Greater North Dakota Chamber

June 8, 2022

Vanessa A. Countryman
Secretary
US Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090

RE: Comments of the Greater North Dakota Chamber on the Proposed Enhancement and Standardization of Climate-Related Disclosures for Investors (Release Nos. 33-11042; 34-94478; File No. S7-10-22)

Dear Ms. Countryman:

The Greater North Dakota Chamber respectfully submits these comments in response to the U.S. Securities and Exchange Commission's ("SEC") proposal to amend its rules under the Securities Act of 1933 and Securities Exchange Act of 1934 that would require registrants to provide certain climate-related information in their registration statements and annual reports (the "Proposed Rule").[1] Businesses in North Dakota – both large and small – play an important role in creating the innovative solutions to reduce greenhouse gases across our state and our nation.

The Greater North Dakota Chamber believes that policy solutions addressing climate change should reduce emissions at the pace of innovation. North Dakota is a leader in energy production, ranking 6th in the nation for overall energy production. However, in 2019 North Dakota ranked only 34th in total carbon dioxide emissions. What's happening in North Dakota is an excellent example of what can be accomplished when government and industry work together to foster innovation. In 2021, North Dakota approved the first Class VI carbon capture and storage project under state primacy in the nation. The Proposed Rule should serve the best interests of investors and the U.S. capital markets without impeding the progress the business community has already made – and continues to make – in providing material climate-related information to investors and in developing strategies and technologies to reduce climate risk and its adverse impacts on our society and around the globe. We are concerned the Proposed Rule does not meet these goals and offers the following recommendations to align the proposal more practically with the needs of the North Dakota business community.

The following highlight several key issues for your consideration:

- **Adhere to the SEC's traditional and longstanding concept of materiality.** We believe the SEC should adhere to its traditional and longstanding concept on materiality because it continues to serve as a foundation upon which to ground disclosure requirements and prevents disclosure of an "avalanche" of information that can disadvantage investors. Adhering to its traditional and longstanding concept of materiality more closely aligns the

[1] The Enhancement and Standardization of Climate-Related Disclosures for Investors (Release Nos. 33-11042; 34-94478; File No. S7-10-22), 87 Fed. Reg. 21,334 (Apr. 11, 2022).

SEC with the legislative purpose for which it was created and allows more appropriate agencies of government to take the lead on other valid climate-related goals and objectives.[2]

- **Provide an approach that allows for flexibility across industries**. A more streamlined, principles-based approach qualified by traditional principles of materiality will produce a better outcome for the registrants that must prepare these disclosures and the investors who will consume them.
- **Provide flexibility in initial compliance and reporting timing.** The SEC should, in any final rules, extend the initial compliance deadlines by two years to provide the issuer community sufficient time to develop systems, controls, and audit methodologies for any new disclosures that the SEC ultimately adopts. The SEC should also consider linking emissions disclosure requirements in the Proposed Rule with current EPA requirements and timelines.
- **Align reporting with regular company sustainability reports.** Rather than invent an entirely new reporting regime that is at times duplicative of what many companies are already reporting, the SEC could just permit companies to furnish their current sustainability reports on a discrete form.
- **Offer initial voluntary Scope 3 emissions reporting**. The SEC should not mandate disclosure of Scope 3 emissions until it can provide adequate guidance for businesses to determine whether their Scope 3 emissions are material; prevent the potential for multiple-counting of Scope 3 emissions; and better protect businesses from liability created by requirements in the Proposed Rule that would compel businesses—for purposes of attempting to calculate their Scope 3 emissions—to rely upon information from other entities over which they have neither ownership nor control.
- **Expand disclosure safe harbor.** The Commission should extend a safe harbor to cover any forward-looking statements related to emissions, targets, or climate goals that could expose companies to liability and ultimately prevent the very disclosure the SEC is seeking.

The Proposed Rule would impose a vast and costly new reporting regime on public companies, which could ultimately impede North Dakota businesses' ability to innovate, grow, and create jobs in markets that are already hindered by inflation and supply chain issues.

The Greater North Dakota Chamber and our members are committed to working constructively with the SEC and all stakeholders and urge the SEC to make the changes needed to develop a workable and flexible reporting approach while not unduly burdening public companies.

Sincerely,

Arik Spencer, President & CEO
Greater North Dakota Chamber

[2]The U.S. Chamber addressed many of these issues in its 2017 white paper, *Essential Information: Modernizing our Corporate Disclosure System.*