June 14, 2021

Via electronic submission (rule-comments@sec.gov)

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

Re: Climate Change Disclosure
Request for Public Comment, March 15, 2021

Dear Chair Gensler:

Thank you for the opportunity to provide comments to the Securities and Exchange Commission (SEC) on the Request for Public Comment on Climate Change Disclosures on March 15, 2021.

The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 95 percent of industry assets in the United States.

ACLI members appreciate and support the SEC's 85-year history of protecting investors, maintaining fair, orderly, and efficient markets and facilitating capital formation.

For more than a century and a half, ACLI members have been meeting consumers' financial needs. ACLI members can offer the SEC a uniquely comprehensive perspective to inform its work on climate change disclosures. Life Insurers are highly-regulated, conservative, long-term institutional investors holding assets in excess of $7.6 trillion.[1] Of those assets, 73 percent are held by publicly traded companies. Life insurance companies are also significant employers. The insurance sector employs approximately 2.8 million people, from underwriters to actuaries to investment professionals.[2] In addition to providing products designed to manage risk and ensure retirement and financial security to millions of Americans, ACLI members also offer investment products. Much like the SEC, ACLI members have a long history of consumer protection. Our members are consumer-focused, seeking to understand and meet policyholders' needs and wants.

Our members support efforts to enhance transparency on climate related risk exposures and recognize the importance of access to decision-useful information. At the same time, many of our

[1] As of 2019. American Council of Life Insurers, Life Insurers Fact Book 2020 at 11. Forty-eight percent of assets were held in bonds. https://www.acli.com/Posting/RP20-010
[2] American Council of Life Insurers, Life Insurers Fact Book, 2020. https://www.acli.com/Posting/RP20-010

members are themselves issuers and are tasked with ensuring their investor and stakeholder bases have adequate access to information regarding their company. As publicly traded companies, these members would also be subject to any standards the SEC may develop.

Life insurers are also risk managers, with a long history of both educating society on financial risks and using their knowledge and expertise to protect customers from such risks.

As the SEC is considering climate risk disclosure frameworks, our members stand ready to share our uniquely-informed perspectives to meet our shared goals.

Executive Summary

As long-term investors and experienced managers of long-term risks, life insurers are inherently interested and actively engaged in understanding how climate change may impact the customers they serve and the risks life insurers assume. While considerable progress has been made in this field, this work will by necessity be ongoing given the inherent uncertainties underpinning how effective or ineffective societal efforts to mitigate climate change will be.[3] Over time, we anticipate continued issues with data quality and reliability in both the public and private sector, as well as continued evolution of modelling and metrics.

ACLI members commend the SEC for engaging stakeholders on this topic. It is critical that the SEC's work account for the realities of the changing climate change landscape.

In particular, it is important for ACLI members that:

- any new requirements for climate related disclosure be principles-based, market-driven and subject to materiality thresholds;
- the SEC prioritize work on addressing foundational elements (e.g., definitions and taxonomies) that would enhance the ability for companies to disclose information;
- given the evolving nature and understanding of climate change, any new requirements be phased in over time and have robust safe harbors to shield companies from potential legal liability;
- any new requirements and related implementation timelines be industry specific; and
- the U.S. be engaged in international discussions on climate change disclosure and the development of related frameworks and standards.

[3] For example, all stakeholders will need to observe the impact of technological and public policy developments that are intended to influence the course of climate change.

Discussion

- Principles-Based, Market Driven & Materiality Threshold

Any climate risk disclosure framework should be principles-based to recognize and account for differences across industries and the evolving nature of capabilities to provide climate-related information. That flexibility will permit investors to receive disclosures that reflect then-current data, analytics and risk assessments and allow firms to address properly their unique risk profile and the needs of investors and other stakeholders interacting with that company.[4] Disclosure frameworks should be flexible and include express consideration of materiality[5] to ensure compliance burdens are not disproportionate to the risks presented.[6] This is even more important for smaller firms who may have less ability to absorb compliance costs.[7]

- Data Modeling, Metrics and Definitions and Sequencing

Meaningful disclosure frameworks cannot get ahead of data, definitions and expertise that may not yet be available. To this end, the SEC should work on foundational items that would enhance the ability of companies to disclose climate related information in a consistent manner. Such work should include efforts to establish common definitions for key terms and concepts and a taxonomy to support efforts to assess investments from a climate change perspective.[8] This is of particular importance to ACLI members because, as long-term investors and risk managers, ACLI members will need to rely on third party data sources to facilitate their ability to broaden the information they

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[4] Climate risks present differently from company to company. For example, insurance companies must manage risk on both the asset and liability side. Three broad risk categories for the insurance sector are:

1) Liability Risk: a) the risk of climate-related claims being made under insurance policies (generally, a property & casualty insurance sector risk issue); and b) the risk of direct action against insurance companies for climate-related claims;
2) Physical Risk: risk to insurance company assets associated with short term (e.g extreme weather) and long term (e.g. changing weather patterns) climate-related changes over time.
3) Transition Risk: risk to insurance companies from climate-related economic changes, initiated by public policy, regulatory and societal changes.

[5] ACLI members acknowledge that the SEC does have rules with an embedded materiality threshold (See 7 CFR § 240.10b-5; 17 CFR § 240.14a-9; see also 17 CFR § 240.12b-20) and rules that do not have such a threshold (See 15 U.S.C. § 78m(a) ("Every issuer of a security registered pursuant to section 12 of this title shall file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate for the proper protection of investors and to insure fair dealing in the security"). The underlying policy reasons for a climate risk framework support the utilization by the SEC of a materiality standard.

[6] It is important to note that the life insurance industry is comprised of small, mid-sized, and large companies. In 2019, almost half of U.S. life insurers (49%) held less than $250 million in total assets, and 63 percent held less than $1 billion in total assets.

[7] Life insurance companies differ in terms of size, business model, long-term portfolio, geographic footprint and intersection with investors. For example, in 2019, almost half of U.S. life insurers (49%) held less than $250 million in total assets, and 63 percent held less than $1 billion in total assets. Additionally, in 2019 life insurers were domiciled in 45 states and sold products in all 50. However, in 2019, out of 761 life insurers, 284 companies were licensed to do business in ten or fewer states, and 363 in thirty or fewer states.

[8] As is noted below, definitions and taxonomies underpinning any framework adopted by the SEC must first and foremost be fit for the US financial system and should leverage existing frameworks that companies have already began to leverage for sustainability reporting purposes. See, for example, Footnote 12, below.

disclose regarding their exposure to climate related risks. In light of this landscape, reporting frameworks and any information that is furnished to the SEC needs to be phased in over time.

ACLI members encourage the SEC to provide companies flexibility in how to disclose information to consumers and investors. The risks presented and the needs of investors and other stakeholders will vary by company, based on a number of factors, such as size, business model, long-term portfolio, geographic footprint and intersection with investors.

- Safe Harbor

As foundational elements are established and companies' access to necessary data and understanding of how climate change may impact their business over time improves, so too will the breadth and quality of information they are positioned to disclose to investors and other stakeholders. As disclosures are being implemented and evolving, companies and the regulatory community will have to engage with investors and other stakeholders to understand to what extent such disclosure regime is functioning in practice.

The SEC needs to account for this expected evolution through the inclusion of a safe harbor that shields companies from potential legal liability. This will enable a new framework to be implemented by companies in good faith. Safe harbor rules should initially cover required and supplemental disclosures, historical information and forward-looking statements.[9] As data quality and the disclosure capabilities of companies improve over time, the safe harbor could be re-assessed.

- Any Disclosure Framework Must Recognize Differences Across Industries

Life insurers are in the business of identifying and managing long-term risk. They issue long-term liabilities (life insurance, annuities, long-term care insurance, etc.) which are closely matched with long-term assets such as corporate bonds, government bonds and mortgages. In fact, life insurers hold 57 percent of their total assets and 80 percent of general account assets in long-term bonds, mortgages, or real estate.[10]

As large institutional investors in public and private securities, the ability of the life insurance sector to disclose climate related information will be dependent upon the extent of information that can be obtained from and about the companies in which it invests. In addition, exposure to the risks associated with climate change will also vary.[11] For example, the impacts of climate change for the life insurance sector in the near to medium term are largely expected to be related to exposure

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[9] Such safe harbors should provide relief from both private litigation and enforcement actions.
[10] At time of purchase, 73 percent of bonds held in the general account had a maturity of 10 or more years, and 40 percent had a maturity of 20 or more years. See American Council of Life Insurers, Life Insurers Fact Book, 2020. https://www.acli.com/Posting/RP20-010.
[11] Climate risks present in the financial sector differently than they do on other sectors. While the financial sector is exposed to "physical risks", those risks are different that the exposure faced by, for example, the energy sector. A principles-based framework should be flexible enough for companies to consider the risks presented by the company, its size, business model, geographic footprint and intersection with investors.

through investments while property & casualty insurance companies may face exposure through both investments and insurance coverages offered.

Disclosure frameworks must be flexible enough to recognize and account for these differences while supporting efforts to promote consistency and comparability within an industry and sector.

- The US Must be Engaged Internationally

The ACLI and its members encourage the SEC to engage with the regulatory community broadly in the US and internationally.

Reporting standards are being developed rapidly by multiple organizations around the world.[12] Any framework adopted by the SEC must first and foremost be fit for the US financial system. The SEC should seek to leverage existing frameworks that companies in the financial services sector have already began to leverage for sustainability reporting purposes. Further, financial regulators from the US generally and from the SEC specifically must engage with their international counterparts to ensure that any global standards developed or embraced sufficiently account for the specificities of the US market and its existing state and federal regulatory structures. This will enhance the efficacy of disclosures to investors while at the same time minimizing the risk and costs of multiple, inconsistent reporting structures.

Conclusion

We appreciate that it will be challenging for the SEC to build a fit for purpose disclosure framework that identifies information investors need and provides it to them in a way that utilizes material data and contains decision-useful information. As the SEC continues to protect investors, maintain fair, orderly, and efficient markets and facilitate capital formation, the ACLI and its members stand ready to assist the SEC and we look forward to ongoing engagement.

Very truly yours,

Patrick C. Reeder
Deputy General Counsel

James Szostek
Deputy, Retirement Security

cc: Honorable Allison Herren Lee
Kristina Wyatt, Senior Special Counsel

[12] ACLI and its members encourage the SEC to consider and draw on other standards and frameworks, such as the Task Force on Climate-Related Financial Disclosures (TCFD), the Sustainability Accounting Standards Board (SASB) and the IFRS International Sustainability Standards Board Foundation (IFRS). Please also note that the National Association of Insurance Commissioners (NAIC) has a climate reporting structure has a track record of more than10 years and has started to leverage the TCFD framework. Standard setters and NGOs such as the International Association of Insurance Supervisors (IAIS), the UN Principles for Responsible Investment (UNPRI) and the Sustainable Insurance Forum (SIF) are very engaged on this topic.