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COMMISSIONER OF INSURANCE

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June 13, 2022

Chairman Gary Gensler  
United States Securities and Exchange Commission  
100 F Street NE  
Washington, DC 20549

RE: Comment on SEC Release Nos. 33-11042 & 34-94478, The Enhancement and Standardization of Climate-Related Disclosures for Investors, 87 Fed. Reg. 21,334 (File No. S7-10-22)

Dear Chairman Gensler,

The Iowa Insurance Division regulates the solvency and conduct of Iowa-based insurance companies writing insurance contracts throughout the United States and around the globe. We also regulate the offer and sale of securities under the authority of the Iowa Uniform Securities Act, with regulation over the professional competence of thousands of broker-dealer agents and investment adviser representatives. The following comments are expressed from the perspective as both Iowa's insurance and securities regulator.

We have many concerns with the proposed regulation, some that have been expressed by others. We join in the comments expressed by Iowa Governor Kim Reynolds and fifteen other governors on May 31, 2022<sup>1</sup>, by U.S. Senator Chuck Grassley, U.S. Senator Joni Ernst and 30 other senators on June 10, 2022<sup>2</sup>, and by U.S. Senator Joni Ernst and 18 other senators on April 5, 2022<sup>3</sup>. In short, we urge you to withdraw the entirety of the proposed rules at least until the SEC has received explicit legislative authority to standardize the securities disclosure of corporate risks due to severe weather events and the risks of transition to "a lower carbon economy."

The primary beneficiaries of your proposed regulation will be the vast army of compliance experts and environmental impact prognosticators needed to administer the provisions of this regulation. Investors will receive negligible benefits and may be harmed by the lack of consistency and uniformity of information that will be required to be produced by this regulation. The proposed regulation will impose significant costs on every segment of the supply chain, including farmers, entrepreneurs, manufacturers, retailers and consumers.

<sup>1</sup><https://www.rga.org/wp-content/uploads/2022/05/Joint-Governors-Letter-on-SEC-Climate-Disclosure-Proposal-5-31-22.pdf>

<sup>2</sup>[https://www.grassley.senate.gov/imo/media/doc/grassley\\_et\\_altosecclimatedisclosurerule.pdf](https://www.grassley.senate.gov/imo/media/doc/grassley_et_altosecclimatedisclosurerule.pdf)

<sup>3</sup><https://www.sec.gov/comments/s7-10-22/s71022-20122544-278541.pdf>

### **Disclosure of “Physical climate-related risks”**

The proposed regulation broadly defines “climate-related risks” as “the actual or potential negative impact of climate-related conditions and events on a registrant’s consolidated financial statements, business operations, or value chains, as a whole.” § 229.1500 (Item 1500). This requirement urges the registrant to use their imagination to think creatively about nearly any risk that could be associated as “climate-related.” Given some of the comments associated with the debate over climate change,<sup>4</sup> finding the scope of “climate-related” will present substantial litigation risks and business reputation risks to a registrant.

Similar to federal law, Iowa Code § 502.501 addresses several species of fraud, including prohibiting any person from “directly or indirectly ... [omitting] to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.” This provision would generally discourage any promoter from engaging in speculation about future events. However, registrants will be required under the proposed rule to speculate about climate-related risks. There will be litigation risk of failing to include some peril that could later be tied to “climate.” There will be business reputation risk to those businesses that fail to prognosticate their future events in as “green” a manner as their competitors.

The proposed regulation purports to limit disclosure to material facts in § 229.1502 (Item 1502), which provides:

- (a) Describe any climate-related risks reasonably likely to have material impact on the registrant on its business or consolidated financial statements, which may manifest over the short, medium, or long term.

Weather events such as hurricanes, tornadoes and derechos have been recorded for millennia, but now nearly every Iowa hailstorm could be pegged as “climate-related” under these proposed regulations. Depending on the severity of the weather event, some unusual but extreme events may impact a registrant’s finances. Obviously, insurance may be available to mitigate the risks, but whether insured or not, it appears a registrant would still need to craft a disclosure of future weather predictions.

The proposed regulation continues: “Climate-related risks include both acute risks and chronic risks to the registrant’s business operations or the operations of those with whom it does business.” It requires the registrant to disclose and evaluate not only its own risks, but also “those with whom it does business.” The SEC’s proposed regulation does not only invite speculation of the “climate-related” risks of unaffiliated businesses customers, it seems to require it. For “physical risks,” the proposed regulation provides a distinction between “acute” and “chronic” risks. § 229.1502(a)(1)(i). “Acute risks” are “event-driven and may relate to shorter term extreme weather events, such as hurricane, floods, and tornadoes, among other events.” Requiring medium- and long-term prognostications of the impact of weather events on registrants and “those with whom they do business” will result in wildly speculative guesswork, all under the specter of litigation or business reputation risks if the registrant guesses incorrectly. The proposed regulation’s definition of “chronic risks” and the related disclosure requirement presumes that a registrant has adequately reliable data and methods to evaluate the short-, medium- and long-term manifestations of climate impact under current global energy production and use projections based upon

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<sup>4</sup><https://www.newsweek.com/alexandria-ocasio-cortez-climate-change-world-will-end-12-years-un-report-1300873>

projected human activity and energy sources. Again, these required futuristic predictions may be subject to claims in securities litigation for omitting material facts.

### **Disclosure of “Transition climate-related risks”**

The proposed regulation requires the issuer to “describe the nature of the risk, including whether it relates 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.” § 229.1502 (Item 1502).

This provision in the proposed regulation will sharply degrade the value of securities disclosures. Presumably, it requires registrants to predict, evaluate, and trust the conduct of foreign nations.<sup>5</sup> As an example, China has “pledged” to reduce carbon emissions to a net zero level in 40 years.<sup>6</sup> Many Americans question the sincerity and intentions of the Chinese Communist Party (CCP). The expectation that most registrants are in the position to anticipate a global energy transition to wind, solar and hydro-electric is unrealistic, when the Administration proposing this regulation seems to have gravely underestimated the impact of an energy transition on Americans and our economy.<sup>7</sup>

### **Disclosure of “Greenhouse gas emissions”**

Reductions in carbon fuel in the United States and Europe without stable and feasible replacement energy sources will have, and are currently having, significant economic and social impacts on the United States and around the world. This situation has been worsened by the Russian invasion of Ukraine.

In addition to the substantial burden and costs to registrants, customers, and many others along the value chain, the Greenhouse gas disclosure requirements will cause confusion, inconsistency and uncertainty.

For retail operations, the definition of Scope 2 emissions defined in § 229.1500(q) contains contradictions and is subject to wide interpretation. For registrants who choose to set GHG emission reduction targets, the proposed regulatory obligations are even more confusing and burdensome. For these registrants, they are burdened with requirements to disclose “Scope 3 emissions” defined in § 229.1500(r).

This burdensome requirement will be placed not only on the registrant but on all suppliers, producers and distributors in the value chain. As a result of this regulation, Iowa farmers, who produce food for all Americans and consumers around the world, will now be forced to calculate and report “acceptable” GHG metrics. This proposed regulation will impose a substantial, and disproportionate regulatory burden on Iowa’s farmers.

The impact of the proposed rules will be costly to every part of the supply chain and provide speculative prognostications that will not result in consistent, reliable decision-making. The proposed regulations intrude on the responsibility of corporate boards and senior management and their existing obligations to

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<sup>5</sup><https://news.un.org/en/story/2021/11/1105512>

<sup>6</sup><https://www.reuters.com/business/environment/china-us-agree-need-stronger-climate-action-commitments-statement-2021-04-18/>

<sup>7</sup>[https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC\\_SRA\\_2022.pdf](https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_SRA_2022.pdf)

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promote the short-, medium-, and long-term success of the registrant. The proposed regulation and its required climate disclosures will contribute to speculative, inaccurate and potentially misleading information and projections, will contribute to costly litigation, and discourage capital formation.

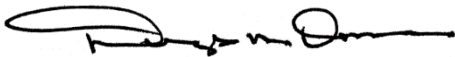
The SEC should withdraw its proposed regulation and continue to monitor for accuracy the voluntary disclosures being filed, at least until such time that Congress delegates explicit authority for the SEC to impose the regulation proposed here.

At the Iowa Insurance Division, we pride ourselves on providing fair regulation that protects consumers while not stifling industry. This proposed regulation would fail to pass muster on both fronts.

For these reasons, and the unsupportable burdens on the agricultural, manufacturing, retail and many other businesses in the supply chain powering this state and country, and negligible to negative benefits in investor protection, we oppose the proposed regulations.

Thank you for your consideration.

Sincerely,



Douglas M. Ommen

Iowa Insurance Commissioner

CC: Vanessa Countryman, Secretary, Securities and Exchange Commission  
The Honorable Governor Kim Reynolds  
The Honorable Senator Chuck Grassley  
The Honorable Senator Joni Ernst  
The Honorable Representative Ashley Hinson  
The Honorable Representative Mariannette Miller-Meeks  
The Honorable Representative Cindy Axne  
The Honorable Representative Randy Feenstra