BEFORE THE UNITED STATES
SECURITIES EXCHANGE COMMISSION

In the Matter of:	)	
Enhancement and Standardization of Climate-Related Disclosures for Investors	)	Docket No. SEC-2022-0494-0001

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INTRODUCTION

I am pleased to submit these comments on the proposed rulemaking by the Securities and Exchange Commission (SEC) regarding the Enhancement and Standardization of Climate-Related Disclosures for Investors. As an investor and participant in the stock market, standardized disclosures are important because they allow for informed and educated investment decisions. With the growing importance of climate-related matters and potential for substantial impacts to our planet, I believe that climate-related information should be provided to investors to aid in risk assessment and to provide transparency. With many other disclosure requirements already in place, it makes sense to add climate disclosures to this list, especially since there is currently no standard and companies can make unsubstantiated claims about climate goals without providing information on how they plan to achieve those goals. Furthermore, I believe this proposed rule has broad applicability to most Americans, as the majority invest in the public markets in some capacity through a 401k, IRA, etc. Thus, the rule is in the public interest and would be beneficial to investors.

While I support the SEC in its initiative to standardize and require climate-related disclosures, I offer the following comments to both strengthen and improve the fairness of the rule as applied to all relevant parties:

1. The materiality standard should be further explained to ensure standardization across registrants.
2. The “short”, “medium”, and “long term” impacts on business should remain undefined with more rigid standards for registrants most susceptible to climate-related risks.
3. GHG emission disclosures should be modified to better inform the investor.
4. The one percent financial impact metric disclosure rule should be tailored according to company size instead of applied broadly to all companies.

COMMENTS AND RECOMMENDATIONS

I. The materiality standard should be further explained to ensure standardization across registrants.

In accordance with the proposed rule and Supreme Court precedent, a registrant would be required to disclose whether any climate-related risk is reasonably likely to have a material impact on the registrant, including its business or consolidated financial statements. While on its face this appears to be an objective standard, I believe that there is a risk in not further defining “material” in terms of the required climate disclosures.

First of all, materiality means something different for each investor. Since investors are not a single unified group with a common consensus, it will be difficult to consistently determine what climate-related information is material. Some investors may value climate-related information significantly and factor it into a financial risk assessment, while some use it as a moral determination on whether to invest in a certain company. Others may simply glance over the climate disclosures and take interest in other matters of the business. Additionally, registrants have an incentive to err on the side of not disclosing unfavorable information and making any close calls on materiality in their favor. This could lead to a discrepancy between companies in terms of disclosures, as well as an increased chance for litigation and overall inefficiency. For these reasons, I believe the SEC should provide more guidance on this matter.

While I do acknowledge that a flexible and fact-specific standard is likely the best method for assessing what information should be disclosed, I believe that providing guidelines specific to each industry would be beneficial. Without this, the proposed rule may fall short of achieving the SEC's goal of standardizing climate-disclosures. To accomplish this, I would recommend that that the SEC publish either minimum required disclosures for each industry, or endorse a standard like the Task Force on Climate-related Financial Disclosures (TCFD) in this specific regard.[1] The TCFD currently gives general guidance on what companies should disclose for climate-related financial matters, with supplemental guidance for certain sectors that will potentially be most affected by climate change.[2] These sectors include energy, transportation, materials and buildings, and agriculture, food, and forest products.[3]

With the implementation of additional guidance, climate disclosures will be more consistent over time and comparable to other companies within a sector. This is because the burden of deciding what is material would be shifted more towards the SEC, rather than lying with the individual registrant. While there would still be some leeway for companies to adjust what is disclosed to their own situation, both the company and the investor would benefit. The company itself would know to a greater certainty what disclosures are required and thus could be

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[1] See Recommendations and Guidance, Task Force on Climate-Related Financial Disclosures (Apr. 30, 2022), https://assets.bbhub.io/company/sites/60/2021/10/FINAL-2017-TCFD-Report.pdf [hereinafter Task Force].
[2] Id.
[3] Id.

more efficient when gathering data for disclosures and reduce its potential for litigation. As an incidental benefit, companies would be encouraged to make sustainable choices because they know that they are not able to find loopholes in the disclosure rules. From the investor's standpoint, they will benefit because companies will be directly comparable to each other in terms of climate disclosures. With the current rule, investors may be left in the dark if specific climate-related financial matters for a company do not meet the "material" threshold and are not disclosed. While companies in theory would be disclosing all matters that an investor might deem important, this standard seemingly gives too much leeway to registrants and therefore more guidance should be given by the SEC to ensure truly comparable and standardized disclosures.

II. The "short", "medium", and "long term" impacts on business should remain undefined with more rigid standards for registrants most susceptible to climate-related risks.

As the rule currently stands, registrants are required to disclose whether any climate-related risk is reasonably likely to have a material impact on a registrant which may manifest over the short, medium, and long term. The Commission has not proposed a specific range of years to define short, medium, and long-term time horizons in order to allow flexibility for a registrant to select time horizons that are most appropriate to its particular circumstances. In this regard, I believe that the three different time horizons are appropriate and helpful for investors, however there should be some further requirements to ensure standardization can be achieved.

I would recommend that the Commission impose further requirements on registrants who participate in an industry that is more likely to be impacted by climate change. Over the long term, these industries that are influenced to a greater degree by climate change will have to evolve to keep pace with the changing times and thus it is important for an investor to know how the registrants participating in these industries plan to adapt. For this reason, I urge the

Commission to implement a requirement that these industries address climate-related risks further out into the future, while other companies less likely to be influenced by climate change are free to structure their disclosures however they see fit. This would benefit the investor seeking to make long-term investments in companies susceptible to climate-change impacts.

This change could reasonably manifest itself as a requirement that registrants participating in an industry most affected by climate change must discuss climate-related risks that are reasonably likely to have a material impact on the registrant within the next 30 years at a minimum, or whichever time period is deemed appropriate. To determine which industries have the highest likelihood of climate-related financial impacts, we can look to the TCFD's categorization. As previously mentioned, the TCFD recognizes 4 non-financial sectors and industries that fit in this category: energy, transportation, materials and buildings, and agriculture, food, and forest products.[4] This recommendation aligns with the TCFD because it provides general guidance for all sectors and supplemental guidance for these sectors with more important climate-related considerations.[5] Thus, having more rigid requirements for industries more susceptible to climate-related risks has successfully been done before and is appropriate in this case.

III. GHG emission disclosures should be modified to better inform the investor.

The current proposed rule will require a registrant to disclose its greenhouse gas (GHG) emissions, including Scope 1, 2, and 3 emissions. This information is important and relevant to investors because GHG emissions can influence a company's future in many ways, including the company's access to financing and carbon footprint. As companies make promises of emissions reductions or reaching net-zero, it is important to have this information available to substantiate

[4] Task Force, supra note 1.
[5] See id.

claims and provide transparency to current or potential investors. An incidental benefit to the public arising from this change is that companies will become more transparent and consumers can make better informed decisions about the companies that they choose to support.

While I support GHG emissions disclosures, I believe that the proposed rule should account for potential issues with Scope 3 emissions. Scope 3 emissions typically result from the activities of third parties in a registrant's value chain, both upstream and downstream, and it is practically impossible to verify the accuracy of this data. Since the registrant cannot directly measure these emissions, they rely heavily on estimates of how consumers will use the product and can be largely speculative. While there are standardized calculations and the field is advancing, there still is significant room for error. Coupled with the fact that Scope 3 emissions are the largest source of emissions, a company may be drastically misrepresented if these calculations are inaccurate.[6]

As a result, disclosure of Scope 3 emissions can be detrimental to both the registrant and the investor. For registrants, they are required to disclose emissions data that they cannot verify or calculate with greater accuracy. On the other hand, investors gain access to information that is potentially unreliable and could skew their decision making and risk analysis significantly. Acknowledging these limitations, the Commission has provided four accommodations for Scope 3 emissions: (1) they are only required to be disclosed when material or if the registrant has a GHG emissions reduction goals that includes Scope 3 emissions, (2) a safe harbor from liability under Federal securities laws, (3) an exemption for smaller reporting companies, and (4) a delayed compliance date.

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[6] Relationship to the GHG Protocol Corporate Standard, Corporate Value Chain (Scope 3) Accounting and Reporting Standard (Apr. 30, 2022), https://ghgprotocol.org/sites/default/files/standards/Corporate-Value-Chain-Accounting-Reporing-Standard_041613_2.pdf.

While I believe that these accommodations are appropriate and will ultimately prove helpful to registrants, additional measures can be taken to improve the effectiveness of GHG emissions disclosures. In particular, the safe harbor provision simply protects the registrant from liability, but does nothing to help the investor who may be led astray by inaccurate information. While the investor is gaining access to more information, more is not necessarily better in this case because the information may have inaccuracies. Additionally, the registrant simply needs to have a "reasonable basis" for its calculation of Scope 3 emissions and do so in good-faith, which is a low standard to satisfy and allow for considerable leniency. Balancing the shortcomings of Scope 3 GHG emissions with the fact that they are the largest source of GHG emissions for a given company, I would propose that the SEC require registrants to include some sort of warning or other notification to investors that Scope 3 emissions data has a potentially high margin of error and is the result of calculations based on many unverifiable assumptions, rather than actual measurements. Thus, the investor who may not completely understand what Scope 3 emissions are will have access to this data, with the caveat that it may not be entirely accurate. This allows investors to compare emissions between companies, while being fully educated as to the level of validity of the data presented. Accordingly, the investor will benefit and the goal of standardization can be met.

Further, since Scope 1 and 2 emissions are verifiable and more accurate, I believe that the Commission should impose higher standards for these emissions in the form of assurances. While the proposed rule already requires assurances over Scope 1 and 2 emissions disclosures for large accelerated filers and accelerated filers, I believe that the Commission should move forth with its suggestion to require these registrants to obtain additional assurances on the effectiveness of controls over GHG emissions. This would further strengthen the validity of the data available and ensure that the data that is actually measurable is completely accurate and can be relied upon by investors.

In contrast to the Scope 3 disclosures, both registrants and investors will benefit from this change to the rule. Registrants would benefit because they will be able to more accurately represent their company and will be subjected to fewer potential lawsuits because they will have verified data. The investor will benefit because they will have access to accurate and standardized data that can be relied upon for risk analyses and other investment decisions. While registrants may argue that this will impose an undue burden, the Commission points out that a majority of the S&P 500 companies have some form of assurance or verification over climate-related metrics already in place[7], and 80% of S&P 100 companies currently subject certain items of their ESG information to some type of third-party assurance or verification.[8] Thus, most companies will not be seriously burdened by this additional requirement, and the companies not currently providing assurances would be likely to follow suit of the majority sometime in the future.

IV. The 1% financial impact metric disclosure rule should be tailored according to company size instead of applied broadly to all companies.

With the current proposed rule, a registrant would be required to disclose the financial impacts of severe weather events, other natural conditions, transition activities, and identified climate-related risks on the consolidated financial statements when the aggregated impact is greater than or equal to one percent of the total line item for the fiscal year. The Commission states that this rule facilitates comparability, consistency, and clarity when determining which information must be disclosed.

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[7] Enhancement and Standardization of Climate-Related Disclosures for Investors, 87 Fed. Reg. 21334, 21394 (proposed Apr. 11, 2022).
[8] Id. at 21393.

I recommend that the rule should be altered to best ensure fairness between small and large companies. In its current state, this rule would require smaller companies to disclose more information while larger companies are largely sheltered because climate-impacts may rarely meet the one percent threshold. Considering that single line items can differ in orders of multiple magnitudes between companies, similar climate-related risks for smaller companies would more frequently satisfy the disclosure threshold compared to much larger companies. To accommodate for this, I would advise the Commission to consider lowering the threshold for disclosure when line items exceed a certain dollar amount. For instance, when the amount exceeds $100 million, the threshold for disclosure could be reduced to 0.75%.

This recommendation is inspired by systems and frameworks that are already in place and proven to be effective. First, I drew parallels between my tiered suggestion and federal income tax bracketing. With income taxes in general, we see a tiered system that is relatively straightforward and easy to understand. As one makes more money, they are required to pay more in taxes proportional to the income. Here, the proposed rule should have a tiered system for a similar reason: fairness. A tiered system would promote equitable application of the financial impact metric disclosure requirements and ensure that smaller companies are not unnecessarily burdened while larger companies are hardly affected. Additionally, this recommendation is grounded in the fact that the TFCD recommends certain organizations that have more than one billion U.S. dollar equivalent in annual revenue to disclose information that is not deemed material and otherwise not typically included in financial filings[9]. Thus, the TCFD's recommendation is analogous to my proposal because larger companies should consider disclosing additional information to ensure investors have adequate information available to

[9] Task Force, supra note 1.

them. Lastly, the SASB identifies 77 industry-specific standards and provides a minimal set of financially material sustainability topics and their associated metrics for the typical company in an industry.[10] With such a high level of individualization, it is clear that other authorities that have addressed climate disclosures find a need for something more than a single bright line standard applicable to all companies. In this case, it appears that the Commission is sacrificing fairness and equitable application of the law for ease of application. I believe that this is problematic and will result in an unfair burdening of smaller companies and that the bright-line standard should be modified into a tiered system.

CONCLUSION

I believe that, as a whole, the proposed rule for the enhancement and standardization of climate-related disclosures is in the best interest of investors and serves a greatly beneficial purpose. It is clear that climate-related disclosures are currently insufficient and there is a need for standardization. However, with the many nuances of this proposed rule, I suggest a few changes to improve the rule's effectiveness and to best insure that investors can take full advantage of these important disclosures. I urge the Commission to consider my recommendations about the materiality standard, the time horizons for registrants most susceptible to climate-related risks, GHG emissions, and the one percent financial impact metric disclosure rule when preparing the final draft of the proposed rule.

I hope that these comments are able to assist the Commission in revising the proposed rule and aid in its mission to inform and protect investors.

[10] Standards overview, Value Reporting Foundation: SASB Standards (Apr. 30, 2022), http://www.sasb.org/standards.