reg S-X Article 14 (17 CFR §210.14-01(b)) does not include formal definitions of important terms, such as the following:

- Severe weather events
- Other natural conditions
- Transitions activities
- Climate-related events
- Climate-related transition activities
- Upstream costs

These terms are used extensively in the Proposal and Actual Proposed Rule. Examples of the term severe weather events and transition activities are provided in 17 CFR §210.14-02(c) and 17 CFR §210.14-02(d) but the terms are not defined. We note, for example, the term "transition activities" is defined on Page 21366 of the *Federal Register* version of the Proposal and used both inside the Proposal and the Actual Proposed Rule, but it is not defined in the Actual Proposed Rule in Section VIII (Statutory Authority). These are just some of the examples where language and definitions used need to be very precise when included in financial statements with a different level of liability than might be included in materials published based upon other standards, such as the TCFD.

The lack of crisp definitions will inherently limit the usefulness of data provided. As the SEC notes, high levels of rainfall may be considered "severe weather" in a typically arid region, whereas it may not be considered severe weather in another region. Lacking consistent guidelines, registrants will inevitably be required to formulate their own definitions, which will impair comparability of these metrics over time and across companies—even if registrants are required to provide their own definitions.

See also the existence of the terms within US GAAP Codification.

Expenditures—Similarly, the Proposal uses the term expenditure but does not define it other than noting in Footnote 367 that "expenditures" refers to "spending," but the discussion then highlights that "expenditures" are both expensed and capitalized. As such, the term may connote this "metric" is a cash outflow, but it could be a monetary or nonmonetary amount on an accrual basis. It is not a cash-flow metric.

Expenditures appears 124 times within the US GAAP Codification. See below the definition in the Master Glossary.

Exhibit A-1

Expenditures

GLOSSARY TERM USAGE | SEE TOPIC(S) 835

Expenditures to which capitalization rates are to be applied are capitalized expenditures (net of progress payment collections) for the qualifying asset that have required the payment of cash, the transfer of other assets, or the incurring of a liability on which interest is recognized (in contrast to liabilities, such as trade payables, accruals, and retainages on which interest is not recognized).

Most frequently, the term is used the context of capital expenditures, relating to items that are ultimately capitalized and amortized/depreciated as they are consumed. TCFD guidance uses terms such as operating expenditures, R&D expenditures, and capital expenditures. Again, we do not mean to be pedantic with respect to use of the term, but the term is not used consistently, and it does not necessarily mean cash flows in the Proposed Rule. As we will describe, investors are interested in cash outflows, and the expenditure or financial statement metrics (i.e., only the financial impact metric related to investing or financial sections of the cash flow) will meet this most useful criteria.

We believe the term cost may be a more appropriate term for these expenditure metrics.

Opportunities—We also note that the SEC has allowed a registrant to include a discussion of climate-related opportunities within the financial statements. While we understand the discussion of opportunities in the context of a discussion within the forepart under Regulation S-K, it is not clear how this term is to be used in the context of the financial statements—where the results are backward-looking and where opportunities are not a term commonly used in meeting recognition criteria set out by US GAAP. While certainly there are forward-looking estimates and assumptions in the measurement of recognized assets and liabilities in financial statements, the use of the term opportunity within the financial statement context is not precisely clear. Are these positive effects from climate-related severe weather events and other natural conditions, transition activities, or climate-related risks? Or are they a forward assessment of perceived opportunities that are not necessarily recognized in financial statements? There are different gradations of "opportunities" and their state of recognition and measurement in the financial statements that convey different degrees of forward-looking or hypothetical possibilities. It is not clear which would belong in the financial statements. As such, we believe greater explanation of what this term means in the context of the financial statements is necessary.

Terminology/Definitions within US GAAP & TCFD—We also note that few (i.e., nearly none) of the terms in **Table A-1** above appear in the US GAAP Codification. Making things more challenging is that terms such as climate do not appear in the US GAAP Codification; the term weather is generally used within the US GAAP Codification in the context of weather derivatives; and the term transition in US GAAP Codification generally refers to the implementation and transition to a new accounting standard. See the previous discussion regarding the term metric/metrics. We raise this point because many of the terms being added to the financial statements by this Proposal do not have a history of being discussed and debated in the lexicon of US GAAP and amongst accountants which will affect the time to, and consistency of, implementation.

We would also note that not all the terms in **Table A-1** as included within the 2017 TCFD Recommendations report.

XBRL Taxonomy—The FASB is responsible for maintaining the US GAAP taxonomy for tagging of financial statements. These new terms related to climate in **Table A-1** are being added to US GAAP by the SEC. The SEC needs to clarify whether the FASB or SEC will be adding these terms to the XBRL taxonomy.

Mixture of Risk Factors (Physical and Transition Risks)—While not a definitional issue per se, we foresee an even more pervasive interpretive issue in the application of the Proposed Rule. That is, the difficulty that registrants will encounter in quantifying and providing the proposed disclosure when the impact may, as it likely often will, be the result of a mixture of physical and transition factors. For example, the Proposal cites:

- As an example of a climate-related financial impact: changes to revenues or costs from disruptions to business operations or supply chains; and
- As examples of transition metrics:
  - changes to revenue or cost due to new emissions pricing or regulations resulting in the loss of a sales contract;
  - reduced market demand for carbon-intensive products leading to decreased prices or profits for such products; and
  - changes to operating, investing, or financing cash flow from changes in upstream costs, such as transportation of raw materials.

However, while in some small percentage of cases, changes to product pricing may be directly attributable to a single factor, such as climate risks, such pricing changes are more often made by companies taking into consideration a variety of factors, and it would be difficult to tease out the increase attributable solely to climate factors, or which climate factors. Moreover, it would seem almost impossible to determine whether a company's changes in pricing are directly responsible for the loss of a sales contract, or whether a company's customers just decided to change their supplier for other reasons. Finally, decreases in revenue arising from increases in pricing, whether climate-related or not, seem more akin to opportunity costs than to actual costs, such that disclosure of such impacts would be more suited to MD&A rather than the financial statements themselves, as will be discussed further (also see the previous discussion of opportunities).

Issues we cite above regarding isolating the impact of costs that are partially attributable to climate events apply equally to the expenditure metrics. For example, a company might decide to abandon an energy-inefficient, aging plant and invest in a new plant using clean energy not only due to climate factors but also to increase efficiency and thereby reduce production costs in the future. How should the company think about this investment from an expenditure metric disclosure standpoint?

Applying the terminology related to risk or opportunities may require a company to hypothesize the reason for a change and whether it is climate related, which may create interpretive issues. We found that the language in the Proposal connotes a degree of estimation and interpretation that may be challenging and therefore highly judgmental and thus reduces consistency and comparability.

Identifying Climate-Related Impacts from Supplier (Upstream) Costs: Likely the Most Significant, But Not Included in Financial Statement or Expenditure Metrics

The SEC has called for disclosure of Scope 3 emissions—emissions within a company's value chain, supply chain (upstream), and customers (downstream). Many postulate that these Scope 3 emissions may be more significant than those of the company's direct emissions (Scope 1 and Scope 2). (See **Exhibit A-2**)

The interpretive/definitional issues cited earlier as well as the challenge in analyzing, categorizing, capturing, coding, recording, and reporting climate-related risks are only compounded when the changes arise from "upstream" costs. To begin with, the SEC has not proposed a definition of "upstream," so it will likely be difficult for registrants to determine where to draw the line: at increases in costs from direct suppliers or second order increases as well (i.e., price increases from suppliers to suppliers) and even beyond. Further, the challenge is that such risks and costs from suppliers will not show up within the proposed financial impact or expenditure metrics as most suppliers do not break out the reasons for their cost increases and whether or not they are climate related.

For example, if a company experiences an increase in its insurance premiums, we think it will be rare for the insurer to break out the increase due to climate reasons versus increases arising from other factors, such as general inflation or higher claims rates experienced on an overall basis by the insurer. An example of an even more indirect impact is an increase in local property taxes: while some portion of the increase may be due to increased costs the municipality has experienced because of, say, a recent environmental cleanup after a flooding event, it would be virtually impossible for a company to isolate this factor of its tax increase.

Any estimate that the company would produce regarding the climate-related impact of such an increase would be at best a very rough guess. It is more likely that most registrants will disclose that they were unable to make the required determination—or that there was no such climate-related impact experienced—due to the lack of transparency provided by its vendors, suppliers, and service providers.

Given that many anticipate these Scope 3 emissions will be the most significant, it is unlikely that the financial impact and expenditure metrics will capture these significant climate-related risks, events, or transitions.

A New Critical Audit Matter
Overall, we would observe that it is highly likely that, if implemented, the definition and interpretive issues noted earlier will result in a separate footnote on climate-related events and activities warranting a critical audit matter (CAM) not only for these interpretive issues but also because of the processes and controls that will be needed to create the disclosures.

US GAAP
In the Definitions, Terminology, and Interpretive Issues section above, the definitional challenges associated with the SEC's Proposed Rule and their existence of nonexistence in US GAAP. We recognize as noted in Footnote 316 to the Proposed Rule the SEC's authority to establish accounting standards and principles for public companies. Question 58 of the Proposal queries whether the existing references to US GAAP are appropriate. We cannot find any instance where the existing references to US GAAP are inappropriate. We do note additional items we believe should be added to US GAAP. As it relates to references to other standards such as TCFD, see the Overarching Considerations (Reference to, or Lack of Reference to, Relevant Frameworks and Standards) section.

Financial Impact Metrics (Pages 116–132, Questions 59–71)
Summary of Proposal and Importance of Linkage to Financial Statements
The SEC is proposing a requirement for registrants to disclose the impact of the following:
- severe weather events and other natural conditions, such as flooding, drought, wildfires, extreme temperatures, and sea-level rise (climate-related events);
- any efforts to reduce GHG emissions or otherwise mitigate exposure to transition risks (climate-related transition activities); and
- climate-related risks (17 CFR §210.14-02(i)) discussed outside the financial statements.

The proposed impact would be disclosed on any relevant line items in the registrant's financial statements for the fiscal years presented. Disclosure must be presented, at a minimum, by a financial statement caption aggregated on a line-by-line basis for all negative impacts and, separately, on an aggregated line-by-line basis for all positive impacts, if the absolute value of the total impact is greater than or equal to 1% (one percent) of the total line item for the relevant fiscal year.

Linkage of climate-related risks within the financial statements to disclosures outside the financial statements is extremally important not only because it helps explain the effects of the climate-related events, transition activities, and risks outside the financial statements to the results within the financial statements, but also because the inclusion of information within the financial statements heightens the quality of information outside the financial statements and the discussion and analysis of this information and climate-related results more broadly.

In the immediately preceding section, we provide comments related to the financial impact and expenditure metrics broadly including commentary on the following:

- whether these computations are "metrics" or disaggregated financial statement elements;
- the definitional, terminology, and interpretive issues;
- the basis of calculation, including offsetting;
- the presentation on a line-by-line financial statement caption basis with separation between climate-related events and transition activities;
- whether it is clear in the Proposal that climate-related risks are to be included in the presentation of these metrics;
- the ability to identify and include upstream costs in the metrics; and
- the discussion of the notion of climate-related opportunities within financial statements.

Next, we provide our views on the disaggregation threshold, the potential this threshold has to increase aggregation, the relative priority of these metrics, and what the "metrics" will represent. Whether they are decision-useful and their relationship to the expenditure metrics are discussed in the next section.

After considering the financial impact metrics, expenditure metrics, and disclosures on financial estimates and assumptions, we provide an evolutionary alternative approach.

1% Disaggregation Threshold: Precedent Setting

By implementing this Proposal, the SEC is establishing a precedent for themselves and the FASB with respect to disaggregation. Some suggest we should support this threshold for this very reason—as use of this threshold for climate-related disclosures will inevitably provide the opportunity for reference to this rule as it relates to lower disaggregation thresholds throughout the financial statements—something investors have been advocating for years.

That said, we believe the SEC may be undermining its long-standing guidance on materiality, by setting the bar at such a low level, across-the-board, with such a bright line. A 1% absolute-value mandatory disclosure disaggregation level flies in the face of the SEC's extensive guidance on materiality, which eschews bright-line formulaic approaches and instead emphasizes the need for a careful consideration of the total mix of information and an assessment of both quantitative and qualitative factors.

This threshold is also a much lower level than the 5% quantitative level that many practitioners apply as a rule of thumb. While the SEC has noted other precedents for this 1% disclosure level, we find these examples to be relatively narrow in scope (e.g., excise taxes as a percentage of revenues, notional amount of option contracts as a percentage of net asset value) and hardly consistent with the SEC's overall messaging on materiality for the past 20 years.

For these same reasons, we disagree with the notion that *any* (no disaggregation threshold) climate-related events or transition activities should be disclosed.

That said, we disagree with the comments of some respondents to the SEC's 2021 Request for Public Input on Climate Change Disclosures that suggest if the information was material, it would already have been disaggregated and disclosed. The lack of disaggregated labor costs is but one example of how this is not the case.

In the Overarching Considerations (Materiality) section in the body of the letter, we provide consideration of this disaggregation threshold within the context of Acting Chair Lee's statement, *Living in a Material World: Myths and Misconceptions about "Materiality"*. The SEC appears to be creating a duty to disclose and eliminating any difference in how managers and investors may assess materiality.

Priority of Disaggregation of Climate-Related Risks: More Fundamental Investor Disaggregation and Improvements Needed in Financial Reporting

As an investor organization, we have historically and consistently supported greater disaggregation of elements of the income statement (i.e., by function and by nature); the statement of cash flows (i.e., direct cash flows); and segment disclosures—to name a few key priorities we have highlighted in our recent FASB and IASB agenda consultation letters. We question whether climate-related disaggregation at this precedent-setting level of disaggregation (materiality) should take precedence over other, more fundamental, investor requests that impact securities analysis and investment decision making more immediately on factors as important, depending on the business, as climate-related risks. These requests have been rejected by the FASB as "too expensive" and "burdensome" for the preparer community. For example, investors have asked for years for a separate fair value balance sheet and income statement, or at a minimum, a disaggregation of the financial statements between cash and accrual-based elements with rollforwards to create greater cohesiveness across financial statements. These have yet to happen. In fact, most companies do not even present a statement of cash flows using the direct method, which would provide much-needed information on cash flows—for all aspects of securities analysis, including climate.

While we believe greater disaggregation is essential, we are challenged to agree that what in effect amounts to a climate-related set of financial statements, should have priority over these much more fundamental disaggregation requests.

Increased Disaggregation for Climate Risks May Result in Greater Aggregation Overall

Further to the preceding point, we are also concerned that more detailed disaggregation for climate-related-only financial statement elements may actually force greater aggregation within financial statement presentation more broadly because more aggregated (larger) financial statement captions mean it is less likely the 1% threshold will be reached. Combining financial statement captions to increase the 1% threshold is a risk the SEC must balance.

Decision-Usefulness of Information

As we consider the application of this 1% disaggregation threshold to each financial statement caption within the balance sheet, income statement and statement of cash flow, we ask ourselves: what do these "metrics" represent, what information do they communicate, and how would we use this information in the investment decision-making process? Financial statement line items are composed of cash transactions; accrual transactions (i.e., items soon to be paid or received such as accounts payable or receivable); capitalized amounts (i.e., property, plant, and equipment); and estimates and assumptions (i.e., also accruals but related to longer-term accruals with greater estimation uncertainty due to a lack of information or a more forward-looking estimation—e.g., fair value). Each of these metrics will have each of these component parts. Some, on the balance sheet, for example, may be climate-related items that have built up over many years and that can continue to grow.

Because of this, these financial impact metrics will be of different quality or usefulness and with different ability to predict future cash flows. Many, if not most, will be confirmatory rather than predictive given the future orientation of climate risk. Questions come to mind such as the following:

- Will a financial impact metric representing 1% of the change in a balance sheet financial statement caption when reconciling from net income to operating cash flows be as useful as the 1% of investing and financing cash flows?
- Is 1% of a net balance sheet caption resulting from heavily capitalized amounts (e.g., PPE) accumulated and amortized/depreciated over many years decision-useful?
- Won't application of the 1% be uneven across the financial statements given differing levels of disaggregation, balance sheet being point in time numbers, income statement being current period–only numbers, and the reconciliation of net income to operating cash flows being changes in balance sheet amounts?
- Won't 1% of fair value balances vary substantially over time?
- Won't acquisitions impact comparability of numbers?

Our point is that 1% metrics of each financial statement caption may or may not be useful or predictive. What is always useful to investors is current direct cash flows captured over time and confirmed with management's previous forward-looking statements outside the financial statements.

Disclosure of Climate-Related Cost of Capital: Premature

With respect to the SEC's Question 69 as to whether it should require a registrant to disclose changes to the cost of capital resulting from the climate-related events, we believe that such disclosures would be premature. The interpretive issues regarding isolating the impacts of climate-related events on historical financial statements would be magnified manyfold when applied to a registrant's estimated cost of capital. Effectively, we would be computing "climate spread" and it would need to be audited. Accordingly, we believe that, while the SEC can encourage such disclosure, it should not be required at this time.

Expenditure Metrics (Pages 132–139, Questions 72–80)

Expenditure Metrics: Not Cash and Not Connected to Financial Statement Impact Metrics

As proposed, the expenditure metrics would require a registrant to separately aggregate amounts of (1) expenditures expensed and (2) expenditures capitalized during the fiscal years presented relating to amounts incurred for climate-related events or climate-related transition activities.

See the comments in the discussion of financial impact metrics above related to definitional, computational, threshold, or other matters as they apply across both types of metrics.

As we noted previously, the use of the term expenditure may need further explanation as it may imply cash, but it will not be cash based, it will be accrual based (i.e., and it can be nonmonetary). Further, the disclosure will be comprised of two metrics: (1) an ***aggregate*** amount for expenditures expensed, and (2) an ***aggregate*** amount of expenditures capitalized. While these will be parsed by those related to climate-related events and climate-related transition activities, these will be accrual-based metrics with some of the same challenges discussed above regarding financial impact metrics and their decision-usefulness. Further, because they are aggregated, they will not be disclosed showing the financial statement caption impact metrics to which they relate. They will be lumped together. As such, investors will not have insight into the expenditures by their function or their nature. The expenditure metrics, therefore, will have no connectedness (cohesiveness) to the financial impact metrics.

As we have conveyed in our *Comprehensive Business Reporting Model*, investors want cohesiveness between the balance sheet, income statement, and statement of cash flows such that they can understand how transactions flow through financial statements. Investors have long asked for rollforwards of balance sheet accounts showing the linkage to income statement captions and the actual direct cash flows. In the Proposed Rule, investors will be challenged to link the expenditure metrics to the financial statement captions and the related financial impact metrics.

The Proposed Rule inquires as to whether these expenditure metrics will be duplicative to the financial statement metrics. The answer is: possibly, but there will be no way to connect the two disclosures to ascertain that.

We believe that a more decision-useful metric would be actual cash flows associated with climate-related events and transition activities on a direct method showing a relationship to the income statement and balance sheet captions to which they relate.

We do not support the position queried in Question 74, which asks if expenditures incurred related to climate-related risks should be omitted and expenditure metrics only related to climate-related events should be included. The discussion of expenditures related to climate-related risks is a key element of the linkage to financial statements. As it relates to expenditures for climate-related opportunities (Question 75), we refer the SEC to our earlier discussion of opportunities in the context of financial statements. As it relates to expenditures partially related to climate-related events and partially related to transition activities (Question 79), we would refer the SEC to our discussion above in the Definitions, Terminology, and Interpretive Issues section. Any estimation is likely very subjective.

Financial Estimates and Assumptions (Pages 139–144, Questions 81–86)

Qualitative Description: May Not Be Decision-Useful

The Proposed Rule would require a registrant to disclose whether the estimates and assumptions used to produce the consolidated financial statements were impacted by exposures to risks and uncertainties associated with, or known impacts from, climate-related events (including identified physical risks and severe weather events and other natural conditions), such as flooding, drought, wildfires, extreme temperatures, and sea-level rise. If so, the registrant would be required to provide a ***qualitative description*** of how such events have impacted the development of the estimates and assumptions used by the registrant in the preparation of such financial statements. The Proposed Rule also includes a provision that would require separate disclosure focused on transition activities. Examples provided include estimates related to asset impairments, the estimated salvage value of certain assets, the estimated useful life of certain assets and the impact on depreciation expense, estimated loss contingencies and reserves (such as environmental reserve or loan loss allowances), estimated credit risks, and commodity price assumptions.[29] No materiality threshold is specified.

We are concerned that the requirement to make qualitative disclosures will inevitably result in overly generic, vague, boilerplate, and ultimately meaningless disclosures. For example, we note that the SEC's guidance on critical accounting estimates disclosures, which were introduced in 2003, required a sensitivity analysis but such disclosures have historically only rarely been provided by registrants and many of the disclosures are boilerplate.

Changes in financial statement estimates and assumptions have direct quantitative effects on the financial impact metrics (and depending on the definition of expenditure metrics, could appear in those metrics as well). For example, changes in the useful life of a tangible asset have a direct quantitative impact on the financial statements, yet this quantitative disclosure is not required.

In the discussion of financial statement and expenditure metrics, we highlight the importance of cohesiveness. Changes in estimates and assumptions in a qualitative manner not connected to the aforementioned metrics are interesting but not particularly useful in performing securities analysis, especially when these may be the most forward-looking components of the financial impact metrics.

[29] See also estimates and assumptions identified and discussed in the FASB Staff Educational Paper, "Intersection of Environmental, Social, and Governance Matters with Financial Accounting Standards" (19 March 2021) and the IASB Staff Paper, "Effects of Climate-Related Matters on Financial Statements" (November 2020) on these issues.

Inclusion of Climate-Related Metrics in the Financial Statements (Pages 144–147, Questions 87–92)

Support Inclusion in Financial Statements

The Proposed Rule would require the quantitative disclosure of financial impact metrics and expenditure metrics to be included in the financial statements, and therefore subject to the scope of any required audits and a registrant's ICFR. We believe linkage and inclusion of climate-related matters to the financial statements is very important as it anchors the present results to management's previous statements and the liability provisions related to information contained in financial statements has a focusing effect. We are not supportive of their inclusion in a schedule or supplemental schedule as that focusing effect is lost. Including these metrics outside of the financial statements might provide time to address interpretive issues but will not improve the meaningfulness or cohesion of the metrics.

That said, in light of the concerns we have expressed in the Disclosures Inside Financial Statements (Definitions, Terminology, and Interpretive Issues) section regarding interpretive issues as well as the meaning and cohesiveness, we believe it may be challenging for investors to assemble or connect the story these metrics are intended to tell.

See the section Our Preferred Alternative (Different Financial Statement Information and a Link Between Information Inside and Outside Financial Statements) which follows.

See also the Overarching Considerations section in the body of the letter and the discussion there of the need for a linkage between disclosures inside and outside financial statements.

Separate Climate Statement

We are not convinced that displaying the aforementioned metrics in a separate set of partial financial statements will improve the meaningfulness and cohesiveness of the disclosures unless a complete set of financial statements is provided that it includes: (1) a climate balance sheet, (2) a climate income statement, and (3) a climate direct statement of cash flow, along with rollforwards that facilitate the connection between the financial statement captions across the three statements. That would be very useful. See the proposal in the section that follows—Our Preferred Alternative (Different Financial Statement Information and a Link Between Information Inside and Outside Financial Statements)—and is a step toward such climate statements, which we believe would be more decision-useful than the proposed metrics.

GHG Emissions in Financial Statements

We do not support the inclusion of GHG emissions in the financial statements as they are a non-financial metric. As we note elsewhere herein, investors need to correlate these emissions to arrive at their impact on the enterprise value of the organization. See the Overarching Considerations section and discussion of the need to link disclosures inside and outside financial statements.

Auditing Standards

As we noted elsewhere herein, we believe the climate metrics will result in an additional CAM in the audit opinion. Broadly, we believe existing audit standards on, for example, estimates, internal control, and so on would apply. There will obviously be many interpretive issues that will need to be addressed.

Financial Statements Prepared Under IFRS: Addition to Audit Opinion May Be Necessary

We believe it is clear that the provisions of the Proposed Rule should be applicable to all registrants, including those filing Form 20-Fs and applying IFRS. Correspondingly, it is clear they would be subject to audit. We would note, however, that the audit opinion might need to be tailored to describe that this climate footnote was not prepared in accordance with IFRS disclosure requirements, but in accordance with SEC disclosure requirements and based upon financial statement information prepared in accordance with IFRS. It may be prudent to make this issue with the audit opinion more evident to those reviewing any final rule.

As it relates to the cost of the audit, we do not envision the cost of the audit under IFRS would be different than the cost of the audit under US GAAP and these SEC requirements.

APPENDIX

OUR PREFERRED ALTERNATIVE: DIFFERENT FINANCIAL STATEMENT INFORMATION AND A LINK BETWEEN INFORMATION INSIDE AND OUTSIDE FINANCIAL STATEMENTS

Investors Seek Forward-Looking, Decision-Useful, and Predictive Information

As we have stated, both the financial impact metrics and expenditure metrics are essentially historical measures—that is, they are backward-looking rather than forward-looking. A primary objective of financial reporting is to provide information that will be useful to financial statement users in making economic decisions. The analysis and valuation of entities is about assessing their risk-taking and risk management practices. Forward-looking measurements and disclosures are the most effective transmission mechanisms in communicating such information. Historical measures are of interest because of their confirmatory value, but they are limited in relevance due to their inability to provide insight into expectations regarding future cash flows. Disclosures based on current expectations of the future are, therefore, inherently more relevant to investment decision making than disclosures based on historical measures. As technologist Herb Brody has stated, "Telling the future by looking at the past assumes that conditions will remain constant. This is like driving a car by looking in the rearview mirror."

With respect to climate risk this is even more true given the focus on climate risk going forward and the lack of predictive value the past communicates relative to actions that are necessary going forward. What investors are primarily interested in is the prospective impacts of climate-related risks on future earnings and future cash flows. Historical financial statement metrics and expenditures may not be predictive of future impacts. For that reason, we provide the following alternative approach.

Proposed Alternative Disclosures: Cash Metrics

As stated elsewhere herein, we believe linkage and inclusion of climate-related matters to the financial statements is very important. As such, our concerns with the metrics and disclosures included within the financial statements should not be construed as our, or investors, not wanting disclosures within financial statements. Rather our view may be more evolutionary and focuses on balancing many financial reporting priorities to investors with climate-related priorities and providing more decision-useful information both within and outside the financial statements.

Our views on the disclosures needed outside the financial statements are in the appropriately labeled section of this document. Within the Overarching Considerations section, we discuss the importance of a link between what is included in the financial statements and what is include in the forepart (outside the financial statements) of SEC filings.

As it relates to the information within financial statements, we believe it would be most useful to investors, if the following metrics were provided:

- <u>Cash Metrics</u>—We believe disclosures related to climate-related events, transaction activities and risks focused on cash flows would be most useful with a link of such cash flows to the income statement captions, or if capitalized, the related balance sheet caption. A direct method cash flow analysis would provide investors with current cash expenditures—linked to financial statement captions, particularly those on the income statement, such that investors could assess the actual cash flows effects with prior management statements outside the financial statements. This would also provide investors with operating, investing, and financing cash flows which they can time series and connect to the risk and transition activities described in the forepart.

- *Disclosure of Capitalized Cash Flow Metrics*—We think it would also be useful for investors to be provided with the amounts of such cash flows that have been capitalized and their expected useful life by financial statement caption.
- *Definitions, Thresholds, and Basis of Computation*—We would propose the same definitions and basis of calculation as for financial statement and expenditure metrics recognizing that this would still require more interpretive discussion on the use of terms and classifications and noted in the Definitions, Terminology, and Interpretive Issues section above.
- *Quantitative Impacts of Changes in Assumptions and Estimates*—Further, we would recommend quantitative disclosures of the impacts of changes in estimates and assumptions. With these accrual-based quantitative changes, and the aforementioned cash flows, such disclosures would facilitate investors understanding the cohesiveness of cash and accrual concepts across the financial statements.
- *No More Costly and Progresses Other Financial Statement Improvements*—We believe this approach is no more costly to investors (i.e., those who ultimately pay for disclosures) than the approach in the Proposed Rule, while at the same time providing more decision-useful information and progressing other financial statement presentation priorities (i.e., disaggregation and direct cash flow methods).
- *Location of Information (Evolution from Outside to Inside Financial Statements)*—As with other key accounting changes (e.g., pension and stock-based compensation) investors would be satisfied with commencing these disclosures outside the financial statements until they can be sufficiently improved/vetted to include within financial statements. As investors, we prioritize relevance over reliability of information; as such, we believe it is important to commence the collection and reporting of this information and transition it to the financial statements as it improves in quality and as people become more familiar with the concepts.

  Inclusion and discussion of such disclosures outside the financial statements (within the separate section in MD&A) may also be a more natural starting point as it would allow registrants to better contextualize how these impacts were defined and calculated and would allow registrants to better integrate the impact of climate-related events on the historical results with management's estimates of the impact of climate-related events on future cash flows. This approach would also permit registrants to provide information regarding the impact of climate-related metrics on geographic locations and individual segments.

As we discuss in the Overarching Considerations (Information Must Be Decision-Useful and Predictive: A Link Is Needed Between Disclosures Inside and Outside Financial Statements) section, we believe an even further link is needed between disclosures in (or ultimately that will be in) financial statements and the Proposed Rules recommendations.

GREENHOUSE GAS EMISSIONS

GHG EMISSIONS DICLOSURE REQUIREMENTS

GHG Emissions Metrics Disclosures (Pages 147–185, Questions 93–114)

Investor Support for Disclosure of GHG Non-Financial Emissions Metrics: Some Suggest Impact Metric, But They Are a Barometer of the Current State of Climate Risk Exposure and Potential Transition That Investors Must Price (Question 93)

The Commission is proposing to require all registrants to disclose emissions by scope, requiring disclosure of Scope 1 and 2 emissions, irrespective of materiality, and Scope 3, if material. See Overarching Considerations (Materiality) section and **Table A-3** in Other Matters (Compliance Date) section for the dates these disclosures are required to be made by type of registrant.

As we describe in the opening section to the letter, Perspective That Informs Our Response, investors are increasingly interested in climate-related risks or opportunities to better understand the full impact of climate on the companies in which they invest and to better inform their decision making around voting and investing. From our discussions with investors, this request for additional information includes disclosures of Scope 1, 2, and 3 GHG emissions: Scope 1 and 2 because they are directly related to the registrant, and Scope 3 because investors own research and analysis suggests that Scope 3 emissions will be among the company's most significant emissions (i.e., and because companies need only outsource activities to move emissions to Scope 3 to avoid disclosure).

Exhibit A-2[30] highlights the significance of Scope 3 emissions as a percentage of the total GHG emissions, demonstrating the importance of Scope 3 emission disclosures to investment analysis and investment decision-making, particularly if commitments, targets, and goals include Scope 3 emissions and if the SEC has a materiality determination for Scope 3 disclosures that considers the relationship of Scope 3 emissions to total GHG emissions.

We would be supportive of an industry-based and size of registrant-based transition approach expressed as ranges and with appropriate safe harbors as this value-relevant information is needed for analysis even if the measurement is less than perfectly reliable.

[30] This exhibit has been excerpted from the CFA UK Certificate in Climate and Investing, *Official Training Manual (Edition 1),* Page 499.

APPENDIX

Exhibit A-2

Median Scope 1, 2 and 3 disclosures for MSCI ACWI constituents (2017–Nov 2020)

GICS 2 Sectors	# Co's in ACWI	Scope 3 disclosure	Scope 1 & 2 disclosure[1]	Median Scope 3% of Total GHG[2]	Median Scopes 1-3 Total GHG[2]	Median Scope 3[2]
Automobiles & Components	78	36%	74%	97%	26,392,781	24,973,362
Technology Hardware & Equipment	133	29%	56%	86%	2,888,062	1,888,000
Energy	111	36%	85%	86%	58,100,306	51,351,300
Consumer Durables & Apparel	75	44%	67%	85%	1,192,850	501,500
Household & Personal Products	38	50%	74%	83%	1,044,342	868,934
Food, Beverage & Tobacco	153	33%	64%	82%	3,290,422	1,819,210
Retailing	89	30%	52%	78%	511,267	380,073
Software & Services	136	33%	40%	65%	180,839	114,880
Media & Entertainment	103	19%	28%	61%	143,753	63,924
Health Care Equipment & Life Sciences	108	23%	54%	55%	351,018	70,851
Capital Goods	265	37%	65%	53%	1,686,140	680,000
Pharmaceuticals, Biotechnology & Life Sciences	157	23%	54%	52%	376,305	151,495
Diversified Financials	151	36%	52%	43%	26,305	13,206
Materials	260	36%	72%	37%	10,039,319	2,157,000
Insurance	110	59%	70%	36%	59,749	17,747
Commercial & Professional Services	44	52%	64%	33%	201,332	49,682
Utilities	146	50%	84%	25%	20,471,869	6,451,432
Consumer Services	62	24%	63%	23%	1,051,104	55,692
Semiconductors & Semiconductor Equipment	65	31%	63%	22%	995,076	127,626
Real Estate	174	32%	64%	22%	251,728	31,496
Banks	201	49%	67%	19%	77,027	13,562
Transportation	108	31%	66%	16%	8,018,590	792,2247
Food & Staples Retailing	57	44%	61%	16%	2,141,000	255,474
Telecommunications Services	77	60%	84%	14%	666,089	77,666
MSCI ACWI	**2,901**	**37%**	**63%**	**44%**	**771,479**	**145,243**

[1] Includes companies reporting combined Scope 1 and 2 in a single disclosure, and those reporting Scope 1 and 2 separately

[2] Median values across columns may not reflect the same company. Only companies with Scopes 1 & 3 disclosed were included

Source: COP26 Private Finance Hub (2020)[13] citing research by Goldman Sachs (2020)

Some argue that GHG emissions are non-financial metrics and are solely impact metrics that do not belong in filings with securities regulators. This is not the case. Investors want such information because of the increasing pressure on companies—from many different types of stakeholders (i.e., not simply investors), including legislators and regulators—to reduce such emissions.

GHG emissions are but a barometer, albeit a blunt instrument, to understand the current transition exposure and how progress is or can be made in meeting these stakeholder demands. Many companies are entering into net-zero commitments to appease such demands. Investors expect that the cost of reducing such emissions will be significant. It is a reduction of such GHG emissions that facilitates an understanding of the company's plan to reduce its climate risk. Investors also need, as we describe elsewhere herein, (1) company's climate strategy and its path to transitioning to lower emission and a lower or low-carbon economy as this provides context to this barometer; (2) industry-based drivers of future performance that explain how such a transition will impact revenues, expenses, and enterprise value; and (3) the cost of reducing such emissions.

Without such context, GHG may just be an impact metric, but not necessarily a useful one because lowering GHG emissions is still something that will necessitate economic context for all stakeholders, including investors.

In the Overarching Considerations (Information Must Be Decision-Useful and Predictive: A Link Is Needed Between Disclosures Inside and Outside Financial Statements) section of the letter, we explain what is needed to make this blunt instrument more decision-useful to investors in their analysis.

That said we are supportive of the Proposed Rule's requirement to make such disclosures, even if the measurement of Scope 3 emissions is substantially less reliable and more subjective than Scope 1 and Scope 2 emissions. The potential significance of the Scope 3 emissions makes their relevance of greater importance than them being perfectly reliable. An industry-based and registrant-sized based transition would likely be agreeable to investors as it would provide for the largest and most significant Scope 3 emitters implementing disclosures first.

GHG Emissions: Historical Periods and Timing of Reporting

Presentation of Historical Periods—The Proposal requires presentation of GHG emissions for all historical periods presented. While comparison is the lifeblood of analysis, and we generally support presentation of historical periods, we believe it is most appropriate for companies to devote their efforts to current-period emission disclosures as the climate issue is more forward- than backward-looking. As such, we would not object to the inclusion of current period–only GHG emission metrics. We believe comparative periods can be created going forward.

Reporting Timeline and Lag—We support a reporting period consistent with the registrants' Exchange Act annual report (e.g., 31 December 2022) and a reporting deadline consistent with the registrants' Exchange Act annual report due date (e.g., 60 days after the period end 1 March 2023). That said, we would not oppose a three-month or six-month—preferably three-month—reporting lag (e.g., the 12-month period ending 30 September 2022). Investors are looking for the overall impact, which does not likely change quickly. As such, we believe a lag in reporting would be acceptable. We would also not object to an estimation of the last quarter's emissions.

GHG Definitions and Use of GHG Protocol (Questions 95–96)
Support GHG Definitions and Support Use of GHG Protocol, But with Reservations—The Commission has proposed defining "greenhouse gases" in the Proposed Rule to be disclosed as a list of specific gases that aligns with the GHG Protocol, and the list used by the Environment Protection Agency (EPA) and other organizations. The Greenhouse Gas Protocol[31] has established a comprehensive, global, standardized framework for measuring and managing emissions from private and public sector operations, value chains, products, cities, and policies. The proposed rules would define "greenhouse gases" as carbon dioxide (CO_2), methane, (CH_4), nitrous oxide (N_2O), nitrogen trifluoride (NF_3), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF_6).

We believe that at this time it makes sense to use GHGs as defined by the GHG Protocol because it is a standard known to many investors and companies. The use of CO2e (CO_2 equivalent) as the standard to express emissions data is the most appropriate disclosure mechanism, as this standard is also the most accepted disclosure standard for GHG emissions that are not CO_2.

Observe That the Actual Proposed Rule Does Not Reference the GHG Protocol—With this said, we would note—as we describe in greater detail in the Overarching Observations (Reference to, or Lack of Reference to, Relevant Frameworks and Standards) section—the SEC is proposing to base the Proposal off the work of a third-party standard setter, though the SEC makes no mention of GHG Protocol in the Actual Proposed Rule (i.e., there is no reference to GHG Protocol explicitly in the proposed rule).

Investors Generally Seek Demonstration That Third-Party Standard Setters Meet Elements of Independent Standard-Setting—As an investor organization, we have long-held views regarding elements of third-party standard-setting, which must be met to provide support for such organizations. The elements include items such as independent funding; formally published and open due process, which includes public comment and deliberation; independent funding; a process to appoint those making decisions on the standards; and a process for maintenance and postimplementation review. We are concerned that the GHG Protocol may be widely accepted but may also need to meet these requirements and that all stakeholders have not been involved in the development of such standards.[32]

Endorsement of GHG Protocol Brings Long-Term Issues for Consideration—Further, though the SEC has not endorsed or referenced these GHG Protocol standards explicitly in the Actual Proposed Rule, the discussion of them in the Release is akin to an endorsement of their use.

While we agree that use of this GHG Protocol may be acceptable in the short term to garner some degree of consistency and comparability, we believe the SEC must consider how this approach evolves over time as interpretive issues arise—given the very limited discussion of

[31] The GHG Protocol came about through a partnership between the World Resource Institute (WRI) and the World Business Council for Sustainable Development (WBCSD).
[32] From our preliminary review and discussions, we believe the standards may need updating and may need more industry focus, and we also note that the funding is not independent.

many complex application considerations in the Actual Proposed Rule and as other stakeholders seek to influence the development of these standards.

As investors, we have observed the implementation of fair value measurement without guidance on how to measure fair value, or reference to the fair value guidance of a third-party. We believe the SEC must consider that application will vary and there will be a lack of consistency without more specificity in the Actual Proposed Rule or without reference to a specific set of standards. This is especially important given these GHG Protocol standards will be the standards under which many companies will seek attestation from auditors on their Scope 1 and Scope 2 emissions.

Disaggregation of GHG Emission Disclosures (Questions 94, 97, 102, 107, 108)
Support Aggregation and Disaggregation by Scope and Type of GHG)—We are supportive of the Proposed Rule's requirement that Scope 1, 2, and 3 emissions data be presented disaggregated by scope and by each constituent GHG as well as in the aggregate by scope and constituent GHG. We believe that investors would find both disaggregated and aggregated GHG emissions data useful to better assess a registrant's GHG-related risks and opportunities.

Support Separate Disclosure of Scope 1 and Scope 2—In the same vein, we are supportive of the Proposed Rule's requirement for separate disclosure of total Scope 1 and Scope 2 emissions—as this level of disaggregation allows an investor to better understand what is driving company emissions.

Support Disaggregation by Geography and Segment—Though not required or queried by the SEC in the Proposed Rule, we also believe the aforementioned disclosures would be most helpful if each disaggregated scope disclosure was broken down by geography and by the registrant's reportable segment (or product line). Such a breakdown would be appropriate if a company's segments or products have different characteristics that make the GHG emissions more relevant to a particular business segment. This disaggregation element is important because investors analyze companies by segment—not in the aggregate—and conglomerate disclosures are not particularly decision-useful as it relates to financial results or GHG emissions.

Support Disaggregation of Scope 3 Emissions by Significant Upstream and Downstream Category—We support disclosure of Scope 3 emissions separately by each significant category of upstream and downstream emissions as well as in total. The information would be helpful, so that investors can better ascertain the source, and possible financial consequence, of climate-related risks or opportunities. We do not support disclosure of Scope 3 emissions in the aggregate only.

We note the GHG Protocol does have guidance on disclosing upstream and downstream emissions, and these methods can be used to encourage comparability, but that some flexibility is allowed. For example, for upstream disclosures, there are three different methods (fuel-based, distance-based, spend-based) recommended by the GHG Protocol. Within industry, comparability is key to investors—so comparability within industry should be a priority and we would support flexibility by industry. We do not support creation of a company's custom categories in totality or across periods as this will destroy comparability between periods of the registrant as well as between companies.

Location Data—We are highly supportive of disclosure of Scope 1, 2, and 3 emissions by location because of the different legislative and regulatory actions being taken by jurisdictions in addition to the physical risks. This disclosure would facilitate investor understanding of the impacts of regulatory or legislative reform on a registrant on the company's financial results, particularly given the wide variation in carbon prices and regulatory actions. An added benefit is that such disclosures would likely, in the aggregate, demonstrate those jurisdictions most in need of legislative or regulatory reforms globally.

We would welcome presentation by zip code, or other jurisdictional equivalent, and presentation by cartographic data display would be highly useful to the communication of the information. Source of the emissions would be even more beneficial as it would provide information in visual form of the source and location of the emissions. Followed with contextual discussion, this would be highly useful to investors in discussing with management its climate-related risks and opportunities.

Scope 3 Emission Considerations

Materiality—The Proposed Rule requires a registrant to disclose its Scope 3 emissions for the fiscal year, if material, or if the company has made GHG emissions reduction commitments. The SEC's Proposed Rule will necessitate the gathering of Scope 3 emissions to make such a materiality assessment. The assessment cannot be done without a process, and controls, over gathering the information. Sophisticated investors who have established a means to approximate GHG emissions believe Scope 3 emissions are likely to be the most significant (See **Exhibit A-2**) and because of this, they are keen to obtain such disclosures because they are relevant—even if the estimation is so significant it is not perfectly, or even precisely, reliable. We provide our views on the materiality determination in the Overarching Considerations (Materiality) section.

Reduction Commitments—If a registrant has made a GHG emissions reduction commitment that includes Scope 3 emissions, the registrant should unequivocally be required to disclose those emissions irrespective of the materiality considerations in the Proposed Rule. Even if a reduction commitment does not include Scope 3, we believe the registrant should be required to make the Scope 3 emission disclosure, as such a reduction commitment may be meaningless if the vast majority of a registrants GHG emissions are Scope 3. Investors need to understand that such a reduction commitment may not be substantive without the inclusion of Scope 3 emissions.

Voluntary Disclosures—We do not believe Scope 3 GHG emission metrics should be voluntary. Voluntary disclosures will mean they are not provided. While we are not averse to an evolutionary approach to the disclosure in the Proposed Rule broadly, we believe that with the safe harbor being provided, registrants should be required to make their best estimation of the Scope 3 emissions. Without registrants beginning to undertake this disclosure process, there will never be improvement in the disclosure, or more important, communication and an informed discussion regarding the estimation challenges in Scope 3 emissions and their risk to registrants.

Investors are more focused on the relevance of the Scope 3 information than it being perfectly reliable at this stage of disclosure.

Data Sources—We believe it will be useful to require companies to disclose Scope 3 data sources when disclosing Scope 3 emissions. The Commission proposes requiring the description to include the following: (1) the use of emissions reported by parties in the registrant's value chain, and whether such reports were verified or unverified; (2) data concerning specific activities, as reported by parties in the registrant's value chain; and (3) data derived from economic studies, published databases, government statistics, industry associations, or other third-party sources outside of a registrant's value chain, including industry averages of emissions, activities, or economic data.

These various sources, that may not be verified, may be subject to subjective judgments and/or estimates and may not be comparable across industries or timescales, which may limit the usefulness of such data in the near term. Nevertheless, we believe that the inclusion of Scope 3 data sources will benefit investors, as this information will help investors flesh out the story behind a company's Scope 3 emissions, and over time, best practices for Scope 3 emissions. Further, best-in-breed data sources may emerge to better refine Scope 3 disclosures.

Impact on Non-Public Companies—Though not queried as part of the Proposed Rule question, we note in the Overarching Considerations (Private Company Implications) section, Scope 3 emissions will likely bring many non-public companies globally within the GHG emission mandate as it will require GHG disclosures on emissions from non-public companies up and down the supply chains of US public registrants.

Offsets Should Be Disclosed Separately (Question 101)

We do not believe carbon/emission offsets should be netted in the calculation or disclosure of Scope 1, 2, or 3 emissions. The offset market is in the early stages of development, and as not all offsets are created equally, we do not believe net reporting is appropriate. Further, at best, offsets can mitigate a small part of a company's emissions, and at worst, they do nothing to actually offset emissions and are merely greenwashing tools. The current lack of transparency and an audit trail around most current offset purchases means that they should not be used as a substitute for a company's decarbonization efforts. As we note previously—see also Targets and Goals Disclosures (Carbon Offsets and Renewable Energy Credits) and Disclosures Outside Financial Statements (Disclosure of Carbon Offsets and Renewable Energy Credits)—we believe that offsets can be disclosed separately.

GHG Intensity Metrics (Questions 109–113)

We agree that the intensity of GHG emissions should be a required disclosure, and the method of disclosure—metric tons of CO_2e per until of total revenue, and per unit of production relevant to the registrant's industry for Scope 1 and Scope 2, and Scope 3 if required—are generally appropriate. These metrics are the ones most often used by companies and investors, so they are the appropriate intensity metrics to start with as these intensity metrics give investors a more financially relevant discussion of GHG exposure than a simple Scope 1, 2, or 3 GHG emission number can convey. It should be noted that organizational and operational boundary differences may also impact comparability and that only inclusion of all three scopes is likely to provide the most meaningful comparisons.

Further, GHG intensity metrics are a good example of where industry-based guidance would be useful to make comparisons between firms. While we do not object to companies providing additional measures of intensity (i.e., emissions by total assets), if they see fit to do so, we believe if metrics are changed or added, then comparative period metrics must be provided to ensure consistency of presentation.

GHG Emissions Methodology and Related Instructions (Pages 185–208, Questions 115–132)
Methodology Including Significant Inputs and Assumptions
(Questions 115, 124, 125, 127, 131, 132)
Support Disclosure of Methodology: More Guidance Needed—Proposed Rule 17 CFR §229.1504(e)(1) would require a registrant to describe the methodology, significant inputs, and significant assumptions used to calculate GHG emissions. These disclosures would include a registrant's organizational boundaries, operational boundaries, calculation approach, and any calculation tools used to calculate the registrant's GHG emissions. The Commission proposes that registrants must disclose the methodology used for calculating GHG emissions, including any emissions factors used and the source of the emissions factors.

We support the SEC's requirement, as a high-quality description of the GHG emission measurement process will better contextualize the emission disclosure and allow investors to understand the assumptions made in deriving the GHG emissions disclosures. It will also enhance comparability across companies and within the same company, across time.

That said, we worry that the actual requirement in 17 CFR §229.1504(e)(1) lacks the specificity to provide investors with the detail they seek in understanding the crucial elements of identification, aggregation, and estimation of GHG emissions. As we note above, we recognize the SEC's tacit endorsement of the GHG Protocol (i.e., specifically, the GHG Protocol's Corporate Accounting and Reporting Standard). That said, without inclusion of, or a reference to, the specific GHG Protocol standards in the Actual Proposed Rule, the requirements in the Actual Proposed Rule are very high level, leaving much to interpretation, and lacking the specificity in disclosure requirements that are likely necessary for investors to obtain the information and insights they need. As we have noted elsewhere herein, this approach is akin to requiring fair value measurement without guidance on how to measure fair value, or reference to the fair value guidance of a third party. For example, we note the terms operational and organizational boundaries are defined in 17 CFR §229.1500, and that 17 CFR §229.1504(e)(2) suggests organizational boundaries should be consistent with those as defined in US GAAP, but we believe these terms will require interpretive guidance and a description in the disclosure such that investors understand the nuances and differences. We address this in greater detail below.

Use of Estimates—We agree with the SEC's proposed guidance on use of estimates (i.e., which is applicable for Scope 1, 2, or 3) for GHG emissions (i.e., 17 CFR §229.1504(e)(4)(i)). We believe that estimates should be used only when data are not available, and when reasonable estimates can be made. Estimates should not be allowed to be used when a registrant has the

Scope 1, 2, or 3 emissions data in question. If estimates are used, a thorough explanation of the assumptions and methodology behind those estimates is needed. See discussion under Overarching Considerations (Relevance vs. Reliability), we are more concerned with the relevance of the measure than with it being perfectly reliable.

We have no problem with fourth-quarter estimates or with a reporting period that is one quarter removed from the annual financial statements. If such an estimate change is significant from the actual, we believe an update can be provided in the next quarterly filing. Unless a significant error or omission of information is identified, we do not believe a Form 8-K should be required.

Support Disclosure of Material Changes—As a matter of principle, we believe changes to the GHG emission methodology and the significant inputs and significant assumptions that go into that methodology need to be disclosed so that investors understand the nature and implications of such a change. We believe the SEC should require the disclosure of prior period emission metrics restated under any revised methodology to ensure comparability of metrics across time (i.e., 17 CFR §229.1504(e)(6)).

If there are changes in the operational or organizational boundaries, this too should be disclosed, and prior periods should be restated in accordance with FASB ASC Topic 250.

Support Use of Ranges for Scope 3 Emissions:
Believe SEC Should Require Disclosure as a Range—The SEC is allowing the disclosure of Scope 3 emission in terms of a range as long as a registrant discloses its reason for using the range and the assumptions. When making estimates of any type, CFA Institute has long supported the disclosure of ranges, as the range provides more meaningful information for analysis. In the preparation of financial statements, a single measurement must be chosen for recognition; however, in the context of GHG emissions, this would not be required. As such, we would not only be supportive of a disclosure range—as it more accurately conveys the estimated nature of the metric—but we also believe the SEC should consider requiring the Scope 3 emission disclosure be expressed as a range (i.e., 17 CFR §229.1504(e)(4)(ii)).

Scope 3 Emission Disclosure Standards—The Commission queries whether a registrant should be required to follow a certain set of published standards for calculating Scope 3 emissions that have been developed for a registrant's industry or are otherwise widely accepted.

The Proposal discussion notes, for example, the PCAF's Global GHG Accounting and Reporting Standard for the Financial Industry as often used by companies to determine its financed emissions within its "investments" category of Scope 3 emissions. Or should an industry-specific standard not be available, the use of the GHG Protocol's Corporate Value Chain (Scope 3) Accounting and Reporting Standard would be appropriate.

Comparability of data is key, so as long as comparability is enhanced by an industry-based standard, a good standard that is already accepted by investors is desirable. That said, what is not clear to investors in the Release is how by operation of law the Commission is accomplishing the use of other standards through the Actual Proposed Rule. See the Overarching Considerations (Reference to, or Lack of Reference to, Relevant Frameworks or Standards) sections.

Organizational and Operational Boundaries (Questions 116–123, 129–130)
Support Disclosure of Organizational Boundaries Consistent with US GAAP—The Commission's proposed approach would require a registrant to set the organizational boundaries for its GHG emissions disclosure using the same scope of entities, operations, assets, and other holdings within its business organization as those included in and based upon the same set of accounting principles applicable to its consolidated financial statements (i.e., 17 CFR §229.1500 (e)(2)).

Using GAAP as a baseline for organizational boundaries can help with compliance costs and can help to avoid potential confusion about the reporting scope used in determining a registrant's GHG emissions and the reporting scope used for the financial statement metrics.

We support the Proposed Rule's requirement (i.e., 17 CFR §229.1500 (e)(1)) to explicitly require registrants to disclose these organizational boundaries used to calculate GHG emissions. If for some reason, these do not align, then this needs to be a required disclosure and described in the disclosure of organizational boundaries.

We support the use of the same organizational boundaries for Scope 1 and Scope 2 emissions (i.e., 17 CFR §229.1500 (e)(3)) as the first step in identifying the Scope 3 indirect emissions.

Nonconsolidated Entities—The discussion of the Proposed Rule notes the Proposal does not require a registrant to disclose the emissions from investments that are not consolidated, are not proportionally consolidated, or do not qualify for the equity method of accounting for Scope 1 and 2 emissions disclosures. This is not explicitly articulated in 17 CFR §229.1500(e)(2 or 3). We think this should be explicitly articulated in the Actual Proposed Rule. It should also be clear how these are to be disclosed—as a separate disclosure or as part of Scope 3. We believe the former (i.e., a separate disclosure) of their Scope 1 and Scope 2 emissions will provide more useful information for investors, so there is no confusion regarding their treatment. These entities are those over which the entity has significant influence and are therefore different than pure Scope 3 emissions. We believe this treatment should be explicitly articulated in the Actual Proposed Rule.

US GAAP vs. GHG Protocol Organizational Boundaries—We support use of the organizational boundaries as defined by US GAAP as required by the Actual Proposed Rule (i.e., 17 CFR §229.1500 (e)(3)). We recognize there are differences between the organizational boundaries being required by US GAAP and those under the GHG Protocol (e.g., financial control, operational control, or equity share), but we believe a US GAAP approach will be more consistent between companies and more consistently anchored to the entity represented by the consolidated financial statements.

Operational Boundaries—With the above in mind, we believe without further interpretation there will be confusion regarding the definition of operational boundaries as: (1) defined in 17 CFR §229.1500; (2) required to be set for Scope 1 and 2 emissions by 17 CFR §229.1504(b); (3) required to be described by 17 CFR §229.1504(e)(1); and (4) required to be consistent by 17 CFR §229.1504(e)(3), but (5) not further described in 17 CFR §229.1504. We believe there is insufficient guidance in the Actual Proposed Rule regarding the meaning and application of the term operational boundaries and its relationship to the organizational boundaries. While we understand from the discussion of the Proposal that this is a term taken from the GHG Protocol and incorporated in the Actual Proposed Rule, we do not believe it is sufficiently explained and contrasted to the organizational boundaries definition for it to be well understood and consistently applied. A visual depiction of, for example, the difference between organizational and operational boundaries seems necessary to enable investors to understand these nuances and the impact on the GHG emission disclosures.

Support Consistency of Organizational and Operational Boundary Definitions—The same organizational boundaries should be used for determining both Scope 1 and 2 emissions and the operational boundaries should remain consistent over time to make comparability over time and between companies easier for investors. Organizational and operational boundaries will of course need to be adjusted due to M&A activity. Care should be taken to ensure that the merged entities boundaries allow for comparability with past Scope 1 and 2 reporting. Prior periods need to be restated upon acquisition for newly consolidated entities.

Outsourced Activities—Outsourced activities, that a registrant previously performed as part of its own operations, should be included in the calculation of Scope 3 emissions (i.e., 17 CFR §229.1504(e)(8)) and prior periods' direct emissions now outsourced should be reclassified to Scope 3 emissions. These emissions need to be included for investors to determine the comparability, over time, of the registrant's emissions.

Overlaps—We agree with the Proposed Rule (i.e., 17 CFR §229.1504(e)(8)) that if there is any significant overlap in the categories of activities that produced Scope 3 emissions, that the registrant should disclose the nature of that overlap and any adjustments to its Scope 3 emissions that it has made to deal with such overlap.

Data Sources (Questions 126 and 128)
Third-Party Data—We support the SEC's proposed requirement to disclose the use of third-party data if used, irrespective of the scope of the emissions (i.e., Scope 1, 2, or 3), and the requirement to disclose what process the registrant undertook to obtain and assess such data.

Data Gaps—We support the SEC's proposed requirement to disclose gaps in data, irrespective of the scope of the emissions (i.e., Scope 1, 2, or 3), and the proxy data or alternative method to address any such data gaps as well as how such data gap is likely to have affected the accuracy or completeness of the respective GHG emission.

The Scope 3 Emissions Disclosure Safe Harbor and Other Accommodations (Pages 208–215, Questions 133–134)

The Proposed Rule offers a safe harbor to companies around the calculation and disclosure of Scope 3 emissions as it may be difficult to obtain emission data from suppliers and other third parties in a registrant's value chain, or to verify the accuracy of that information. It may also be necessary to rely heavily on estimates and assumptions to generate Scope 3 emissions data.

For these reasons, the Commission is proposing the following accommodations for Scope 3 emissions disclosure:

- A ***safe harbor for Scope 3 emissions disclosure*** from certain forms of liability under the Federal securities laws;
- An ***exemption for smaller reporting companies*** (SRCs) from the Scope 3 emissions disclosure provision; and
- A ***delayed compliance date for Scope 3*** emissions disclosure.

This safe harbor for Scope 3 emissions disclosure is meant to alleviate concerns that registrants may have about liability for information that would be derived largely from third parties in a registrant's value chain. We are very supportive of such safe harbor. We recognize the reliability of such information may not be at the level of other information contained in the remainder of the forepart of the SEC filings because this information will often contain estimates and data from sources that a registrant does not directly control, but the relevance of the information warrants its inclusion given the importance to investors. See also Overarching Considerations (Relevance vs. Reliability) section.

As it relates to the exemption of SRCs from the reporting of Scope 3 emissions, refer to Other Matters (Registrants Subject to the Climate-Related Disclosures Rules and Affected Forms).

As it relates to delayed compliance date for the reporting of Scope 3 emissions refer to Other Matters (Compliance Dates).

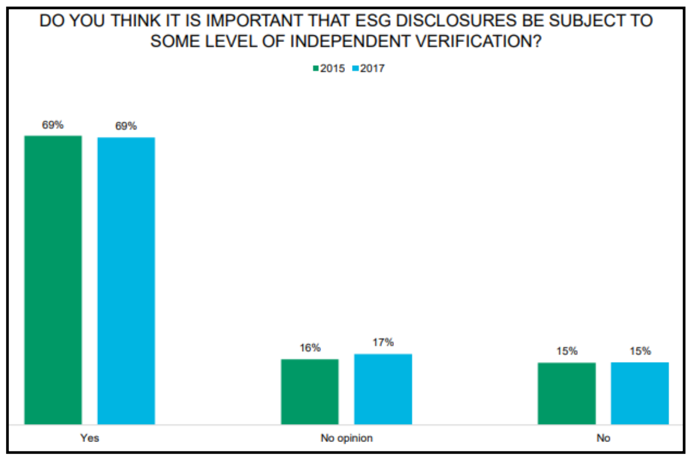
ATTESTATION OF GHG EMISSION DISCLOSURES

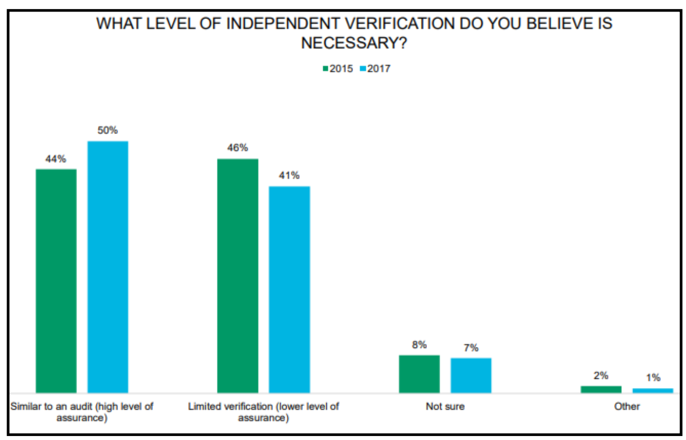
Attestation of Scope 1 and Scope 2 Emissions Disclosure (Pages 215–266, Questions 135–167)

Overview (Pages 215–239, Questions 135–143)

The Proposed Rule would require a registrant, including a foreign private issuer, that is an accelerated filer or large accelerated filer to include in the relevant filing an attestation report covering its Scope 1 and Scope 2 emission disclosures and to provide certain related disclosures about the service provider. As proposed, no attestation is required in the first year of disclosure. An attestation engagement must provide limited assurance in fiscal years two and three after the Scope 1 and 2 emissions disclosure compliance date, and reasonable assurance for fiscal years four and beyond for Scope 1 and 2 emissions. No attestation of Scope 3 emissions is required.

Exhibit A-3





Investor Views on Assurance—In our previous comment letter in response to the *2021 SEC's Request for Public Input on Climate Change Disclosures*, we note (see 2017 survey results on pages 19–22 of the comment letter and **Exhibit A-3**) that the majority of investors (69%) thought it was important that ESG disclosures, which include climate disclosures, be subject to some form of independent verification. However, they were nearly split (50% supporting) on whether that verification needed to be at the level of an audit, or whether a more limited form of assurance would suffice. Thus, the SEC's proposed approach—that is, limited assurance, followed by a reasonable assurance level of attestation, in the location proposed (i.e., forepart to SEC filings) for Scope 1 and Scope 2—necessitates further specific consultation with our investor members before we comment so as to be precise on what they seek to be assured regarding climate disclosures, and at what level of assurance and where such disclosures should be located. Similarly, for Scope 3 and GHG intensity metrics, further survey of investors would be needed to confirm their support for attestation.

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A Higher Level of Assurance for GHG Emissions Than Other Non-Financial Information in Forepart—We would observe that the Proposal would ultimately result in a higher level of assurance for GHG emissions than for any other information in the forepart to the financial statements—other than numbers that are derived directly from the financial statements—including the discussion of risks, strategy, and governance. We note the Proposal states the following:

> *In contrast to GHG emissions disclosure,* ***quantitative disclosure outside of the financial statements typically is derived, at least in part, from the same books and records that are used to generate a registrant's audited financial statements*** *and accompanying notes and that are subject to ICFR. Accordingly,* ***such quantitative disclosure has been subject to audit procedures*** *as part of the audit of the financial statements in the same filing. Further, the* ***auditor's read and consider obligation requires an evaluation of this quantitative information based on the information obtained through the audit of the financial statements****. Unlike other quantitative information that is provided outside of the financial statements,* ***GHG emissions disclosure would generally not be developed from information that is included in the registrant's books and records*** *and, therefore, would* ***not be subjected to audit procedures****. In addition, although not an assurance engagement,* ***we have adopted rules requiring an expert to review and provide conclusions on other specialized, quantitative data that is provided outside of the financial statements****. Accordingly,* ***to enhance its reliability, we believe it is appropriate to require that GHG emissions disclosur****e be subject to third-party attestation.*

There are other quantitative non-financial metrics (e.g., click-through rates, monthly active users) that are not derived from the financial statements, or the underlying books and records from which financial statements are created, that are disclosed in SEC documents outside the financial statements that are not assured. Possibly they should be, but they are not.[33] As such, it is unique that GHG Scope 1 and Scope 2 emissions would be subject to attestation.

[33] Consider, for example, Twitter's definition of monetized daily active usage or users (see definition from 2021 Form 10-K in the picture accompanying this note) and the degree to which it is derived from the books and records of a company. These metrics may be indicators to help management monetize the platform, but they are not derived from the accounting records supporting the financial statements. Twitter's accounts and metrics are curently under questions by certain lawmakers. This is but one illustration regarding a number not derived from

<u>*In the Trade-Off Between Relevance and Reliability: Relevance Prevails for Investors*</u>—The Proposal makes the following observation:

> *The Commission has* ***long recognized the important role played by an independent audit in contributing to the reliability of financial reporting****. Relatedly, studies suggest that investors have greater confidence in information that has been assured, particularly when it is assured at the reasonable assurance level.*

In principle, we agree with this. That said, what we have learned from decades of speaking with investors is that relevance always takes precedence over reliability. Investors do not want, or want to wait for, perfectly reliable information at the cost of not receiving relevant information. This is why investors support fair value over amortized cost, the latter of which is highly reliable but lacks relevance in investment decision making. Investors have seen innumerable instances where the accountants and auditors have sought measures, such as historical cost, that they feel more confident in assuring but which lack relevance to investors. The recent debate about returning to amortization of goodwill rather than retaining impairment is a current example of the relevance versus reliability conundrum.

Alternative data used for investment decision making illustrates that it is not audit or assurance that establishes data as relevant or reliable for decision-usefulness; rather, it is regression and the predictive capacity of the data which enables investors to establish the usefulness (i.e., relevance and reliability) of information.

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financial statements and underyling records that is not audited.

NOTE REGARDING KEY METRICS

We review a number of metrics, including monetizable daily active usage or users, or mDAU, changes in ad engagements and changes in cost per ad engagement, to evaluate our business, measure our performance, identify trends affecting our business, formulate business plans and make strategic decisions. See the section titled "Management's Discussion and Analysis of Financial Condition and Results of Operations— Key Metrics" for a discussion of how we calculate mDAU, changes in ad engagements and changes in cost per ad engagement.

We define mDAU as people, organizations, or other accounts who logged in or were otherwise authenticated and accessed Twitter on any given day through twitter.com, Twitter applications that are able to show ads, or paid Twitter products, including subscriptions[1]. Average mDAU for a period represents the number of mDAU on each day of such period divided by the number of days for such period. Changes in mDAU are a measure of changes in the size of our daily logged in or otherwise authenticated active total accounts. To calculate the year-over-year change in mDAU, we subtract the average mDAU for the three months ended in the previous year from the average mDAU for the same three months ended in the current year and divide the result by the average mDAU for the three months ended in the previous year. Additionally, our calculation of mDAU is not based on any standardized industry methodology and is not necessarily calculated in the same manner or comparable to similarly titled measures presented by other companies. Similarly, our measures of mDAU growth and engagement may differ from estimates published by third parties or from similarly-titled metrics of our competitors due to differences in methodology.

The numbers of mDAU presented in this Annual Report on Form 10-K are based on internal company data. While these numbers are based on what we believe to be reasonable estimates for the applicable period of measurement, there are inherent challenges in measuring usage and engagement across our large number of total accounts around the world. Furthermore, our metrics may be impacted by our information quality efforts, which are our overall efforts to reduce malicious activity on the service, inclusive of spam, malicious automation, and fake accounts. For example, there are a number of false or spam accounts in existence on our platform. We have performed an internal review of a sample of accounts and estimate that the average of false or spam accounts during the fourth quarter of 2021 represented fewer than 5% of our mDAU during the quarter. The false or spam accounts for a period represents the average of false or spam accounts in the samples during each monthly analysis period during the quarter. In making this determination, we applied significant judgment, so our estimation of false or spam accounts may not accurately represent the actual number of such accounts, and the actual number of false or spam accounts could be higher than we have estimated. We are continually seeking to improve our ability to estimate the total number of spam accounts and eliminate them from the calculation of our mDAU, and have made improvements in our spam detection capabilities that have resulted in the suspension of a large number of spam, malicious automation, and fake accounts. We intend to continue to make such improvements. After we determine an account is spam, malicious automation, or fake, we stop counting it in our mDAU, or other related metrics. We also treat multiple accounts held by a single person or organization as multiple mDAU because we permit people and organizations to have more than one account. Additionally, some accounts used by organizations are used by many people within the organization. As such, the calculations of our mDAU may not accurately reflect the actual number of people or organizations using our platform.

In addition, geographic location data collected for purposes of reporting the geographic location of our mDAU is based on the IP address or phone number associated with the account when an account is initially registered on Twitter. The IP address or phone number may not always accurately reflect a person's actual location at the time they engaged with our platform. For example, someone accessing Twitter from the location of the proxy server that the person connects to rather than from the person's actual location.

We regularly review and may adjust our processes for calculating our internal metrics to improve their accuracy.

Our point being that reliability is important, but not to the point at which it deters the provision of relevant information.

Thus, while we recognize the importance of underlying standards, comparability, and reliability of information for investment decision making, we believe—as we discuss with our preferred alternative for financial statement metrics—that relevant information on a timelier basis is better than perfectly reliable information. This informs our support for Scope 3 emission disclosures (i.e., without verification), the need to include information outside financial statements before including them inside financials, and our position on limited transitioning to reasonable assurance.

SEC Points to Precedence—We note that while the SEC cites as partial precedent the fact that it has previously adopted rules requiring an expert to review and provide conclusions on other specialized, quantitative data that is provided outside of the financial statements—namely, in its *Modernization of Property Disclosures for Mining Registrants,* Release No. 33-10570—the Commission correctly notes that such expert conclusions do not rise to the level of an assurance engagement. Furthermore, the science of GHG emissions is much newer than that governing the mining disclosure requirements.

Is This the Most Important Number in the Forepart to Financial Statements?—In sum, the SEC's Proposal is groundbreaking in requiring attestation for an emerging and evolving metric.

We ponder whether this metric—which is non-financial—is the most important number (outside of those derived from financial statements) in the forepart to SEC filing documents, and therefore question whether such a high level of assurance is required for it at this time. This is why we believe further survey of this point with our investor members is key before we conclude. It is a question of relative importance.

We also note that it is likely many issues will arise for both registrants and attestation providers regarding how to perform, disclose, evaluate, and attest to the GHG emission calculations, as well as many other issues which cannot even be anticipated at this time due to the newness of these issues. As a result, we favor an evolutionary approach to assurance that increases the required level of assurance over time. See comments which follow on timing of transition.

Attestation Should Not Extend to Scope 3 Emissions—While we have not surveyed our investor members on attestation on Scope 3 emissions, we do not believe it is practical to require attestation for either Scope 3 emissions or Scope 3 GHG intensity metrics (even if disclosed voluntarily) at this time. As the Commission notes, the nature of Scope 3 emissions poses particular challenges, in that much of it comes from sources beyond a company's control; the data is not precise and is often only available as an estimate; and such challenges are magnified as the size and complexity of a company and its value chain increases. Only when there is sufficient widespread preparation of Scope 3 disclosures do we believe it would be feasible to comment more completely on the preparation and attestation challenges. These challenges argue for a delay in proposing any disclosure or attestation requirements for these metrics at this time. Further, we believe any questions regarding the nature, timing, and extent of attestation of

Scope 3 emissions (or any subset thereof, such as the process or methodology for calculating Scope 3 emissions, rather than the calculations themselves) should be deferred and re-exposed until after attestation requirements for Scope 1 and Scope 2 emissions have been implemented and digested by the marketplace.

<u>*Application to All Registrants and Transition*</u>—The compliance and assurance dates are noted below:

Table A-2

Registrant type	Disclosure compliance date		Financial statement metrics audit compliance date
	All proposed disclosures, including GHG emissions metrics: Scope 1, Scope 2, and associated intensity metric, but excluding Scope 3.	GHG emissions metrics: Scope 3 and associated intensity metric.	
Large Accelerated Filer	Fiscal year 2023 (filed in 2024)	Fiscal year 2024 (filed in 2025)	Same as disclosure compliance date.
Accelerated Filer and Non-Accelerated Filer.	Fiscal year 2024 (filed in 2025)	Fiscal year 2025 (filed in 2026).	
SRC	Fiscal year 2025 (filed in 2026)	Exempted.	

Filer type	Scopes 1 and 2 GHG disclosure compliance date *	Limited assurance	Reasonable assurance
Accelerated Filer	Fiscal year 2024 (filed in 2025)	Fiscal year 2025 (filed in 2026)	Fiscal year 2027 (filed in 2028).
Large Accelerated Filer	Fiscal year 2023 (filed in 2024)	Fiscal year 2024 (filed in 2025)	Fiscal year 2026 (filed in 2027).

Assurance Applicability to Registrants—Similar to our reasons articulated in the section Other Matters (Registrants Subject to the Climate-Related Disclosure Rules and Affected Forms), which follows, we generally do not support limiting the proposed attestation requirements to accelerated filers and large accelerated filers, as proposed, or to subsets thereof, such as "well-known seasoned issuers." That said, we have seen support—as it relates to climate disclosures—to provide relief from the attestation requirements for entities other than large accelerated and accelerated filers. As we note in the Overarching Considerations section (Relevance vs. Reliability) investors are most interested in relevant rather than perfectly reliable information.

We do not support a new test for determining whether the attestation requirements should apply to a registrant based upon the resources of the registrant as we believe it would be unnecessarily complex.

Compliance Periods—Additionally, as we note in the Other Matters (Compliance Date) section, as a rule, we do not generally support different transition periods being applied to different types of registrants as we generally see this staggering of dates leads to further time extensions. That said, as it relates to climate disclosures and their attestation, we have seen support for staggering of compliance dates.

Transition to Reasonable Assurance—As it relates to transition from limited to reasonable assurance, we are fine with a transition period, as it provides time for reliability to improve without limiting the introduction of the disclosures.

Additionally, as we note in the Other Matters (Compliance Dates) section, we are concerned that the SEC's proposed timeframe for disclosure compliance is quite optimistic/aggressive. In turn, the assurance timetable is also likely quite optimistic/aggressive, and we suggest that the SEC be open to considering a longer phase-in period to the "reasonable assurance" level.

Limited vs. Reasonable Assurance:
Expanding or Revising the Definition of Assurance Would Be Confusing—We agree that "limited assurance" and "reasonable assurance" are defined terms that are generally understood in the marketplace, both by those seeking and those engaged to provide such assurance, and therefore do not need further definition. We do not support providing additional or alternative definitions for these terms, as we are concerned this would cause confusion regarding other attestation engagements not covered by the Proposed Rule.

Attestation by Management or Audit of Internal Controls Is Premature—As proposed, there would be no requirement for a registrant to either provide a separate management attestation or obtain an audit (reasonable assurance) report from a GHG emissions attestation provider on the effectiveness of controls over GHG emissions disclosure by management or obtain an attestation report from a GHG emissions attestation provider specifically covering the effectiveness of controls over GHG emissions disclosure. While we are significant supporters of management attestation and audits of internal controls over financial reporting (ICFR), we believe a separate management assessment and statement on the effectiveness of controls over GHG emissions is premature at this time, as we believe it would not necessarily provide significant additional benefits over an attestation requirement. However, we believe this issue could be revisited by the SEC in the future.

GHG Emissions Data Should Not Be Included in the Financial Statements—As discussed in the Disclosures in Financial Statements (GHG Emissions in Financial Statements) section we do not support a requirement to include GHG emission metrics in the notes or in a separate schedule to the financial statements. We see GHG emission metrics as fundamentally different from financial metrics that are derived from a registrant's financial statements, and we, therefore, do not believe they belong in the financial statements. Further, as expressed previously, investors are more interested in relevance at this time, and we believe that the costs of such a requirement—adapting audit standards and opinions to non-financially derived metrics—would far outweigh the benefits of whatever improvements in reliability might be gained.

GHG Emissions Attestation Provider Requirements (Pages 239–247, Questions 144–153)
The Proposed Rule would require the GHG emissions attestation report for accelerated filers and large accelerated filers to be prepared and signed by a GHG emissions attestation provider. The proposed rules would define a GHG emissions attestation provider to mean a person or a firm that:

- Is an ***expert in GHG emissions*** by virtue of having significant experience in measuring, analyzing, reporting, or attesting to GHG emissions? Significant experience means having sufficient competence and capabilities necessary to:
  - perform engagements in accordance with ***professional standards and applicable legal and regulatory requirements***; and
  - enable the service provider to ***issue reports*** that are appropriate under the circumstances.
- Is ***independent with respect to the registrant***, and any of its affiliates, for whom it is providing the attestation report, during the attestation and professional engagement period (17 CFR §229.1505(b)(i) and (ii)).

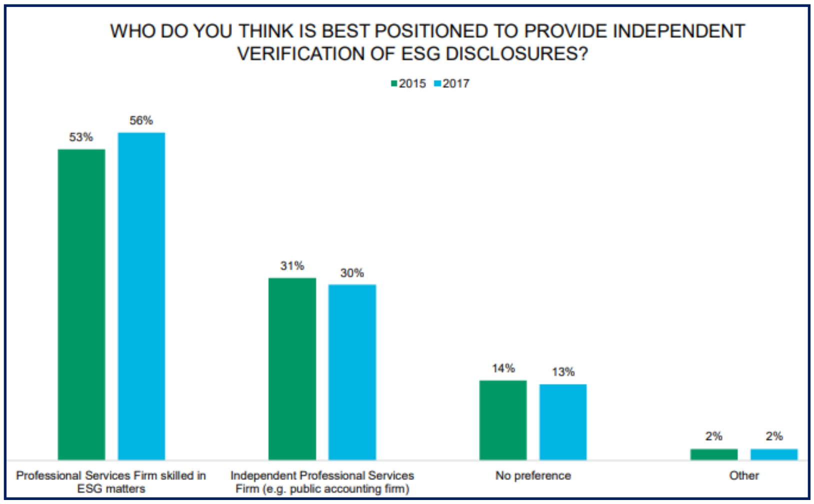
We agree with idea that the attestation provider should:

- be an ***expert*** in ***both attestation*** and ***GHG emissions***;
- be ***independent both in fact and appearance*** from the registrant; and
- have ***established policies and procedures*** designed to provide it with confidence that the personnel selected to provide the GHG attestation service have the ***qualifications necessary for fulfillment of the responsibilities*** that the GHG emissions attestation provider will be called on to assume, including the ***appropriate engagement of specialists.***

As an investor organization, we believe these requirements are table stakes for a service provider, especially one providing attestation. We believe the Proposed Rule is missing a financial wherewithal test should litigation ensue (i.e., See the Wherewithal to Withstand Litigation section).

Providers Must Have Both Industry and Attestation Experience—We do not believe that GHG attestation providers must be limited to PCAOB-registered public accounting firms. In fact, in our 2017 investor survey, investors voiced concerns as to whether accounting firms were the best qualified to provide such assurance, given their lack of functional expertise regarding climate emissions and climate science. They preferred professional service firms skilled in ESG matters (See **Exhibit A-4**)

Exhibit A-4



That said, we note that PCAOB-registered audit firms often have or can acquire deep and extensive functional experience and expertise on the subject matter to be attested to and they have extensive knowledge regarding the independence requirements as well as regarding quality control and management standards when providing audit and attest services under the PCAOB standards, such that we believe they would be good potential candidates for GHG attestation service providers.

Conversely, GHG emissions attestation providers who are not PCAOB-registered audit firms, such as environmental consultants, engineering firms, or other types of specialists, may have the appropriate industry experience, but it may take a considerable amount of time for them to develop the relevant experience with independence requirements, quality control, and management oversight standards for attestation services that may be required. We note that there exists a significant body of guidance regarding these requirements and standards for PCAOB-registered firms, and it may take other providers a significant amount of time to interpret and apply similar rules and regulations to real-life situations.

Independence and Adherence to Minimum Professional Standards—We are also supportive of independence requirements (and the proposed factors) for GHG attestation providers and believe that they must mirror the independence requirements for auditors, as well as minimum quality control and management standards (e.g., acceptance and continuance of engagements, engagement performance, professional code of conduct, and ethical requirements) to provide greater consistency over the quality of service provided by GHG emissions attestation providers who do not (or cannot) use the PCAOB attestation standards.

Furthermore, while we believe it is appropriate for the SEC to provide certain broad parameters regarding the level of expertise required, such as requirements to have sufficient competence and capabilities necessary to (1) perform engagements in accordance with professional standards and applicable legal and regulatory requirements, and (2) enable the service provider to issue reports that are appropriate under the circumstances, as proposed, we do not believe the SEC should go so far as to specify the number of years of the requisite type of experience required (e.g., 1, 3, 5, or more years). And while we support requiring attestation providers to be members in good standing of a specified accreditation body that provides oversight to service providers that apply attestation standards, we note that this may require a change in laws and/or regulations if the PCAOB, for example, is to be the accreditation body for non-audit firms, so that they have the authority to oversee, monitor, and enforce the application of professional standards to non-audit firms.

We would not object to a requirement to disclose a change in attestation provider.

Wherewithal to Withstand Litigation—We also believe it is important that, to the extent a GHG emissions attestation provider is subject to potential liability under the Securities Acts, that such providers have the financial wherewithal to withstand any litigation that might ensue from their attestation services. The Proposed Rule does not make this a requirement, but we believe it should be included.

GHG Emissions Attestation Engagement and Report Requirements and Additional Disclosure by the Registrant (Pages 247–260, Questions 154–159) and (Pages 260–263, Questions 160–163)

We agree that the Proposed Rule should require an attestation report to be included in the separately captioned "Climate-Related Disclosure" section in the relevant filing and provided pursuant to standards that are publicly available at no cost and are established by a body or group that has followed due process procedures, including the broad distribution of the framework for public comment.

In general, we believe that ***investors would be best served if all verification was performed pursuant to the same standards*** ***(i.e., regardless of whether the provider was a PCAOB-registered firm or another type of provider),*** and we ***support the use of the attestation standards as promulgated by the PCAOB***, as we understand that they meet the proposed requirements.

In addition, we support the minimum disclosure requirements as set out in 17 CFR §229.1505(c) (Attestation Report Requirements), as these are similar to the requirements of an independent auditor's report, which is well-understood by the investment community.

With respect to the proposed additional disclosures by the registrant in 17 CFR §229.1505(d), we note that these pertain to industry licensing, accreditation, and oversight requirements, and to the extent that non-PCAOB registered firms are permitted to provide attestation, these licensing and regulatory considerations must be thoroughly addressed by the SEC, as mentioned previously. These appear to be important considerations in leveling the provision of attestation service providers.

Broadly, we believe the ***engagement and reporting requirements should be the same between auditors and other attestation service providers as investors will not have the detail to be able to discern the nuances and differences that may impact the quality of assurance***.

Disclosure of Voluntary Attestation: May Discourage Registrants from Seeking Such Attestation (Pages 263–266, Questions 164–167)

With respect to the Commission's proposal to require certain disclosures for registrants who have obtained third-party attestation or verification and who are not otherwise required to include a GHG emissions attestation report in their filing, we have a number of questions and concerns. Review of this section of the Proposal suggests an underlying assumption that (1) the attestation report opinion itself is not to be included in the registrant's filing, and (2) there is a concern that the attestation provider has not met all of the requirements set out in the Proposal.

We seek clarification as to why the SEC is assuming that the registrant would not or could not include the actual report opinion issued by the attestation provider in the filing: Is there an assumption that the attestation provider would not be engaged by the registrant on these terms? Would a proposal to require inclusion of the actual opinion in the registrant's filing place an additional burden on the registrant, such as obtaining a consent or awareness letter (similar to that required from an auditor when including an audit opinion in an SEC filing) from the verification provider, and/or would it impose additional liability on the provider? If so, we are concerned that such additional burdens and/or liability may actually end up discouraging a registrant from obtaining third-party attestation or verification on a voluntary basis or discouraging a provider from providing such attestation or verification.

We further question how feasible it would be for a registrant to "briefly describe" the results of an attestation report, as proposed, in light of the fact that it is not customary for a registrant to summarize the results of an audit opinion, which has been carefully designed by standard setters to include a number of required elements. Furthermore, the proposal for the registrant to disclose a provider's independence status and the oversight regime to which it is subject would require the registrant to rely on information provided by the assurance provider, such that it would be unlikely that the registrant would be able to verify this information in such a way as to place reliance on it for inclusion in its filing.

In short, we believe that this aspect of the Proposal raises numerous questions that should be thoroughly considered, as well as an evaluation as to whether any of these additional requirements would have the perverse effect of discouraging registrants to seek voluntary verification.

TARGETS AND GOALS DISCLOSURE

Targets and Goals Disclosures (Pages 266–274, Questions 168–174)

Support the Proposed Requirements, Disclosure on Progress Essential

If a registrant has set ***any*** climate-related targets or goals, then the Proposed Rule would require the registrant to provide certain information about those targets or goals.
If a registrant has set climate-related targets or goals, the Proposed Rule would require it to disclose them, including, as applicable, a description of the following:

- The ***scope*** of activities and emissions included in the target.
- The ***unit of measurement***, including whether the target is absolute, or intensity based.
- The ***defined time horizon*** by which the target is intended to be achieved, and whether the time horizon is consistent with one or more goals established by a climate-related treaty, law, regulation, policy, or organization.
- The defined ***baseline time period*** and baseline emissions against which progress will be tracked with a consistent base year set for multiple targets.
- Any ***interim targets*** set by the registrant; and
- ***How the registrant intends to meet*** its climate-related targets or goals.

As the Proposal highlights, many companies have stated targets but have not disclosed a strategy or plan as to how such targets will be achieved. Many companies may be virtue signaling with no path to achieving these targets, but investors—rather than the broader stakeholders who like to affiliate with virtuous brands—put money at risk and need disclosures to measure progress or puffery.

"You manage what you measure" is a business axiom, and we have no doubt that it applies to climate-related targets or goals. We believe that setting climate-related targets provides a clarifying strategic objective that will make all of the disclosures by the Commission more useful.

This proposed disclosure requirement could discourage companies from setting targets or goals. Instead, we believe their disclosures will lead to more tempered and measured setting of climate-related targets or goals. We believe the proposed disclosures are sufficient for informing investors of management's assertions and plans.

Financial reporting is a series of assertions by management, and as investors, we believe those assertions must be tested and the validity proved over time. If companies make assertions regarding their targets for reduction of GHG emissions, or ***any*** other climate-related target or goals, we believe they also must be verified, as such assertions are now part of issuers' strategies for popularizing their stock price and thereby lowering their cost of capital. If managements set audacious climate-related goals or targets, they need to be held accountable by market participants for such assertions if they are not fulfilled. As a result, we support the Commission's Proposal to make the aforementioned disclosures related to targets and goals on ***any*** climate-related target or goal

If companies have not set such targets, then there should be no incremental disclosure costs incurred by them. If companies have set such targets and disclose them as part of their annual reporting requirements, then they will be providing markets with necessary value-relevant information for assessing their validity.

Discussion and Analysis of How Targets or Goals Will Be Achieved and Disclosures Regarding Progress Toward Achieving Targets or Goals

We believe registrants should be required to ***discuss quantitatively and qualitatively*** how they ***intend to meet*** their stated climate-related targets or goals and the ***progress*** made in achieving them. We believe it is important to emphasize in the final rule both ***quantitative and qualitative*** information, as only both will allow investors to assess whether or not a registrant is making progress toward its stated targets or goals.

Carbon Offsets and Renewable Energy Credits

We support the Proposal's requirement for disclosing the role carbon offsets and renewable energy credits (RECs) or certificates play in a registrant's climate-related business strategy. We support a disclosure including the amount of carbon reduction represented by the offsets or the amount of generated renewable energy represented by the RECs, the source of the offsets or RECs, the nature and location of the underlying projects, any registries or other authentication of the offsets or RECs, and the cost of the offsets or RECs.

On their own, however, with no amplification of how these tools might be used to achieve climate-related targets or goals, these disclosures might decay into mere boilerplate. If an investor is to understand how a registrant expects to meet the climate-related targets or goals it has set using these tools, it is necessary to include an explanation of how it will use all of its available tools and strategies, so investors can assess the credibility of the targets or goals.

The required disclosures should openly display the amount of capital invested in carbon offsets and renewable energy credits or certificates, and the changes in the investments over the periods reported. The required disclosures should also openly display the amount of carbon reduction achieved by such investments, along with sufficient descriptive information to enable investors to understand the validity of such investments.

Disclose in Tabular Format Over Time

We recommend that the presentation of these disclosures—including those related to carbon offsets and renewable energy credits or certificates—be in tabular format rather than being embedded in text. On a prospective basis, we believe disclosures should be provided for historical periods with rollforwards of the information such that investors can see the progress over time on key targets. Not only is this format likely to be more understandable for investors, but it is also more widely adaptable for investor use in their own analytical work, especially if it has been tagged in a structured data format.

Support PSLRA Safe Harbors
We support the application of the PSLRA safe harbors to the climate-related targets and goals disclosures. We recommend, however, that the safe harbors for climate-related forward-looking disclosures be extended to initial public offering registration statements.

OTHER MATTERS

Registrants Subject to the Climate-Related Disclosure Rules and Affected Forms (Pages 275–283, Questions 175–189)

Support Application to Nearly All Filers Under Exchange Act and Securities Act
We generally abide by our long-standing principle that if the SEC believes new disclosures provide value-relevant information for investors then they should be provided to an investor irrespective of the market cap of the company or its state of transition to public company status. For that reason, we are generally supportive that climate-related disclosures should be required in Exchange Act and Securities Act reports as proposed and that transition relief for recently acquired companies (Form S-4 or F-4) should not be provided. [34]

Similar to the deployment of derivative financial instruments, we generally believe that if a company is sophisticated enough to use them, they should be sophisticated enough to communicate their usage to their investors. If a registrant is a generator of Scope 1 emissions, it is likely to be already subject to regulatory environmental oversight, and already measuring its compliance with applicable regulations. A registrant purchasing electricity, steam, heat, or cooling for use in its operations should already be capturing the quantity of its purchases and can determine its Scope 2 emissions by relating those quantities purchased to the efficiency of the provider. These should not be insurmountable calculations to develop and report.

We would also note that the SEC's Scope 3 emission requirements for public companies has the effect of requiring Scope 1 and Scope 2 emission disclosures of a private or public company of any size if they do business with a public company in the United States, so the burden of direct emissions reporting has already been placed on private and public companies of all sizes globally who do business with a US public company. As a result, we do not believe the SEC should exempt small reporting companies (SRCs) from Scope 1 and Scope 2 emissions. That said, despite our general principle of requiring disclosure irrespective of the market cap of the company or its state of transition to public company status, we have found support for exempting SRCs from Scope 3 emission disclosures at this time as well as for emerging growth companies and business development companies.

We also support exemption from Form S-8 and Form 11-K filings as the registrants standing behind those forms should be reporting climate-related disclosures in their Form 10-Ks as requiring the disclosures to be reported in other SEC forms would create redundancies. As for asset-backed issuers, we believe the SEC may need further study of such issuers, but there are climate-related risks associated with such assets as well.

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[34] Form 40-F filers should also be required to comply as well.

Agree with Application to Foreign Private Issuers,
Support Inclusion of ISSB Disclosures if They Supplement US Disclosure Requirements
At this time, the equivalency of the SEC's proposed climate-related disclosures to other disclosure regimes is unsettled and evolving, and we cannot foretell if different disclosure regimes will evolve to any degree of convergence. As such, we have not addressed all of the variations of what an alternative reporting regime might entail through Questions 183–188 of the Proposal.

We do not support the allowance of a plethora of alternative reporting regimes for climate-related disclosures, even if they are required in a foreign private issuer's home country, particularly if domestic issuers are held to a higher standard than foreign issuers. Further, it could deprive investors of climate-related information for an entire class of investment opportunities: foreign private issuers. Broadly, we recommend that if foreign private issuers are availing themselves of US markets, they should provide US-style climate-related disclosures—and vice versa. Said differently, we believe that foreign private issuers should be subject to at least the same level of disclosure as domestic issuers.

With that broad principle in mind, as it relates to the use of ISSB standards in SEC filing documents (Question 189), we would observe—should the SEC not adopt our proposed improvements in a final rule—those foreign private issuers may have industry-based disclosures based upon ISSB standards included within their local filings that are decision-useful to investors, as we discuss in the Overarching Considerations section. We believe those should be allowed to be included in their US filings with the Commission as they are decision-useful information. We would support the inclusion of all ISSB information in foreign filer documents filed with the SEC, supplemented by SEC's proposed requirements that may be additional to the requirements in foreign jurisdiction such as, for example, the inclusion of financial impact metrics within financial statements that are being proposed in the US but not internationally. Those financial impact metrics could be computed using IFRS-based financial statement information.

We also note that foreign private issuers following IFRS may need to alter their audit opinion and financial statement footnotes when filing documents with the SEC when including the metrics proposed under Article 14 of Regulation S-X, as these disclosures will not be required to under IFRS, and the audit opinion will need to state this. See further discussion in the Disclosures Inside Financial Statements section.

Support Disclosure of Material Changes in Periodic Filings
We agree with the provisions in the Proposed Rule that would require disclosures of and material changes to climate-related disclosures to be provided in periodic Form 10-Q filings, or the Form 6-K, whichever form is proper for a registrant. We do not believe that the information needs to be addressed through the Form 8-K reporting function, unless previously issued information has been found to be erroneous and necessitates a non-reliance Form 8-K.

Structured Data Requirement (Pages 283–286, Questions 190–193)

Support Inline XBRL for Regulation S-K and Regulation S-X Disclosures

We support the Commission requiring registrants to tag climate-related disclosures for both the Regulation S-K and Regulation S-X aspects of the Proposal. See earlier discussion in the Disclosures Inside Financial Statements section regarding who will be responsible for developing the XBRL taxonomy for Article 14 disclosures (i.e., US GAAP or SEC). There is considerable diversity within the investment community in terms of the manner in which these types of disclosures will be used. Quantitative disclosures are likely to be utilized at scale, but significant research, including machine-assisted research, is conducted using narrative text. The topic segmentation that both block and narrative tagging provides greatly assists both human and machine-augmented analytics.

Custom Tags for Climate-Related Disclosures

We can see the benefit in constraining aspects of the manner in which certain quantitative metrics are disclosed—for example, to enhance comparability of GHG emissions—because these metrics may necessitate extensions/custom tags. In this regard, we understand the need to restrict metrics, and the extensions/custom tags, in this area. In terms of strategy, risk, and opportunity disclosures, we are of the view that this field is still relatively young and that there is likely to be significant variance in the approach taken by different companies in articulating their thinking in this field. For this reason, we would expect that the rules will need to be relatively dynamic, moving forward as common practice and analyst expectations rapidly evolve. That alone would indicate that the use of custom tags in these areas should be permitted and closely analyzed.

All Disclosures Should Be Tagged

Users are consuming digitally tagged disclosures in different ways, for different reasons and with different appetites. Some do so directly. Some use specialist XBRL-aware tools. Others rely on the digital ingestion capabilities of long-established data providers. Some, it is true are only interested in a few quantitative metrics. However, we are of the view that more sophisticated investors—those most likely to utilize these disclosures—are increasingly relying on digital disclosures to an ever-greater degree. This includes a range of text analytics, semantic comparators, behavioral clustering, and sentiment analysis that are used in examining company narratives. This will continue and no doubt get more sophisticated as time moves on and corporate reporting expands to include climate disclosures.

Let's consider even the simplest use of tagged qualitative disclosures: comparing the range of disclosures made by a peer group of issuers about the role that carbon offsets or renewable energy credits play in their overall strategy to reduce corporate net carbon emissions. If these narratives are specifically tagged, then it is quick work to make comparisons across a large peer group. The alternative involves manually scanning through each and every filing, hoping that the readers capture the relevant text. The marginal cost of this type of markup for issuers (who have expended, we trust, significant time into developing their disclosures) is insignificant compared to the benefits that these types of search provide. The use of narrative markup (acknowledging the still-large variations in user' habits) is likely to greatly improve investor understanding of issuer activities, facilitating more focused and more flexible examination of the very significant work that goes into the preparation of these reports. We note that the Commission's decade-long requirements around the use of XBRL and now Inline XBRL-based disclosure means that companies have the tools, skills, and understanding that they need to expand their existing digital disclosures relatively simply and inexpensively. From an investor perspective, this is time and money very well spent.

We expect that the main costs associated with carbon-related disclosures for most corporates will be those involved in the rigorous sourcing, workflow, aggregation, and internal elimination of relevant data across the enterprise. These costs will be necessary in order to permit the addition of effective controls, all part of shifting—what for many companies has been a communications function—to (or within the orbit of) the external reporting team. The comparatively minor costs associated with marking up the resulting final, clean data, and narratives with relevant XBRL tags should not be confused with this larger task.

Third-Party Taxonomies
We are concerned, perhaps primarily, about consistency and comparability in this field. US issuer climate performance needs to be accessible to global markets. US issuers and foreign private issuers will need to disclose what is, in the final analysis, extremely similar (and hopefully further converging) information into other markets, including for the climate components of Europe's Corporate Reporting and Sustainability Directive (CSRD) requirements and Sustainable Finance Disclosure Regulation (SFDR) reporting. A range of other jurisdictions have indicated their intention to utilize the ISSB standards for disclosures into their own markets. We would like the Commission to be cognizant of the real risk that even where, for example, ISSB, EFRAG, and the SEC are utilizing the same underlying framework (such as the TCFD), comparability will be lost "at the final hurdle" through the introduction of different XBRL taxonomies.

We would therefore strongly encourage the SEC to discuss the possibility of developing agreements and bilateral (or trilateral) mechanisms that would permit the reuse, on a building-block basis, of some of the digital taxonomies needed as foundations to ensure the digital comparability of disclosures across national boundaries where comparison is intended.

This kind of collaboration would greatly simplify the consumption of this information on a global basis and materially lower costs for investors.

Do Not Use a Different Structure Data Language
The Commission should require the use of Inline XBRL for climate-related disclosures, just as it does for the bulk of Regulation S-X disclosures today, and as it has proposed, or recently determined it will, for (inter alia) claw backs, share repurchases, certain Rule 10b5-1 disclosures, pay versus performance, cybersecurity risk and incident reporting, closed-end funds, variable products-summary prospectus, and the filing fee modernization rules.

The Commission's rulemaking in this area has been consistent and issuers now almost universally have software tools, in-house skills, and external advice (where needed) to be able to provide a range of disclosures in this digital format. These offerings operate in a competitive market and the use of the Inline XBRL standard in this respect provides downward pressure on these costs as the barriers to entry for new software and service providers are nominal. Alternative or proprietary tagging mechanisms would not have these advantages and would adversely impact the quality and utility of the proposed carbon-related disclosures.

It may well be that at some point in the future, alternative technology or standards will emerge that will replace the Inline XBRL standard. Indeed, the XBRL standards themselves may be enhanced in such a fashion as to warrant review. We are unaware of anything of that sort at this point for these kinds of disclosures. Until that time, we urge the Commission to simplify these disclosures for issuers and to maximize the manner in which investors and analysts can make use of this data by sticking to these well-established standards.

The Commission's recent adoption, through the FASB's US GAAP taxonomy of a range of industry data quality rules developed collaboratively by industry experts, has further improved the utility of the data available to market participants (directly as well as via data providers that consume the XBRL facts and republish them) as well as the SEC itself.

We would reiterate the points made previously regarding how vitally important the digital disclosure of climate-related matters is to the downstream analysis of relative performance. Furthermore, these digital disclosures should assist the complex process—but in the future be more transparent and traceable—of determining certain climate-related ESG ratings. These disclosures will also be used in constructing aggregate portfolio metrics, and it is vital that these processes are digital to enable both automation and traceability. The Commission should also bear in mind that US registrants and foreign private issuers alike will be required to make (hopefully consistent) climate-related disclosures in other markets in Inline XBRL, including in (at least) Europe and the United Kingdom, so the SEC should be careful to ensure that the format (as well as the content) is as transportable as possible.

Treatment for Purposed of Securities Act and Exchange Act (Pages 286–289, Questions 194–196)

Support Filed Over Furnished Disclosures

For purposes of both Regulation S-K and Regulation S-X, we believe that the proposed climate-related disclosures, in their entirety, should be treated as filed rather than furnished. We prefer disclosures to be treated as an integral part of the financial reporting package, rather than being contained in another set of documents to be captured. Treating disclosures as furnished can create a burden for investors to track down such disclosures. If the climate-related disclosures are relevant enough for investors to require new rulemaking, then they are worth showing as filed within the Form 10-K. For the same reasons, we would prefer the same disclosures for Form 6-K to be treated as filed.

Compliance Date (Pages 289–292, Questions 197–201)

Compliance Dates Are Likely Optimistic: Would Not Object to One-Year Extension

We support the proposed staggered adoption of the disclosures, with Scope 3 disclosures required one year later than the Scope 1 and 2 disclosures as noted below:

Table A-3

Registrant type	Disclosure compliance date		Financial statement metrics audit compliance date
	All proposed disclosures, including GHG emissions metrics: Scope 1, Scope 2, and associated intensity metric, but excluding Scope 3.	GHG emissions metrics: Scope 3 and associated intensity metric.	
Large Accelerated Filer	Fiscal year 2023 (filed in 2024)	Fiscal year 2024 (filed in 2025)	Same as disclosure compliance date.
Accelerated Filer and Non-Accelerated Filer.	Fiscal year 2024 (filed in 2025)	Fiscal year 2025 (filed in 2026).	
SRC	Fiscal year 2025 (filed in 2026)	Exempted.	

While we believe that many registrants are already capturing some form of climate reporting data,[35] we also believe that the Scope 3 emission disclosures may break new ground for many registrants, which justifies the staggered adoption approach. As a rule, we generally do not agree with the staggering of the compliance dates by the size of the registrant. Our historical perspective has been that if the information is determined to be an improvement in reporting, it should be applied to all companies as soon as practicable without regard to size. We also, generally, hold to this principle because staggering reporting dates by registrant size results in continuing extensions. In the case of climate-disclosures, however, we have found some support for the staggering of compliance dates – especially as it relates to Scope 3 emissions and the provision of financial statement metrics. (See also Preferred Path Forward section).

We note that the adoption dates are quite optimistic/aggressive given that many companies would have to report some 22 months from the date of the filing of this comment letter (February 2024 for calendar-year companies), which would be more compressed by the time of the issuance of a final rule (likely less than one year). We would not oppose extending the compliance date by one year.

[35] We note that two-thirds of the S&P 500 companies had set carbon-reduction targets by the end of 2020. See Jean Eaglesham, "Climate Promises by Businesses Face New Scrutiny," *Wall Street Journal* (5 November 2021).