We Mean Business Coalition's feedback to US SEC: The Enhancement and Standardization of Climate-Related Disclosures for Investors

[Proposed rule: The Enhancement and Standardization of Climate-Related Disclosures for Investors (sec.gov)](https://www.sec.gov)

We Mean Business Coalition works with more than 7,500 companies around the world committed to the highest standards of climate leadership. On their behalf, we call on the US SEC to allow companies to use comparable reporting standards such as ISSB's.

To deliver on the Paris Agreement, The Glasgow Climate Pact and keep alive the chance of limiting global temperature rise to 1.5ºC, we need a new global baseline reporting standard for sustainability disclosures. Transparent, consistent, and robust reporting is essential for businesses to demonstrate their progress in cutting emissions wherever they are based; for responsible investors to know where to direct their capital and for society to understand how quickly progress is being made towards science-based climate goals.

We therefore recognize and welcome the pioneering legislative and standard-setting efforts by the US Securities and Exchange Commission (SEC) and the International Financial Reporting Standards (IFRS) Foundation's International Sustainability Standards Board (ISSB).

In our view, greater convergence between the initiatives is both possible and vital. Even small misalignments around terminology, definitions, and concepts in the draft versions of the standards and legislation risk undermining their collective impact. Our overall ambition should be to ensure companies and their investors get the most efficient solutions, without the need for additional reporting to a multitude of different standards. Comparability across jurisdictions will:

- Offer the most cost-efficient solution for companies committed to transparent and robust reporting and minimize the opportunities for greenwashing.
- Provide the clearest possible picture to investors seeking the world's most sustainable companies across markets and geographies.
- Deliver the greatest degree of accountability for corporate climate reporting, which is essential to secure a just transition to a sustainable future

We strongly support the intent of the US SEC in its proposed rule, "The Enhancement and Standardization of Climate-Related Disclosures for Investors". To ensure global comparability, cost efficiency and greatest impact, we call on the SEC to ensure its final rules are closely aligned with, and comparable to, the ISSB standard. We also call on the SEC to ensure issuers can use ISSB disclosures to meet SEC reporting obligations, where these disclosures made under ISSB finalized standards meet the SEC final rule requirements

Below is our feedback on a selection of what we consider the most important of the 201 questions

Question 3 - TCFD

Should we model the Commission's climate-related disclosure framework in part on the framework recommended by the TCFD, as proposed? Would alignment with the TCFD help elicit climate-related disclosures that are consistent, comparable, and reliable for investors? Would alignment with the TCFD framework help mitigate the reporting burden for issuers and facilitate understanding of climate-related information by investors because the framework is widely used by companies in the United States and around the world? Are there aspects of the TCFD framework that we should not adopt? Should we instead adopt rules that are based on a different third-party framework? If so, which framework? Should we base the rules on something other than an existing third-party framework?

We strongly support the SEC's proposal to base its disclosure framework on the TCFD, which is a robust framework already adopted by many companies around the world. Alignment with TCFD would help to ensure that issuers can build on existing reporting, rather than starting again under a new framework. We believe it is important that the SEC framework incorporates all aspects of TCFD, including Scope 3 emissions.

The TCFD framework was built with strong input from both investors and preparers. We believe the TCFD to be a decision-useful tool for investors, and that it is also relevant and feasible for preparers.

As the SEC states in its discussion for this proposal, the TCFD is widely adopted globally, by investors, preparers, and regulators. It has become de facto a global baseline standard for reporting on climate-related risks and opportunities. Alignment with the TCFD is likely to reduce the reporting burden and enable consistent, comparable information for investors.

We would further encourage the SEC to align its framework with the emerging climate reporting standard being developed by the International Sustainability Standards Board. Since the ISSB climate reporting standard will likewise be heavily informed by TCFD, we believe that the simplest path to standard harmonization around the world would be for the SEC to adopt the ISSB standard as its baseline.

Question 15 – Climate risk metrics

Are there other specific metrics that would provide investors with a better understanding of the physical and transition risks facing registrants? How would investors benefit from the disclosure of any additional metrics that would not necessarily be disclosed or disclosed in a consistent manner by the proposed climate risk disclosures? What, if any, additional burdens would registrants face if they were required to disclose additional climate risk metrics?

According to a recent paper made by The UN Statistics Division, International Energy Agency (IEA) and researchers from Columbia University and the Potsdam Institute for Climate Impact Studies in collaboration with FAO, deforestation was the largest source of GHG emissions, followed by livestock manure, household consumption, food waste disposal, fossil fuels used on farms and the food retail sector. For this reason, SEC should develop specific guidance and climate disclosure requirements for food, land, and agriculture (FLAG) companies to enhance the investors understanding of the physical and transition risks they face with these companies.

We suggest adding at least the following metrics for FLAG companies:

- Mandatory scope 3 emissions
- Percentage of a company's revenue dependent on high deforestation risk commodities

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Question 18 – Opportunities
(see also question 28, 31, 33, 41, 49, 51 and 62)

Should we define climate-related opportunities as proposed? Should we permit a registrant, at its option, to disclose information about any climate-related opportunities that it is pursuing, such as the actual or potential impacts of those opportunities on the registrant, including its business or consolidated financial statements, as proposed? Should we specifically require a registrant to provide disclosure about any climate-related opportunities that have materially impacted or are reasonably likely to impact materially the registrant, including its business or consolidated financial statements? Is there a risk that the disclosure of climate-related opportunities could be misleading and lead to "greenwashing"? If so, how should this risk be addressed?

In our view, the best way to avoid greenwashing is to align, to the greatest extent possible, with the TCFD and ISSB frameworks. As companies are encouraged to report using the same terminology and definitions, this will result in fewer loopholes or opportunities to greenwash.

For a company to report their climate resilience against the TCFD and ISSB frameworks and to set SBTs in a credible way, they are required to provide forward looking statements on their climate related risks and opportunities.

Material climate risk should be disclosed just as any other material risk. But climate related opportunity-reporting is different. Risk of civil litigation from private litigants and the SEC under the U.S. securities' disclosure regime, along with the potential for investigation, enforcement, and liability, could result in companies being more cautious in their disclosures and supplying fewer and less informative climate disclosures. In any event, like other forward-looking statements, forward-looking climate disclosures made in good faith should not subject a public company to liability. The requested plans and resilience testing will most often also rely on input information from third-party created climate scenarios, where verifiability for the company might be limited.

Permission for companies to provide forward-looking statements regarding the business opportunities that climate change presents will also make it easier for dual listed companies, as they will not face the unfortunate situation of having to comply with the requirements of two conflicting jurisdictions. For instance, the EU or UK will most likely adopt climate change opportunity-reporting to be mandatory.

We recognize the SEC's mission of investor protection but would also point out that investors have a deep interest in understanding the resilience of companies with regards to climate change. This is especially important if the forward-looking statements are material and more likely than not to happen. In these circumstances the outcome of the scenario-work should also impact the financial reporting. Only when a company is planning to enter a completely unrelated market would there be a concern. We are therefore in favor of mandatory disclosure of climate-related opportunities, except when such opportunities are unrelated to the core/existing line of business.

We therefore support that forward-looking climate-related disclosures, especially with regards to opportunities within core/existing line of business, are subject to the general safe harbor protections under the Private Securities Litigation Reform Act (PLSRA), assuming that all the required conditions under the PLSRA are met by the reporting company.

Question 93 – Usefulness of GHG reporting

How would investors use GHG emissions disclosures to inform their investment and voting decisions? How would such disclosures provide insight into a registrant's financial condition, changes in financial condition, and results of operations? How would such disclosures help investors evaluate an issuer's climate risk-related exposure? Would such disclosures enable investors to better assess physical risks associated with climate-related events, transition risks, or both types of risks?

In a world that needs to move to net zero, disclosure of a company's GHG emission levels provide an indication of the extent to which that company is ready to make the transition to net zero or is on the appropriate path towards the net zero objective. GHG emissions levels provide insight into risk exposure with respect to physical, transition and even reputational risk.

Particularly when compared to other companies in the same or related industries, such information provides investors with insight into the climate resilience and climate-related financial risks.

GHG emissions alone do not inform the financial condition and/or results of operations. Rather, they serve as future-oriented data that can help investors understand to what extent the future financial condition may change. GHG reporting is useful for investors when combined with the financial data, when comparing for instance the CO2e (scope 1+2) emissions with the produced quantities or revenue, the investor can identify the companies that have been able to switch to less CO2-polluting processes/assets – either over time and/or compared with the peers. Thus, the investor can for instance in a momentum analysis of peers identify the company that has progressed the best and thus is most unlikely to be hit by stranded assets or CO2e taxes.

Thus, GHG reporting is useful for the investors since the GHG hold predictive value of the future value of the company.

Question 115 – GHG Accounting principles

Should we require a registrant to disclose the methodology, significant inputs, and significant assumptions used to calculate its GHG emissions metrics, as proposed? Should we require a registrant to use a particular methodology for determining its GHG emission metrics? If so, should the required methodology be pursuant to the GHG Protocol's Corporate Accounting and Reporting Standard and related standards and guidance? Is there another methodology that we should require a registrant to follow when determining its GHG emissions? Should we base our climate disclosure rules on certain concepts developed by the GHG Protocol without requiring a registrant to follow the GHG Protocol in all respects, as proposed? Would this provide flexibility for registrants to choose certain methods and approaches in connection with GHG emissions determination that meet the particular circumstances of their industry or business or that emerge along with developments in GHG emissions methodology as long as they are transparent about the methods and underlying assumptions used? Are there adjustments that should be made to the proposed methodology disclosure requirements that would provide flexibility for registrants while providing sufficient comparability for investors?

Since we mandate the GHG emissions to be reported, we assume the GHG emission data to be important for the investor. And just as it is imperative for the investor to evaluate the financial accounting principles to be able to evaluate the financial data, so it is also important that the GHG accounting principles are disclosed, whereby the investor can evaluate the GHG data.

Accounting for GHG emission metrics is, by definition, subject to assumptions, tailored methodologies, and approaches. Such accounting can be very detailed and technical. Still, in light of desired consistency and comparability for investors' evaluations, it will be critical to understand the methodology, inputs and assumptions at a summarized level. We would not see any objection to require such information from registrants. In addition to consistency and comparability it would also provide greater transparency and openness.

The GHG Protocol is an internationally widely used approach for GHG emissions accounting. We believe that the SEC has a unique opportunity to ensure and support such global harmonization, as far as possible, by specifying that the latest version of the GHG Protocol should be used to define GHG scope 1, 2 and 3. This distinction is well thought of and globally used. Consistency between SEC disclosure requirements and the existing GHG Protocol (and future versions) is crucial to reduce the reporting burden on filers.

But GHG Protocol should not be used to determine data boundaries, as none of the 3 boundary-definitions in the GHG Protocol are aligned with the financial boundaries in US or elsewhere. Data boundaries for GHG reporting scope 1 and 2 (and consequently for scope 3) must for logical reasons be equal to the financial boundaries – otherwise integrated analyses incl. use of carbon intensity KPIs against for instance revenue, production quantities, cost, or cash flow, as suggested in the legislation draft, will not be useful at all, since the nominator and denominator must of course refer to the same data boundaries to make sense (see more in our reply to boundaries, question 116).

Even the fact that there are 3 different boundary-definitions within the GHG Protocol does not support comparability, therefore this part of the GHG Protocol will have to be updated, before we can fully support the adaptation of the GHG Protocol in full. We understand, the GHG Protocol currently is being updated, which we strongly support, and hope the boundaries definition will be updated as well, whereby SEC can make a full reference to the GHG Protocol.

Thus, in summary, we support the use of the internationally widely adopted approach of reporting GHG in scope 1,2, and 3 according to the GHG Protocol. But we do not support to reuse the boundary-definitions in the current GHG Protocol.

Question 116 – Boundaries
(see also 119, 120 and 121)

Should we require a registrant to disclose the organizational boundaries used to calculate its GHG emissions, as proposed? Should we require a registrant to determine its organizational boundaries using the same scope of entities, operations, assets, and other holdings within its business organization as that used in its consolidated financial statements, as proposed? Would prescribing this method of determining organizational boundaries avoid potential investor confusion about the reporting scope used in determining a registrant's GHG emissions and the reporting scope used for the financial statement metrics, which are included in the financial statements? Would prescribing this method of determining organizational boundaries result in more robust guidance for registrants and enhanced comparability for investors? If, as proposed, the organizational boundaries must be consistent with the scope of the registrant's consolidated financial statements, would requiring separate disclosure of the organizational boundaries be redundant or otherwise unnecessary?

As mentioned under question 115, data boundaries for GHG reporting scope 1 and 2 (and consequently for scope 3) must for logical reasons be equal to the financial boundaries – otherwise integrated analyses incl. use of carbon intensity KPIs against for instance revenue, production quantities, cost, or cash flow will not be useful at all, since the nominator and denominator must of course refer to the same data boundaries to make sense.

Apart from using the regular financial consolidation rules, using financial boundaries also means that the financial rules for leasing (ASC 842) should be prolonged and re-used when reporting GHG scope 1, 2 – and consequentially on scope 3 – regardless of operating roles. This means:

- Consumption, combustions, and emissions from owned and used assets must be included in scope 1 and 2
- Consumption, combustions, and emissions from leased and used assets must be included in scope 1 and 2
- Consumption, combustions, and emissions from owned/leased assets which are leased out/subleased to others' use, must not be included in scope 1 and 2, but instead in scope 3

The financial rules will also help determine whether a lease is truly a lease – or it is sale of services; and thus, whether the emissions are to be included in scope1, 2, or 3.

Using financial boundaries will also enhance the companies' ability to re-use their existing consolidation systems for GHG data, which will reduce cost and time spend by the companies on GHG reporting. Using financial boundaries will also make it possible for audit/assurance to be done on reasonable level, as it will be possible to assess completeness of the GHG reporting.

Using financial boundaries will also define, what is to be allocated to scope 3; namely all that is not scope 1 and 2. Scope 3 emissions account for aspects of a product's lifecycle which a manufacturing company is not directly financially responsible for – such as the disposal or recycling of the end-product, employee commuting, processing of sold products, and other categories.

Question 124 – Emission factors

Should we require a registrant to disclose the methodology for calculating the GHG emissions, including any emission factors used and the source of the emission factors, as proposed? Should we require a registrant to use a particular set of emission factors, such as those provided by the EPA or the GHG Protocol?

Usually, GHG emissions are calculated indirectly via use of conversion factors for energy consumption and other GHG gases. There are many emissions schemes to choose from. The principles for choosing among the schemes should be:

- Newest schemes are preferred.
- Internationally recognized generic schemes are preferred.
- A scheme must always be used in full. Thus, no combined schemes are allowed unless specific elements were not included in the primary scheme. (This requirement is to avoid cherry picking of converter factors)
- Specific industry schemes can be included when not in conflict with the above

However, where more accurate and specific emissions factors have been measured or calculated for certain use cases, companies should of course be able to use those more accurate factors with a disclosure on the methodology for how that emissions factor was determined.

Question 133 – Safe harbor for scope 3

Should we provide a safe harbor for Scope 3 emissions disclosure, as proposed? Is the scope of the proposed safe harbor clear and appropriate? For example, should the safe harbor apply to any registrant that provides Scope 3 disclosure pursuant to the proposed rules, as proposed? Should we limit the use of the safe harbor to certain classes of registrants or to registrants meeting certain conditions and, if so, which classes or conditions? For example, should we require the use of a particular methodology for calculating and reporting Scope 3 emissions, such as the PCAF Standard if the registrant is a financial institution, or the GHG Protocol Scope 3 Accounting and Reporting Standard for other types of registrants? Should we clarify the scope of persons covered by the language “by or on behalf of a registrant” by including language about outside reviewers retained by the registrant or others? Should we define a “fraudulent statement,” as proposed? Is the level of diligence required for the proposed safe harbor (i.e., that the statement was made or reaffirmed with a reasonable basis and disclosed in good faith) the appropriate standard? Should the safe harbor apply to other climate-related disclosures, such as Scopes 1 and 2 emissions disclosures, any targets and goals disclosures in response to proposed Item 1505 (discussed below), or the financial statement metrics disclosures required pursuant to Proposed Article 14 of Regulation S-X? Should the safe harbor apply indefinitely, or should we include a sunset provision that would eliminate the safe harbor some number of years, (e.g., five years) after the effective date or applicable compliance date of the rules? Should the safe harbor sunset after certain conditions are satisfied? If so, what types of conditions should we consider? What other approaches should we consider?

Safe harbor should be provided for Scope 3 emissions. Scope 3 emissions are inherently difficult to calculate since they lie outside of the scope of control of the reporting company, and it will realistically take years to develop the relationships with suppliers necessary to approach “complete” Scope 3 reporting. Safe harbor for Scope 3 reporting would indeed “alleviate concerns that registrants may have about liability for information that would be derived largely from third parties in a registrant’s value chain”

Question 173 – Offsets and RECs

If a registrant has used carbon offsets or RECs, should we require the registrant to disclose 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, as proposed? Are there other items of information about carbon offsets or RECs that we should specifically require to be disclosed when a registrant describes its targets or goals and the related use of offsets or RECs? Are there proposed items of information that we should exclude from the required disclosure about offsets and RECs?

We support the Science Based Targets Initiative as the gold standard of corporate Net Zero commitments, and endorse its approach to offsets, which states that “The SBTi requires that companies set targets based on emission reductions through direct action within their own boundaries or their value chains. Offsets are only considered to be an option for companies wanting to finance additional emission reductions beyond their science-based target (SBT) or net-zero target.”

To achieve a real net-zero global economy, the primary objective is to reduce carbon emissions in a company’s operations and value chain. In our view, offsets should be the last resort option after mitigation. Thus, transparency and disclosure on carbon credits is essential for investors to better assess how offsets fit into a company’s climate commitments, targets, transition plans and claims.

In certain cases, offsets are in the form of carbon removals and so the registrant should disclose the amount of carbon removal represented by the credit.

We would also emphasize introducing metrics to assess the quality of credits. GHG Protocol land sector and removal guidance (in development) recommends:

"Ensure that any credited GHG reductions or removals adhere to the following quality criteria: additionality, credible baselines, permanence, avoid leakage, unique issuance and claiming, regular monitoring, independent validation and verification, GHG program governance, and no net harm. "

Equally, understanding whether the offsets/RECs have been certified supports the confidence of the investor. The level of costs would inform investors over time about the financial implications of the (developments in) offset/REC levels.

Question 176 – Private issuers

Should we require foreign private issuers that report on Form 20-F to provide the same climate-related disclosures as Form 10-K filers, as proposed? Should we require climate-related disclosures in the registration statements available for foreign private issuers, as proposed? If not, how should the climate-related disclosures provided by foreign private issuer registrants differ from the disclosures provided by domestic registrants?

Climate-related risks and opportunities regard all registrants equally. There is, as stated in the proposal, no difference in requirements from domestic and foreign issuers with respect to risk factors and MD&A. We would therefore see no reason to exclude foreign issuers from the proposed disclosure requirements.

Thus, climate related disclosures should also be required from foreign private issuers that report on Form 20-F just like Form 10-K filers. Not least to ensure they can be evaluated on nearly equal terms by the investors.

But as indicated in question 189, it should be possible for all companies also to report against ISSB’s standards as the baseline, whereby global comparability is maximized. This will also be helpful for the dual-listed companies.

Question 189 – Conditions for using ISSB standards as alternative reporting (see also question 92)

An International Sustainability Standards Board (ISSB) has recently been created, which is expected to issue global sustainability standards, including climate-related disclosure standards. If we adopt an alternative reporting provision, should that provision be structured to encompass reports made pursuant to criteria developed by a global sustainability standards body, such as the ISSB? If so, should such alternative reporting be limited to foreign private issuers, or should we extend this option to all registrants? What conditions, if any, should we place on a registrant's use of alternative reporting provisions based on the ISSB or a similar body?

Investors are not bound to jurisdictional boundaries. In investing on a global scale, they are best served with comparable information and data. In particular for climate change, the impacts of which crosses all borders, therefore global consistency makes utmost sense.

Whilst understanding that some countries will wish to pursue climate and wider sustainability reporting standards at a jurisdictional level, we believe that there is a strong case for a common baseline standard for sustainability reporting, applied globally. The ISSB, which we support, is now developing such standards, and we would encourage the SEC to adopt ISSB standards as a baseline.

There is a strong business case for such harmonization: a common global baseline will ensure that registrants can report consistently across jurisdictions, lessening the reporting burden and reducing costs.

Many investors are also clear that they support the disclosure of climate information in a globally consistent form; adoption of the ISSB baseline would provide investors with consistent, comparable, and decision-useful information to inform their investment decisions. Whilst the SEC and ISSB climate reporting proposals are currently well aligned, explicit adoption of the ISSB baseline will also help to future-proof climate reporting since it is anticipated that ISSB standards will evolve over time based on materiality assessments; this would mitigate the risk of future divergence in climate reporting requirements.

We Mean Business Coalition strongly supports the ISSB's decision to establish a working group to enhance compatibility and interoperability between the global baseline and jurisdictional initiatives. We urge the ISSB and the members of the working group, not the least US Securities and Exchange Commission, to find constructive ways of making sure that the ISSB's standards are established as the common global baseline for companies to report against to meet the information needs of investors and capital markets.